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Book Review

What is Justice?

Christian Justice and Public Policy

by Duncan B. Forrester

Cambridge University Press (1997)

I. INTRODUCTION

In *Poethics*, Professor Richard Weisberg says, “Words create law They neither distort it nor stand in its way. Words do not translate the thought of justice, words *are* justice, and words can be the absence of justice.”¹ This simplistic yet perspicacious metaphor equates the concept of justice with perhaps the most basic form of communication—the expression of thought through the powerful word. This interpretation of justice would prove limiting to one’s self-enlightenment, as it metaphorically, and perhaps unknowingly, restricts the concept of justice to something akin to a noun—an inanimate, lifeless thing, a word. Truly, the concept of justice cannot be fully realized nor understood unless it is analyzed in its purest form as an action or series of actions, a verb. Justice can exist only if it is done. Words alone cannot be justice; instead, justice is the implementation of those words for the betterment of those whom the words seek to serve.

The most difficult task in determining how to categorize justice is defining the concept itself. What is justice, and how can one “do” justice? In our global society, the answer obviously varies among races, cultures, social classes, and genders. In *Christian Justice and Public Policy*,² Duncan B. Forrester addresses that very question. He adds insight to the definition of justice by examining the role of Christian theology in our world and theology’s past and potential impact on public policy. For-

1. RICHARD WEISBERG, *POETHICS* 6 (1992).

2. DUNCAN B. FORRESTER, *CHRISTIAN JUSTICE AND PUBLIC POLICY* (1997).

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rester's analysis "is an attempt to explore the possibility that theology might have, even in a pluralist, secular society, a modest but constructive and questioning contribution to make both to the theoretical discussions which undergird policy and to policy-making itself."³ In this Book Review, I will couple commentary on the role of Christian theology in our world today with an analysis of the term "justice" in order to assess the actual need, if any, of a global exodus toward the tenets of Christianity in modern-day policymaking. This Book Review concludes that perhaps Christian theology, as Forrester believes, is the universal language that spans all cultures and classes and can normalize the varying interpretations of what justice is and how it is to be done.

II. THEOLOGY IN TODAY'S WORLD

The role of Western Christian theology in today's public sphere has diminished. The allure of the sciences and the wisdom of philosophy have arguably taken the place of the dictates of Christian faith. It is readily apparent that the application of Christian theory is at risk of becoming obsolete in the public forum of political decision-making. "The time is past when theology can reign as queen of the sciences, putting each other voice in its place and articulating, with a conviction approaching certainty, the presuppositions all share. . . . [It] must take its place among the other voices, as often to be corrected as to correct."⁴

A. *The Need for Religion*

Forrester recognizes this trend in society—the hesitancy to view theology as anything other than religious folklore as opposed to a serious policymaking guidance. Religion, he asserts, has largely been relegated to the domestic and private realm. It is no longer expected to be of any real societal value, except in matters concerning morality and family issues.⁵ Additionally, Forrester asseverates that religion "has been domesticated and deprived of public relevance and is no longer capable of feeding into public discussion disturbing memories or distinctive in-

3. *Id.* at 36.

4. JEFFREY STOUT, *ETHICS AFTER BABEL: THE LANGUAGES OF MORALS AND THEIR DISCONTENTS* 165 (1988).

5. *See* FORRESTER, *supra* note 2, at 21.

sights into the human condition.”⁶ However, Forrester maintains that it is not only religious theory that is at risk of going the way of the dodo. The public forum, itself, is at risk of losing its efficiency. “There is increasing confusion and uncertainty about the bases for public policy. Some argue for a pragmatic ad-hoc approach; others seek a popular consensus around some theoretical core; others again appear to support any policy they believe likely to win votes.”⁷

Despite these tendencies to devalue the importance of Christian thought in a policymaking forum, Forrester suggests that a return to theology is exactly what society needs to better understand the very issues it seeks to resolve. In formulating his hypothesis, Forrester does not suggest that the world has become a godless society. Rather, he merely recognizes that we as a global community have forgotten the potential importance, impact, and worth of implementing theology in our judicial and societal policies. If Forrester’s assertions prove true, then public policy can directly impact and involve all those whom it governs by basing itself in a creed that teaches us to *do* justice unto others as we would have it done unto ourselves.

In the legal community, the line dividing legal ethics and religious morality is often thin and separatory. However, Forrester’s call to embrace the values of Christian theology more directly in our legal arena is not unique. This loss of religious wisdom has been recognized by others as a potential loss of solutions to “the perennial questions of the moral life”—topics with which religion has “wrestled for thousands of years.”⁸ Specifically, it has been argued that religion “places a high value on self-sacrifice and reconciliation . . . and even [encourages us] to lay down [our] lives for each other. Christianity has something to say about the purposes of law and its limits, the duties owed to the secular state, and the relationship between justice and love.”⁹ Therefore, it seems that there is hardly a better way to procure effective public policy than by setting as one’s lode-

6. *Id.*

7. *Id.* at 10.

8. Joseph Allegritti, *Lawyers, Clients, and Covenant: A Religious Perspective on Legal Practice and Ethics*, 66 *FORDHAM L. REV.* 1101, 1104 (1998) (discussing various ways in which the concept of legal ethics and legal practice is impoverished when religion is excluded from consideration in traditional lawyer-client relationships and other legal arenas).

9. *Id.* at 1104 (footnotes omitted).

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star the altruistically (rather than economically) driven teachings found in Christian theology.

Unfortunately, the call for Christian theology made by Forrester and others of like mind simply does not sufficiently address the reality that the majority of our global population does not adhere to Christian dogma. We cannot, as an ecumenical society, "return" to Christian theology when most of Earth's inhabitants were never there. Muslim, Jew, and atheist alike would find troubling the implementation of the teachings of a foreign god as a matter of public policy. Forrester fails to pose an adequate solution to the difficulty that would surely accompany such a quest for religious standardization on a global level. It is logical to assume, however, that Forrester is not necessarily advocating the conversion of the planet to Christianity as such, but rather a return to the basic tenets of a moral code, compassion, and dignity that are the common threads of all theologies, from Christianity to Judaism, Ancestor Worship to Agnosticism.

Truly, if one of the main reasons for creating public policies and forming laws is to administer justice to the greatest number of people, then perhaps it is wise to incorporate the teachings encapsulated in theology. The laws, codes, and model rules that bind and obligate those engaged in the practice of law focus on the enforcement of the letter of the law. Obviously, the original intent in the creation of these rules may be a factor in law enforcement and interpretation but, unfortunately, there is no way of objectively knowing the intent of law and policymakers who lived years ago. Use of theology would perhaps more fairly equip modern law and policymakers with the tools of objectivity and compassionate analytical ability so necessary for success. As one commentator has noted,

rules provide no guidance for the lawyer who is grappling with questions that the rules themselves ignore—questions such as the ends of lawyering or the lawyer's moral accountability for her actions. No rule can tell a lawyer if the rule itself should be obeyed. If we are to deal with these profound and fundamental questions, we need a more-encompassing approach to legal ethics and legal practice.¹⁰

10. *Id.* at 1107-08.

Therefore, theology can be a tool useful not only in the making of rules, but in the understanding and the implementation of them, as well.

B. What is Justice?

The ability to create and interpret legality and policy is of little or no worth if justice cannot be defined or at least understood. Those with the power to formulate rules must, in essence, exercise a mild form of omniscience. For justice to truly exist, the most good must be distributed to the greatest number of people, regardless of race, social class, or gender. Absent this principle, the people whom justice should serve are the very same people who will suffer the most. "[T]he most serious problem in this situation is not for the policy-makers, who are normally powerful and prosperous people with an assured position and a great deal of security, but for the poor and the weak."¹¹

In actuality, the potential problem does not lie in formulating a dictionary definition of "justice," but rather in establishing a universal application of the term. As Forrester notes,

[t]he problem is that too many people and groups have too many differing and often contradictory accounts of justice. Too many people think that they know what justice is, and usually they understand justice in a way that suits their individual or collective interests. In such a context we have not so much a vacuum as an arena, or even a battlefield.¹²

Throughout the world, definitions of justice vary according to culture and life experiences. Surely, it is reasonable to assume that the notions of justice for an impoverished, single-parent African-American or Latino living in an inner-city ghetto are quite different from the justice imagined by an upper-class family. The notion of what societal norms are fair and equitable would surely differ between a resident of a black township of Johannesburg and a white resident living within city limits. As a result of hardships, advantages, disadvantages, and a multitude of other factors, it is apparent that people have polarized themselves into social groups that would each view equity and justice differently.

Ideas of justice are wrought into weapons to be used in social

11. FORRESTER, *supra* note 2, at 40.

12. *Id.* at 40-41.

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conflict; each side claims that their case is just; and there is no arbitrator or judge to resolve the matter. . . . What has been lost is a sense of the objectivity of justice, that justice is grounded in reality, not simply something we devise and use for our purposes.¹³

The "battlefield" of which Forrester speaks is evident in today's society.¹⁴ Differing political and special interest groups compete in the legislature and in other institutions of government, demanding that their concerns be heard and given special importance. Each group, although at times diametrically opposed to the others, believes itself to be right. Each bases that assumption on the collective experiences of the group. Which group's experiences are most valid? Which concept of justice is the correct approach?

For Forrester, the great equalizer can be Christian theology. Christian edicts do not discriminate among race, color, or nationality. Christian policy does not segregate based upon socioeconomic background. Policies embracing Christian tenets are likely to foster a more unilateral administration of fairness because they do not distinguish people into classes and groups but treat all as peers. The battleground becomes common ground, and legal policymaking takes a step towards truer justice for a greater mass of people. Perhaps intentionally, Forrester does not proffer any specific formula for the formation or the implementation of such Christian-influenced policies on a global scale, only the hope that theology will lead to justice. Indeed, it is difficult to imagine a practical method through which the policymaking process could modify itself to more wholly incorporate theology.

Realistically, the feasibility of accepting the Christian ideals of which the author speaks cannot be genuinely discovered until well after we begin to implement them. However, as Forrester explains, for believers, such a hope in theology "present[s] an open future, full of possibilities; and thus [it] can motivate and sustain great movements of change. [It] can support people through times of oppression and suffering, and enable them to struggle for justice with pertinacity."¹⁵

13. *Id.* at 41.

14. *See id.*

15. *Id.* at 248.

III. POLICIES AND THEORIES

As previously discussed, the concept of justice can be as abstract as it is concrete. Definitions and interpretations will vary. However, justice, no matter how defined, always manifests itself through many diverse facets of daily living. Examples of various interpretations of justice can be seen both in laws and policies themselves or in the manner through which these rules are enforced and upheld. Forrester focuses on several of these policies and theories, attempting to identify problems that may arise “when there is a fundamental uncertainty about whether an objective standard of justice exists, when there is a moral vacuum.”¹⁶

For example, Forrester explores his notion of an objective standard of justice as it relates to the concept of imprisonment. The role of a prison can range from punishment to retribution, from rehabilitation to permanent confinement. Policymakers view the role of prisons differently than do the prisoners that occupy those institutions.

Prisons are major social institutions, key components in any modern system of criminal justice, and they are expected to be agencies of justice on behalf of society. Various understandings of criminal justice and of social justice are expressed in policies and practices of imprisonment. Yet at times when there is much uncertainty and confusion about what justice is, people become unclear what prisons are for, what they are intended to achieve and how they should operate.¹⁷

If a prison is to be successful in fulfilling its overall purpose, the prison must have a purpose for both those on the outside and those on the inside of its walls. From an outside perspective, a prison seems to personify justice—admission costs only the price of a crime, and those who occupy prisons have all been judged to have paid the full price of admission. However, little justice is being served if the prisoner is not changing or at least seeing a need for reform. Forrester talks of Scottish prisons in which “the prisoners’ view was of a system that was often dehumanising and sometimes brutal, and in countless ways made people worse rather than better, less likely to become useful, law-abiding citizens, and more incapable of reintegrat-

16. *Id.* at 61.

17. *Id.* at 63.

ing effectively into society at the end of their sentence.”¹⁸ If the inmate sees no real purpose in confinement, “prisons tend to become human warehouses.”¹⁹ No rehabilitation occurs—only growing resentment; the prisoner is not guided towards a change in behavior and attitude, and society is robbed of the chance to have a productive member reenter. In short, justice is not served.

Forrester queries, “If we are all offenders, how dare we judge?”²⁰ He suggests that a Christian understanding of the principles behind imprisonment may lead to a better implementation of those principles. A mixture of discipline and forgiveness may lead to a justly reformed offender. He explains, “Discipline is not properly to be understood primarily as regimentation or the infliction of pain. It is rather the maintenance and restoration of the structure of relationships, allowing people to grow and develop together.”²¹ Moreover, in a society that is based upon Christian theology, “[f]orgiveness is offered freely and is to be received with joy and responded to in life. But forgiveness is not cheap and does not lead to a turning of the blind eye to the gravity of offence—indeed, precisely the opposite.”²² Forrester out-lines the ideal impact of theology on both policy-makers and communities when dealing with public offenders:

[They] should respond both with punishment and redemption, indeed with punishment which is oriented towards redemption. Offenders were not to be shown to be different, but to exemplify the human condition. The offender retained always an ‘intimate link’ with the community. Even if the offender was for a while to be excluded from the community, the goal was reconciliation and reception back after repentance and forgiveness.²³

Forrester does not assert that Christian theology ultimately legitimizes the current penal system, but that, through a better implementation of the tenets of theology, the penal system can provide the “support and encouragement as well as stimulus and perhaps guidance”²⁴ to those who need it most.

18. *Id.* at 64.

19. *Id.* at 68.

20. *Id.* at 77.

21. *Id.* at 81.

22. *Id.* at 78.

23. *Id.* at 79.

24. *Id.* at 84.

IV. CONCLUSION

When postulating, one can only hope that these concepts of justice prove to be effective in achieving their purpose. Forrester's bold mandate for an implementation of theology into policymaking is not only accurate, but long overdue. Our society is faced with a sort of legal cynicism—a withering hope that justice will prevail in light of many possible interpretations and applications of policies and laws. Race, gender, economics, and social class will all shape each individual's hope in our system of justice. Forrester claims that “[a] society without vision is petty, selfish and cruel.”²⁵ He also reminds us that “[h]ope is inescapably a way of envisioning the future. Theology’s concern with vision and with hope reminds us that it does not deal only with particular problems and policies and ethical conundrums, any more than it is concerned exclusively for the past or with the present.”²⁶ Forrester accurately challenges us all to ask ourselves perhaps the simplest question regarding our interpretation of justice: “Above all, does it challenge and enable us to do justice, and to love kindness and to walk humbly with our God?”²⁷ As we keep examining, defining, and redefining our societal concepts of justice, we inevitably grow closer to the day in which we will arrive at the answer to the question, “What is justice?” Perhaps the return to Christian theology is the catalyst that will take us to that day.

Michael David Lopez

25. *Id.* at 259.

26. *Id.* at 258.

27. *Id.* at 259.