

*Editorial*

**LAW, JUSTICE AND MERCY**

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The Extraordinary Jubilee year of mercy declared by Pope Francis, begun on 8 December 2015 and marking the 50<sup>th</sup> anniversary of Vatican II (1962-1965), invites all to reflect on the various aspects of mercy and related basics. It is a fitting time to ponder justice and compassion in concrete ecclesial practice, especially in relation to the Sacrament of confession. However, does not the message of the Jubilee Year of Mercy also extend beyond the Sacrament of Penance to other areas of the Church's life?

CCEO c. 732 §2 (cf. CIC c. 978 §1) states: "*The priest is to remember that he is placed by God as a minister of divine justice and mercy....*"

It is interesting how the concepts of law, justice and mercy interrelate. "Law as a term or concept has always something to do with order, justice and common good."<sup>1</sup> Yes, law is/should be at the service of every member of a society or community, both individually and collectively. According to a common definition, *Law* is a "rule made by authority for the proper regulation of a community or society or for correct conduct in life."<sup>2</sup> St. Thomas Aquinas defines law as follows: "Law is an ordinance of right reason for the common good, made by that person who has care for the community, and promulgated to that community."<sup>3</sup> St. Thomas does not use the word authority, which in common parlance implies an imposition from above, but rather refers to the person "who has care for the community." By extension, we may say that all who are entrusted with some office, especially in the

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<sup>1</sup>Cherian Thunduparampil, "Canon Law Liberative or Restrictive?" *Journal of Dharmaram*, Vol. 32, 3 (July-September 2007) 275.

<sup>2</sup>A S Hornby, *Oxford Advanced Learners' Dictionary of Current English*, 1974 ed., s.v. "law".

<sup>3</sup>*Sum. theol.* I -II q. 90, a. 4: "Leges quae nihil est aliud quam quaedam rationis ordinatio ad bonum comune, ab eo qui curam comunitatis habet promulgata."

Church, ought to have the same care and concern for their subjects or whomever approaches them in virtue of the office they hold.

Necessarily, law demands justice that entails giving to everyone his or her due. In this sense, the concept of justice entails both right and obligation. That is, when someone claims a right to do or not do something, or to possess certain things according to the prescriptions of law, others naturally have a consequential obligation to render him what he is due. According to the Oxford Dictionary, the ordinary, secular meaning of “justice” is “just conduct; the quality of being right and fair.”<sup>4</sup> If civil society expects all to be just and fair in their dealings, so much more should it be in the ecclesiastical realm!

Addressing the interrelation of law, justice, and mercy, Pope Francis stated that “justice is a fundamental concept for civil society, which is meant to be governed by the rule of law” (MV n. 20). According to the dictates and stipulations of law, everybody’s right should be respected or each should be given what rightfully belongs to him or her. It is also valid in the Church, a community of human beings. Pope Francis, however, points out that Pharisaic observance of law for its own sake can burden God’s people by undermining the greater values of love and divine mercy: “The appeal to a faithful observance of the law must not prevent attention from being given to matters that touch upon the dignity of person” (MV, 20).

Referring to scripture, the pope recalls how initially “Paul ... dedicated his life to pursuing the *justice of the law* with zeal” (cf. Phil. 3:6),” then later changed his position to one “justified by faith in Christ, and not by works of the law, because by works of the law shall no one be justified” (Gal. 2: 16), MV, 20). “God’s justice now becomes the liberating force for those oppressed by slavery to sin and its consequences. God’s justice is his mercy” (cf. Ps. 51 L11-16) (MV. 20). Francis continues to say that, “God does not deny justice. He rather envelopes it and surpasses it with an even greater event in which we experience love as the foundation of true justice. .... God’s justice is his mercy given to everyone as a grace ...” (MV, 21).

Mercy: From the above-mentioned basic obligation of all to maintain, “just conduct” and to be “right and fair” which are the requirements of law and justice, we can move further to a still higher level of being

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<sup>4</sup>A S Hornby, *Oxford Advanced Learners’ Dictionary of Current English*, 1974 ed., s.v. “justice”.

kind and merciful like Jesus who "goes beyond the law; the company he keeps with those the law considers sinners makes us realize the depth of his mercy" (MV, 20).

Mercy is defined as "Forbearance and compassion shown to a powerless person, esp. an offender, or to one with no claim to receive kindness; kind and compassionate treatment in a case where severity is merited or expected."<sup>5</sup> *Mercy*, then, would mean that even when the application of justice in the strict sense permits the judge/the responsible, the dispenser of justice, to punish an offender, the former may not only refrain from doing so but also may turn out to be creatively benevolent and kind towards him. This is mercy. This jubilee year emphasizes the sacrament of confession and inspires its ministers to be more merciful to sinners. The best example for this would be the biblical episode of Jesus, the supreme pastor, and the woman caught in adultery (Jn 8:1-11).

Justice and mercy are distinct, but not opposed to each other. While the former gives to each his or her due according to the rules of law, the latter passes one step beyond justice and completes it. Pope Francis rightly explains this in the document introducing the jubilee Year of Mercy, in which he notes that justice and mercy "are not two contradictory realities, but two dimensions of a single reality that unfolds progressively until it culminates in the fullness of love" (MV, 20). On 3<sup>rd</sup> February, the pope said during the homily: "Sacred Scripture presents us with God as infinite mercy, but also as perfect justice. How are these two things reconciled? How can the reality of mercy be articulated with the need for justice?" While these two characteristics can seem like opposites, "in reality it's not like this, because it's precisely the mercy of God that brings the fulfilment of true justice,"<sup>6</sup> Francis affirmed.

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<sup>5</sup>*The New Shorter Oxford Dictionary* The New Authority on the English Language: Reprinted with revised etymologies and enlarged addenda 1973, ed. 1993 (New York: Oxford University Press, Inc., 1993). According to Oxford Advanced Learners' Dictionary, it is the "capacity for holding oneself back from punishing, or from causing suffering to, sb whom one has the right or power to punish."

<sup>6</sup>See [https://w2.vatican.va/content/francesco/en/audiences/2016/documents/papa-francesco\\_20160203\\_udienza-generale.html](https://w2.vatican.va/content/francesco/en/audiences/2016/documents/papa-francesco_20160203_udienza-generale.html). Accessed on 15 January 2016.

We can say, therefore, in order for a person to be kind and merciful he should be fundamentally just, because justice is the basis.

The Latin term for 'mercy' is composed of two words, misery and heart. St. Augustine specifies the two terms thus: "usually misery is defined as personal suffering, while the suffering for the others is defined as mercy."<sup>7</sup> The term "misery" expresses the "extreme scarcity asking mercy, compassion, a pitying implored by him who is in severe distress." The other term coupled with it is heart. "A heart, which is taken up and burdened by the wretchedness or misery present in a man, destroys it as fire burns and destroys something and "this is mercy."<sup>8</sup> Regarding mercy, St. Augustine says it signifies nothing but a heart burdened by the misery of others. The word *mercy* derives its name from the pain for the *miserable*. "When your heart is touched and struck by the misery of others, then, that is mercy."<sup>9</sup>

Lk.18: 1-8 treats the Parable of the Widow and the Judge, in which the former pleads for justice to the latter: "Help me against my opponent!" The Evangelist says that "for a long time the judge refused to act, but at last he said to himself, "even though I don't fear God or respect man, yet because of all the trouble this widow is giving me, I will see to it that she gets her right. If I don't, she will keep on coming and finally wear me out." Jesus observes and tells his listeners to pay attention to the words of that *corrupt judge*, and consider God's response to those who cry to Him for help; "Will he [Lord] be slow to help them? I tell you, he will judge in their favour and do it quickly" (v. 8).

Lack of care and concern for the wretched who plea for help would in a sense deny them justice. The widow was not asking for any

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<sup>7</sup>St. Augustine in *Confessions* (3,2,2): "Di solito, si definisce miseria la propria sofferenza, mentre le sofferenze per gli altri si definiscono misericordia." Cf. Pontifical Council for the New Evangelization, *La Misericordia nei Padri della chiesa*, p. 18-19, 20.

<sup>8</sup>*La misericordia nei padre*, p. 20, 59: La "miseria" esprime quella pochezza estrema che chiede pietà, compassione, una commiserazione implorata da chi è in grave angoscia," ... "il cuore, pertanto, quando avverte la miseria presente in un uomo, non la giudica ma la brucia, la disturba. E questa è misericordia."

<sup>9</sup>*La misericordia nei padre della chiesa*, p. 59. "non è altro se non un caricarsi il cuore di un po' di miseria [altrui]. La parola "misericordia" deriva il suo nome dal dolore per il "misero." Tutte e due le parole ci sono in quell termine: miseria e cuore. Quando il tuo cuore è toccata, colpito dalla miseria altrui, ecco allora quella è misericordia."

voluntary help, but demanded her right, "the specific blessing of protection from the adversary." For that reason, the judge's "denial of the justice which it was his office to dispense is a crime; the widow's need is greater..."<sup>10</sup> A judge has the power and grave duty to administer justice. The judge in the parable, however, first denied justice to the widow or did not listen to her plea for a long time. He eventually does her right not out of love and concern, but to rid himself of her continuous disturbance and annoyance.

The parable does not intend to compare Jesus to the corrupt judge, but to emphasize the mercy and justice of God. If a judge who neither fears God nor respects men did render justice, how much more will the Heavenly Father care especially for the poor and the defenceless who invoke Him day and night!

The bible passage quoted above draws our attention to two important things: i) a corrupt judge who does not have respect for men and does not consider the widow who cries for her right, and ii) the delay in making judgment in favour of the suffering, poor and the powerless. Jesus says God is merciful and hence he will leave no one unheard. Still more emphatically, He affirms that He will not delay justice but render it quickly. As the adage goes, "justice delayed is justice denied."

The jubilee year of mercy is predominantly centred on the Sacrament of confession where the priest exercises his faculty as "a minister of divine justice and mercy" (CCEO c. 732 §2). However, forgiving sins and liberating people from the bondage of sin was not the sole dimension of Jesus' ministry and acts of mercy and compassion. The parable of the Good Samaritan is a good example (Lk 10:25-37). Jesus was the merciful face of the heavenly Father to all those who approached Him pleading for help - spiritual or physical/material. They could experience then and there the warmth of his love, mercy and compassion.

Pope Francis' call to be merciful like the heavenly Father demands the imitation of Jesus Christ who is the Sacrament of the Father. Therefore, the spirit of the message of the year of mercy, I think, is not to be confined to the sacrament of confession and to the Year of Mercy, but should be extended to various other fields of ecclesial life and earthly

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<sup>10</sup>See <http://biblehub.com/commentaries/luke/18-1.htm>, accessed in 2016.

mission. To inspire the Church, Pope Francis offers it his own personal example modelled on the image of Christ, the Supreme Pastor who accompanied the people with a compassionate heart. In one or another way, all offices in the Church and those who discharge the various obligations attached to them are to practise the message of the Year of Mercy, that is, to have a heart which is touched, moved and struck by the misery or wretchedness of the suffering.

Pope Francis' *motu proprio Mitis Iudex Dominus Iesus* and *Mitis et misericors Iesus* (August 15, 2015) provide two such examples in the area of marriage tribunals. By minimising the legal hurdles, that is, by lifting the requiring of two conforming affirmative sentences, these procedural reforms for investigating the nullity of marriage attempt to lessen the misery of those in broken marriages. These reforms were undertaken to avoid as much delay as possible, without neglecting the need to maintain order and uphold the divine and human values of the institution of marriage.

There are, on the one hand, marriage tribunals and personnel who, struck by the misery of spouses in such difficult situations, go extra miles in processing the pending marriage nullity cases with a view to alleviating their misery. On the other hand, other tribunals have huge numbers of incomplete cases pending for many years. One can just imagine the pain and stress such kind of spouses undergo as they advance in age without being able to contract a new marriage.

All Ecclesiastical offices that is, from the office of parish priest to that of the Roman pontiff, various offices in the religious institutes of consecrated life and other associated ones, big or small, should be agents dispensing divine mercy to those who are in difficult situations and seek help.

How often do we hear, in and outside the Sacramental forum, ecclesiastical officeholders with Pharisaic attitudes? Instances of ordinary faithful, devoid of power, position and influence, becoming victims of ecclesiastical structures and bureaucracy are not rare. As the parable of the widow and judge illustrates, denial or unnecessary delay, from the part of the responsible office holders, in executing the rights of those in miserable situations, especially the poor and defenceless, is an injustice, not in line with the call to be "authentic signs of Father's mercy" (MV, n. 17). Not only persons individually but also as a community could become sometimes victims of structural injustice and lack of charity. Just for example, in spite of the

unqualified mandate given by the Lord to all His disciples to go to the ends of the earth and to preach the Word of God (Mt 28:19; Mk 16:15; cf. OE 3) if the jurisdiction of a particular Church *sui iuris* is restricted to the proper territory, is it justice? So also, "based on the conciliar teaching both the codes of canon law have stipulated various provisions such as the appointment of pastors of the same rite or episcopal vicars, erection of personal parishes, vicariates or exarchies and even the establishment of a special hierarchy for each Church *sui iuris* with the erection of diocese or eparchies" (CIC cc. 383, 372 §2, 476, 518; CCEO cc. 31, 38, 192, 193 and 1465).<sup>11</sup> The denial of or delay in executing these legal rights, will it not amount to injustice within the Church? The plea of many of the Oriental Churches for such rights is not yet paid proper and enough attention to by the concerned authorities, as in the case of the widow of the parable we saw above. Without this basic element how can one speak about mercy?

Hence, the declaration of the jubilee Year of Mercy inviting all priests to be ministers of divine mercy and justice at the confessional, is also an extended appeal, in a broad sense to all, especially, those in authority to be just and kind and thus to become reflections of the merciful face of the Heavenly Father. An introspection and self-criticism of the ecclesiastical hierarchy – priests, bishops, cardinals, the Roman Pontiff and all those associated with them in continuing the mission and ministry of the Lord – in the light of the spirit of the jubilee Year of Mercy would help the Church officials to be more "authentic signs of God's mercy" (MV 17).

Four articles of the current issue of *Iustitia* treat the theme mercy and justice, from different perspectives. In the background of the jubilee Year of Mercy and the indiction *Misericordiae vultus*, Aidan McGrath examines the fundamental ordinary duties of the confessor outlined in CCEO c. 732 and compares them to the prescriptions of CIC cc. 978-981. He assesses how the two roles of the confessor as minister of divine justice and divine mercy are represented in the codes of canon law, noting especially how the latter complements the former: "The reference to his role as a minister of divine justice might well inspire fear and terror in the penitent, but this is complemented by the explicit reference to his role as minister of divine mercy. CIC c. 978 §1 repeats this norm to the letter. The aspects of divine justice and divine mercy,

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<sup>11</sup>Paul Pallath, "The Fundamental Rights of the Churches in the Catholic Communion of Churches," *Iustitia* Vol. 3, no. 2 (December 2012) 188.

while certainly distinct, are not to be separated; the use of the word "*simul*" in the Latin text makes this abundantly clear" (p. 23). These reflections might help the confessors become "*authentic signs of the Father's mercy*" (MV, 17).

In his article "Reserved Sins..." Fr. Vinson evaluates the canonical nuances of "reserved sins" (CCEO) and compares them with the parallel system of *latae sententiae* censures, especially with non-declared excommunication and interdict (CIC). The author claims that these systems are theoretically and legally unequal, and that having two types of reservations concerning the sacrament of penance creates injustices, legal confusions and illegal practices. The author concludes that "Today, with the large-scale globalization and the rapid migration of people, the existence of two systems can even produce certain illegal practices and pastoral discomforts for both the penitent and confessor, causing injustice" (p. 60).

Johnson Kovoorthenpurayil, in this first part of his article, "The Right of Defence in the Administrative Removal of Parish Priest," explains the canonical causes and procedures for such administrative removal. Harmful or ineffective ministry is the reason for removing a parish priest. A priest's ministry might become ineffective because "there are not only juridical relationships between a cleric and his bishop or his superior, but also a personal relationship between the cleric and the entire people of God, especially the Christian community that he has to serve. This community has the right to enjoy effective ministry from its priests" (p. 84). While the code legally obliges a parish priest to be just and kind towards the faithful, a bishop is legally bound to be just and merciful to a parish priest who, concerning the situation of his removal is in difficulty.

Lorenzo Lorusso, in the article "The Oriental Catholic Churches in the Ecumenical Movement" (*Le Chiese orientali nel movimento ecumenico*), discusses the particular role of the Catholic East in fostering ecumenism. The Eastern Catholic Churches' "special function in fostering unity among all Eastern Churches" (CCEO c. 903) derives from the fact that the "oriental Churches, catholic and orthodox, have a centuries old common history and tradition as well as a common ecclesial sense" (p. 67). He discusses the canons of title XVIII of CCEO, connecting them with their sources and other relevant canons of the code. He claims that, the progress of the dialogue between the Orthodox Church and the Catholic Church (Church of Rome), at the



universal level, will depend on the dialogue between the orthodox and catholic local Churches (p. 71).

Finally, in his article, "Recognition of Miracles: Its Process in Lourdes and Rome A Comparison" (Part I), C. Thunduparampil presents a comparative evaluation of the processes involved in recognizing miracles at Lourdes and that followed by Congregation for the Causes of Saints, in Rome. The miraculous healings considered by Congregation for the Causes of the Saints and the Medical Office of Lourdes, are signs of God's mercy on the sick, including the terminally ill. Veneration of Saints in the Church is part and parcel of her history. From the beginning of the Church, martyrs and, in the course of time, "confessors" have been given public and ecclesiastical cult. However, the glory, honour and praise attributed to God and the Blessed Virgin Mary are different from what is given to saints. For the official beatification and canonization of holy people Church considers miracle that God performs through their intercession, as a prerequisite. Church has recognized Lourdes as a place of pilgrimage and through the intercession of Our Lady of Lourdes many miracles occur there.

