

Synopsis and Thesaurus.

Role of Law as an Instrument of Love and Justice.

(Fr. Paul Verghese)

There we have three fundamental Concepts in the life - Law, Love, Justice and two ~~one~~ Secondary Concepts - ^{Law and} Instrument.

No clear thinking is possible without clarifying the three fundamental concepts and seeing some of the implications of the two Secondary Concepts.

Let us take the most difficult first

Love. This word is notoriously unclear, and capable of many meanings.

(1) ^{Pagan} Greek Agapao means external signs of affection and love - like kissing the head, embracing, etc. In the New Testament it means God's compassionate care for humanity, and humanity's active care for each other motivated by God's love.

(2) In Romantic literature, love comes from the Latin root amare from which we get our amour. Amare refers more to pleasure and fondness. In Romantic literature love means the projection of all virtue to the object of one's love, and then to desire to possess that object.

Caritas, from which we get —
English charity. as well as care,
more like the care of parents for child.
It is an active love, paternalistic, protect
providing, and somewhat possessive.

(4) Vulgar use of the word love in much
Contemporary literature simply means
Sexual intercourse.

When Christians speak of love as a social
reality, they should be careful to avoid
certain meanings: especially the Romantic one,
where there is a false projection of all good to
the object and then intense desire to possess it.
This is based on the twin evils of falsehood
and acquisitiveness, neither of which are Christian.
On the contrary love creates value in
the valueless by the giving of oneself.

~~Can love become the instrument of real
love?~~ Paul Tillich gives an analogy
of love which equates it with power over
~~justice~~.

"Life is being in actuality and
justice. " Life is being in actuality and
love is the moving power of life. In these
two sentences the analogical nature of love
is expressed. They say that being is not
Actual without the love that drives everything
that is, towards everything else that is.
— . . . I — in the unity of the beloved"

If Tillich is right, then the division of love occurs when the emphasis falls on the pleasure generated by the union of the separated, rather than on the union itself. Tillich rejects partially Freud's libido theory as the source of all willing to the extent that Freud ~~writes~~ misunderstands libido as the pleasure principle rather than as the principle of unity-seeking. The striving of libido (when unperverted) is not to get rid of its tensions, but rather to achieve unity with the other. Thus the final goal of love is the achievement of harmonious union and the resultant joy.

The dialectic between Law and Love seems quite complex. What is Law? It is a prescription enforced by threat and force and fear of punishment. It does not either transform the source-springs of human motivation, nor does it foster creative freedom. Its function is primarily negative — to prevent the misuse of human freedom. To interfere with other people's

freedom. In many, order or Structure. Law can be both prescriptive and proscriptive. In either case it deals only with external actions, though motivations are taken into account as mitigating factors. But the motive to kill somebody is not culpable before law, until the action itself has taken place.

Order or Structure, which is produced by prescriptive or proscriptive law, can however be seen either negatively as the limitation of personal freedoms and the protection of personal freedoms from outside intervention. But even more positively structure can be seen as an instrument created by society as a whole for achieving certain freely chosen ends. Thus Structure, and therefore law, can be seen as instruments of corporate freedom.

justice

The Greek words dikē, dikaiosuny, dikaiosune' in the New Testament have a pagan as well as a Greek background. In the Old Testament the two ~~parallel~~ ^{most important} synonymous for justice are Tsedeq (Tsedaqah) and mishpat. There is a third word which has a similar connotation hesedh, which the old English Bible used to translate as loving kindness, but the RSV translates as steadfast love. In fact its meaning ^{dependable} is not far from the idea of love and dependable justice combined.

A major point to be remembered about the Old Testament is that the Jews did not separate ^{the legislature,} the judiciary, the legislative and the executive. The rulers ^{or judges} were lawgivers, law adjudicators and law enforcers. The book of Judges, e.g. speaks of people as judges whose main job seems to have been to fight the enemy and protect the people. This is also justice. In Judges 5:11 Deborah the Judge calls the acts of Yahweh in defeating the enemy "the just acts of Yahweh".

In thinking about justice as a Christian idea, two errors confuse our thinking:

The first is the error which assumes that the task of the judge is simply to hear both sides of the ~~evidence~~, case, to weigh the evidence, and to give a verdict in relation to certain specific charges made. That is our modern judge.

The judge in the Old Testament is one who protects the victim of injustice, lifts him up and gives him vindication (justice) ^{associate justice with}

The second error is the Roman idea of justitia. ^{jus, the root means that which is due or binding. It also means law.} The main idea is that I must get what is due to me by right. The duty of the law is to give to each man what is his due, his right, that which is his, whether reward or punishment or property. This is far from the Biblical understanding of justice.

Tillich again gives an ontology of justice. For him justice is the way in which actualized being (life) unites dynamic with form, able to transcend from one form

It to another without losing its identity or destroying itself :

The Stories related the Logos to the Nomos. We in India have a concept of Rta which regulates both celestial movements and the affairs of men. Jus regulates Justitia, both in nature & in society.

According to Tillich, Justice is the very form of being - the form in which power (which is ultimately the power of being) actualizes itself in life. Justice is dynamics regulated according to the principle of love. It is choosing the right relation of power between various elements in being. This right relation cannot be permanently codified, but certain basic principles can be enumerated:

"If life as the actuality of being is essentially the drive towards the reunion of the separated, it follows that the justice of being is the form which is adequate to this movement".

The form must be adequate to the content:

As the content changes the forms need to change. Social change demands - " looks to perpetuate

Adequate.

The second principle is that of Equality. In what sense? Who are equal? In Pagan societies said only "free men", the master class were equal. Slaves had no rights. Christianity has technically wiped out the diff between free and unfree. All men are equal.

Equal in what? In their potential humanity, as rational human beings - says Tillich. "This potentiality must be actualized if real equality is to be created." (p. 51) In actual societies, equality is never fully realized and has always to be striven for.

Third principle. Personality. Man cannot be treated as a thing or an object, but only as a person, with freedom and dignity. The removal of social conditions that violate the freedom and dignity of persons thus becomes a demand of justice.

Fourth Principle. Love: "If justice is the form of the reunion of the separated, it must include both the separation without which there is no love, and the re-actualization" (p. 51)

This is where Community comes in as a principle of justice.

Aristotle's distinction between retributive justice and distributive justice: This is giving to everyone what is its due - negatively and positively. There is an element of arithmetic or calculation here. They are proportional or quantitative considerations.

Tillich calls for an additional kind of justice - the creative or transforming justice. He defines this as "Fulfilment within the unity of universal fulfilment" (p. 65). This is the more important aspect in the Bible - more important than proportionate or tributive justice. It is the ultimate form of reuniting ~~for~~ the separated in love - through grace and forgiveness.

What is the role of power, Compulsion or enforcement in justice?

The Combination is Justice-Love,
Knowledge-Wisdom and Power-Freedom.

The three together make God who He is
and we human beings also have to grow
into this power of being.

Law must assist in this
process.

What are the ^{positive} functions
of Law

- (a) Law as Teacher of Values
- (b) Law as Social Reformer
- (c) Law as preserving ~~front~~ order
in which all can grow.

But law is only an instrument - not
an end in itself. The end is Man.