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Justice and Fundamental Anthropology: Uncovering Essential Connections with Paul Ricoeur

A Review of Paul Ricoeur, *The Just*. Translated by David Pellauer. Chicago: University of Chicago Press, 2000.

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Originally presented as a series of invited lectures on the nature of justice, Paul Ricoeur's latest collection of essays serves as an indispensable companion piece to the "little ethics" he developed in *Oneself as Another*. In this slim and tightly argued volume, Ricoeur offers an extended consideration of justice from a teleological perspective, engaging the work of Plato, Aristotle, Kant, John Rawls, Hannah Arendt, and others to develop his scheme. As stated in the Preface, the purpose of these reflections is to overcome philosophy's general negligence of justice as a concept. Ricoeur explains that since the Enlightenment justice has received little attention because of philosophy's understandable preoccupation with the historical reality of evil. Ethics and politics became the primary subjects of philosophical reflection while justice was relegated to the juridical. But in neglecting the concept of justice, Ricoeur argues that we have lost sight of two of its most crucial aspects. First, we have overlooked its affective roots. Reiterating the argument of *Oneself as Another*, Ricoeur contends that justice does not spring primarily from a deontological sense of duty, but is an integral part of the ethical intention *to live a good life with and for others in just institutions*. In his words, the just "is first an object of desire, of a lack, of a wish. It begins as a wish before it is an imperative" (xv). Second, Ricoeur claims we have lost sight of the primary goal of justice, which is peace—not vengeance or compensation as is commonly believed and practiced. The ten essays thus represent Ricoeur's attempt to "do justice to justice," to illuminate the embedded nature of the concept, and to show that peace is indeed the final destination of the just.

But while agency, narrative identity, and imputation are crucial to the notion of a capable subject, Ricoeur contends that an anthropology that stops with these fundamental features is wholly incomplete. A *veritable* subject of rights requires that the conditions for the actualization of its fundamental capacities also be taken into account. This means including interpersonal forms of *otherness*. In contrast to the concept of otherness espoused by Levinas, Derrida, and others, Ricoeur expands otherness to include institutional forms of association (a neutral third party) that mediate interpersonal relations. This expansion reflects Ricoeur's long-held conviction that the "who" of the subject of rights can't be developed apart from social mediation. The self is only realized in a variety of social systems (e.g., technical, fiscal, juridical, political, educational, etc.) where persons interact with each other and where each recognizes the other as a legitimate subject of rights.

Thus, the injured party's initial thirst for vengeance is suspended by the judge who opens up a just distance and facilitates the transition from vengeance to justice, from a war between persons to a verdict that reestablishes peace. And yet the promises of restoration and civil peace voiced in the verdict are often broken in its execution, because the parties to the verdict are severed from their full participation in it. Ricoeur argues, for example, that current sentencing practices and forms of rehabilitation prevent the condemned person from acknowledging fault and restoring the capacities that are crucial to self-esteem and self-respect. In the majority of cases, prison time produces more

rage than peace. The victim fares no better, as Ricoeur's discussion of sanction and amnesty makes clear.

Thus, Ricoeur understands justice as a peace that reestablishes the originary distance between persons, so that they can forgive the past and embrace the future. What is crucial to recognize here is that restoration and rebirth are not achieved at the moment of judgment. They come only at the end of a long process involving many participants, many experiential dimensions, and many meanings. Moreover, while the deontological moment of obligation and the universal sanction of law are important components in Ricoeur's scheme, they are not considered as foundational as the human subject's desire: *to live the good life with and for others in just institutions*. Analysis of human subjectivity thus becomes an essential and ongoing task if we are to understand and to realize justice in all its forms.

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3. In claiming that justice is an object of desire, Ricoeur returns to and reasserts a fundamental anthropology (a common subjectivity) that serves as the ground for his scheme. Such a starting point contrasts sharply with the post Enlightenment tendency to deconstruct and dismantle the human subject. Yet Ricoeur is willing to wager that exploring the meanings of human subjectivity will pay off with greater understanding. It is a wager he clearly wins here. For in attending to the fundamental structures and lived experiences of human subjectivity, Ricoeur provides insights into the nature of justice that are often overlooked by both philosophers and theologians alike, and that were only alluded to in his earlier writings. This essay will highlight some of these insights by exploring Ricoeur's fundamental anthropology as it relates to his understanding of the concept of responsibility and to the distinction he makes between justice and vengeance. Examining these aspects of Ricoeur's scheme clearly shows the essential connections between human subjectivity and justice as a cultural value, and how severing these connections obscures the affective foundations of ethics and disrupts the movement toward genuine reconciliation and peace.
 4. In the first essay, "Who is the Subject of Rights?" Ricoeur isolates the "who" behind the subject of rights. The aim of his regressive analysis is to discover the fundamental features that make a subject capable of commanding esteem and respect—a capacity that prompts the desire for justice. Continuing the method he employed in *Oneself as Another*, Ricoeur poses a series of questions (e.g., Who is speaking? Who is the author of an action?) that reveal three distinct features of the capable subject: *agency*, *narrative identity*, and *imputation*. According to Ricoeur, of these three

[It is in the experience of imputation] that the notion of a capable subject reaches its highest significance. We ourselves are worthy of esteem or respect insofar as we are capable of esteeming as good or bad, or as declaring permitted or forbidden, the actions either of others or of ourselves. A subject of imputation results from the reflexive application to agents of predicates like 'good' or 'obligatory.' Taken together, self-esteem and self-respect define the ethical and moral dimension of selfhood, to the extent that they characterize human beings as subjects of ethico-juridical imputation (4).

5. For Ricoeur this triadic structure of me/you/it is the fundamental anthropology that governs the transition from capacity to actualization, from free possibilities to an actualized subject worthy of esteem and respect. Building upon these anthropological structures, Ricoeur's next

essay, "The Concept of Responsibility," attempts to recover the full meaning of the term. For Ricoeur, justice depends upon the capacity of the human subject to accept responsibility for his or her actions. His semantic analysis of the word uncovers a loss of meaning that blunts this capacity.

6. In tracing the development of the concept of responsibility in juridical and philosophical contexts, Ricoeur finds extremes in both meaning and usage. In the juridical sense, responsibility is clearly and narrowly defined as the obligation to provide compensation for damages or to accept punishment for wrongs done to others. A person who is subject to these obligations is said to be responsible. Within philosophical contexts, however, its meaning gets extremely muddled even while its scope is extended. For example, in contemporary moral usage responsibility is not restricted to the immediate effect of an action, but is often applied to a long series of persons, actions, and effects that accompany the act. At the most extreme limit, a nameless, faceless "other" becomes responsible for everything and everyone. Within an ever-widening scope of responsibility, every injury seems to call for and to warrant some form of compensation from someone—or so we believe whenever we find ourselves suffering a loss.
7. According to Ricoeur, these extreme fluctuations in clarity and scope are the result of losing touch with the semantic history of the word. Through a patient and painstaking analysis that includes forays into Reformation theology and Kantian moral philosophy, Ricoeur shows that *imputation* is the ancestor and founding concept of responsibility and that over time the reflexive link to the self as the author of its acts has been nearly eliminated from contemporary discourse. The result has been a steady erosion in the moral sense of *fault*. He observes, for example, that in the juridical sphere where responsibility consists in the obligation to compensate for damages done, there is a tendency to "depenalize" responsibility. In the recent history of the French courts,

...the law of responsibility, in the technical sense of the term, has tended to make room for the idea of a responsibility without any fault, under the pressure of concepts such as solidarity, security, and risk, which have tended to take the place of the idea of fault. It is as though the depenalization of civil responsibility must also imply the complete loss of the sense of culpability (25).

8. In the United States, "no-fault" insurance is a perfect example of this shift from individual accountability to an objective evaluation of harm that eliminates any sense of culpability. The same tactic is often used by companies that agree to compensate for alleged damages while "denying any wrong-doing." Similarly, the expansion of the moral field of responsibility makes it increasingly difficult to identify precisely who is responsible for specific harmful effects. As Ricoeur observes "It is as though responsibility, by expanding its range, dilutes its effects to the point of making the author or authors of harmful effects unknowable" (30). Once again, the link to the self as the author of its acts is severed, thus short-circuiting the reflexive movements that generate the ethical and moral dimensions of selfhood.
9. For Ricoeur, this loss of reflexivity can also obscure the subject's sense of what is just. In the Preface, Ricoeur describes the virtue of justice as one that is "based on a relation of distance from the other, just as originary as the relation of proximity to the other person offered through his face and voice" (xiii). The transgression of the me/you relation—usually through the abuse of power—results in the subjective experience of injustice. Injustice sparks feelings of indignation and vengeance, described by Ricoeur as "the claim to obtain justice for

oneself, even at the price of adding violence to violence, suffering to suffering" (xi). With these emotions also comes the desire for a neutral third party to intervene, to reestablish a *just distance* between the "me" and the "you" so that the antagonists can move toward a peaceful resolution of the conflict. However, the process can be short-circuited if it remains in the moment of vengeance, which is often equated with justice. In the essay, "Sanction, Rehabilitation, Pardon," Ricoeur illustrates the problem through examining the stages in a judicial trial.

10. Like all cultural institutions, the structures of a judicial trial reflect the triadic structure of me/you/it described in Ricoeur's anthropology. In a trial the conflicting parties stand before a judge whose job it is to reestablish a just distance between the parties. This is accomplished by presiding over a public hearing' an oral "war of words" that presents the litigants' positions and declares a verdict based upon the law. According to Ricoeur, the judge's speech-act serves several functions.

[The verdict] brings an end to uncertainty; it assigns the parties in the trial places that determine the just distance between vengeance and justice; finally, and perhaps above all, it recognizes as actors those persons who are accused of the offense and who stand to suffer the penalty. In this every effect lies the most significant reply given by justice to vengeance. It sums up the suspending of vengeance (136).

11. Sanction is generally understood as restoring the integrity of the law and providing some level of compensation for the victim. But is compensation justice in its fullest sense? Ricoeur argues that compensation is a form of punishment that merely satisfies the victim's sense of indignation and the desire for vengeance. It does not fully address the sense of loss the victim experiences. Justice requires something more than compensation; it requires that sanction be complemented by other forms of public acknowledgment that restore the victim's self-esteem. Although Ricoeur doesn't specify these activities, he describes them collectively as "the *work of mourning* through which the wounded soul is reconciled with itself, in internalizing the figure of the lost loved object" (138). This kind of emotional catharsis is needed not only for the victim but also for the community so that feelings of indignation, anger, pain, and sorrow are allowed to be fully experienced, examined, and integrated. Without this important work, the thirst for vengeance will likely be the terminal moment in the process, effectively short-circuiting the movement toward genuine reconciliation and peace.
12. Amnesty is even more problematic. As a form of rehabilitation, amnesty sidesteps justice completely because it is a form of "institutional amnesia" that permits persons to act as if nothing ever happened. Amnesty not only prevents a legal indictment, but it also prohibits any reference to the facts themselves. In Ricoeur's view, the understandable desire and need for national reconciliation is not worth the cost of such forgetting. For in sidestepping judicial structures altogether, amnesty not only prevents perpetrators from accepting responsibility in the fullest sense of the word, but it also keeps the fires of hatred and vengeance alive, preventing victims and communities from the mourning that is essential for genuine reconciliation and peace.
13. Ricoeur's emphasis on memory is also central to his understanding of pardon, which does not involve the trial process, but which is vital to the quest for justice. Pardon is a supra-ethical value (belonging to the "economy of the gift") that can only be freely offered by the victim as a final act in the process of mourning. According to Ricoeur,

[Although pardon is never owed] it is still not without an end. And this end has to do with memory. Its 'project' is not to wipe away memory. It is not forgetting. On the contrary, its project, which is to overlook the debt, is incompatible with that of overlooking what is forgotten. Pardon is a kind of healing of memory, the end of mourning. Delivered from the weight of debt, memory is freed for great projects. Pardon gives memory a future (144).

14. This brief discussion of Ricoeur's work shows the importance of a fundamental anthropology for grasping the embedded nature of justice, the affective foundations of ethics, and the crucial distinction between vengeance and justice. Clearly, Ricoeur's insights challenge some contemporary notions about what it means to attain justice. For example, his insights into the loss of culpability and his critique of amnesty find confirmation in the mixed results of truth and reconciliation commissions established in South Africa, El Salvador, Chile, and in other countries. In many instances the search for some sense of justice has become a meaningless and pointless exercise because it has been short-circuited by the issuing of blanket amnesties and by the failure of committees to demand individual accountability. Memories are not given the opportunity to heal or to be open to the future.
15. Given the horrific events of September 11, 2001, Ricoeur's essays are even timelier. Will the United States follow the path of vengeance or justice? Currently, the country is in a period of deep mourning. Ricoeur's insights into the nature of justice can help us understand how important the work of mourning is for making the transition from the desire for vengeance to the desire for genuine reconciliation and peace. Only time will tell whether we as a nation have the courage and the wisdom to see the difference and to allow our memories to heal.

Linda M. MacCammon, (Ph.D., Boston College) is an Assistant Professor in Bible and Ethics at Carroll College in Helena, Montana. She wrote her doctoral dissertation on Paul Ricoeur, exploring how his work mediates the ongoing debate on the distinctiveness of Christian ethics. Her recent essay comparing the work of Jacques Derrida and Paul Ricoeur will be included in a forthcoming book by Routledge, *Paul Ricoeur and Contemporary Moral Thought*, a collection of essays due out in the spring of 2002. Her other interests include comparative religious ethics, biblical hermeneutics, and phenomenology.

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