

## Distributive Justice and Subsidiarity: The Firm and the State in the Social Order\*

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This article discusses the classical concepts of justice from Aristotle and Thomas Aquinas and derives the implications for distributive justice used by and for the firm and the state. Distributive justice demands that the goods of a community be distributed among its members according to their standings in the community. Because this requires knowledge of the standings of the various members, the distribution of benefits within a community should be done by a member of that community. Distributive justice and subsidiarity together imply that (1) the firm should distribute a share of the profits among the workers, and (2) the use of tax-and-transfer policies by the state to redistribute income is contrary to subsidiarity and the natural rights of the firm.

The term *social justice* is today generally used as a synonym of what used to be called *distributive justice*. The latter term perhaps gives a somewhat better idea of what can be meant by it and, at the same time, shows why it can have no application to the results of a market economy: “There can be no distributive justice where no one distributes.”<sup>1</sup> This quote is due to Friedrich Hayek, and, in the essay in which it appears, he denies the very existence of social justice or distributive justice. In his criticism, Hayek’s point that there can be no distributive justice where no one distributes is a valid one. Indeed, justice, including distributive justice, is a virtue, and as such can only be practiced by men. Michael Novak makes exactly this point when he argues: “Social justice is a virtue, an attribute of individuals, or it is a fraud.”<sup>2</sup> Hayek is also right to point out that *social justice* and *distributive justice* are used synonymously, often along with a third, *economic justice*. In practice, all three terms pertain to income redistribution and related

policies. In fact, however, while they both have implications for the distribution of income and wealth in society, social justice and distributive justice are not synonymous in Catholic teaching or in the Scholastic tradition. The loss of the traditional understanding of these terms has resulted in widespread confusion regarding the demands of justice and a corresponding inability to satisfy those demands and live justly. This article examines the classical definitions of justice as well as the types of justice, beginning with Aristotle's *Nicomachean Ethics*. These concepts were adopted and developed by Scholastic theologians and are contained in the teaching of the Catholic Church today. This article establishes the classical definition of distributive justice and draws out the implications of this type of justice for the firm and the state in the social order.

## Types of Justice

Justice pertains to what is owed to a person, and justice is satisfied when each gives what he owes and receives what he is owed. Justice is both a characteristic of transactions and a virtue. A transaction is just if what is given to or received by a person is what is due to that person. A person is just, or has the virtue of justice, when he is in the habit of giving to each what is due to him. The term *person* can refer to either an individual or a community, and a community is a group of persons united in common purpose. Commutative justice and distributive justice are the two types of justice, according to Aristotle and later to Thomas Aquinas. Commutative justice pertains to what is owed between persons in exchange; distributive justice pertains to the obligations between a community and the members of that community. In distributive justice, there are two sets of obligations: (1) what a person owes to a community of which he is a member, and (2) what a community owes to its members. Scholastic teaching refers to the former set of obligations as general or legal justice and the latter set as particular justice. Modern Catholic teaching refers to the former set of obligations as social justice and reserves the term *distributive justice* for the latter, at least insofar as these terms are defined and used in the encyclicals. For example, Pope Benedict identifies commutative, social, and distributive justice as types of justice in his encyclical letter *Caritas in Veritate*.<sup>3</sup>

**Table 1: Definitions of Justice**

<b><u>Scholastic Term</u></b>	<b><u>Modern Term</u></b>	<b><u>Definition</u></b>
<i>Justice</i>	<i>Justice</i>	To give what is owed
<i>Commutative Justice</i>	<i>Commutative Justice</i>	What is owed between two persons in exchange
<i>Distributive Justice</i>	<i>None</i>	Obligations between a community and its members, divided into general and particular justice
<i>General Justice or Legal Justice</i>	<i>Social Justice</i>	What the members of a community owe to that community
<i>Particular Justice</i>	<i>Distributive Justice</i>	What a community owes to its members

Table 1 summarizes the distinctions among the types of justice. With the exception of quotes from ancient and medieval sources, these terms are used in their modern sense throughout this article. I begin with a discussion of the requirements of commutative, social, and distributive justice, and then turn to the focus of this article, which is distributive justice in the modern sense: what a community owes to its members.

## **The Exercise of Justice**

Commutative justice pertains to exchanges between persons. An exchange always involves two sets of goods, one for the other, and an exchange satisfies commutative justice when the value of these sets of goods are equal in common estimation when the common estimation of the value of a good is taken to be the market price of that good under ordinary market conditions. Commutative justice is satisfied when a customer pays the market price for a good, or when two goods of roughly equal value are traded. Theft and robbery, where one party obtains a good in exchange for nothing, are violations of commutative justice. Commutative justice also pertains to tort law and the punishment of criminals and is satisfied when restitution is made and the punishment or sentence is commensurate with the crime committed. Sentences that are either too severe or not severe enough also violate commutative justice, depending on the crime committed. Commutative justice also demands that honors and distinctions bestowed on individuals should be commensurate with the good of the work performed.

A person who has the virtue of commutative justice habitually takes care that the value of the goods that he gives in exchange are equal to the value of the goods he receives. The just man does not want to give less than he receives; the unjust man wants to receive more than he gives. Neither the just nor the unjust want to pay more than the value of a good, but only the just man desires not to pay less than the value of the good. Again, the value of the goods exchanged is determined by the common estimation and not by an individual's personal valuation. Therefore, questions of justice may be considered without reference to the dispositions or circumstances of buyers and sellers.

While commutative justice pertains to relationships between persons, social and distributive justice pertains to relationships within communities. A person who has the virtue of social justice has the habit of fulfilling his obligations to the common good of the community or communities to which he belongs. The modern term *social justice* is synonymous with the Scholastic terms *general justice* and *legal justice*, which are synonyms. Thomas Aquinas teaches that legal justice “directs the acts of all the virtues to the common good,”<sup>4</sup> and this definition is repeated in many questions.<sup>5</sup> His definition is drawn from that of Aristotle who applies legal justice to “those acts just that tend to produce and preserve happiness and its components for the political society.”<sup>6</sup> The equivalence of social justice and legal justice was the consensus of Catholic theologians at the time of the publication of *Quadragesimo Anno* in 1931, which was the first time the term *social justice* was used in modern Catholic social teaching. Pius XI later confirmed this interpretation of social justice in another encyclical, *Divini Redemptoris*, when he writes: “Now it is of the very essence of social justice to demand for each individual all that is necessary for the common good.”<sup>7</sup>

At several points in *Quadragesimo Anno*, Pius XI discusses the relationship between social justice and the common good. He writes: “The huge disparity between the few exceedingly rich and the unnumbered propertyless, must be effectively called back to and brought into conformity with the norms of the common good, that is, social justice.”<sup>8</sup> Later Pius writes: “The public institutions themselves, of peoples, moreover, ought to make all human society conform to the needs of the common good; that is, to the norm of social justice.”<sup>9</sup> In the first quote, social justice is equivalent to the norms of the common good, and in the second, the norm of social justice is equivalent to either the common good or to the needs of the common good, depending on how the sentence is interpreted. The common good is the set of conditions necessary for the fulfillment of men, where this fulfillment is accomplished through both the personal and the social life of man.<sup>10</sup> The definition of the common good as a set of conditions suggests that the “norms of the common good” are the conditions themselves. To observe

those conditions is to act in accord with social justice, and to violate those norms is to act contrary to social justice.

In his discussion of social justice, the particular norm with which Pius XI was clearly concerned was that of a just wage. He writes: “Every effort must therefore be made that fathers of families receive a wage large enough to meet ordinary family needs adequately. But if this cannot always be done under existing circumstances, social justice demands that changes be introduced as soon as possible whereby such a wage will be assured to every adult workingman.”<sup>11</sup> Here, Pius reiterates the importance of just wages, which Leo XIII defines in *Rerum Novarum* when he writes that “wages ought not to be insufficient to support a frugal and well-behaved wage-earner.”<sup>12</sup> *Support* here includes the support of both the wage earner and his family, which Pius XI makes clear in *Quadragesimo Anno*: “It is an intolerable abuse, and to be abolished at all cost, for mothers on account of the father’s low wage to be forced to engage in gainful occupations outside the home to the neglect of their proper cares and duties, especially the training of children.”<sup>13</sup> Here, then, is the connection to the common good: Low wages force mothers to work and force children to be cared for by others, which disrupts family life. Healthy family life is essential to human fulfillment, and, therefore, the common good and unjust wages, in disordering family life, are directed against the common good and are contrary to social justice. This concept of social justice as being the observation of the norms of the common good or, more generally, as being what a member owes to his community is distinct from the concept of distributive justice, which is what a community owes to its members.

While social justice relates an individual to his community, distributive justice relates the community to its members. Specifically, distributive justice governs how a community distributes goods among its members. This relationship is one of proportion, and distributive justice demands that the benefits and costs of the community be distributed in proportion to the position or standing of individuals within that community. Thomas Aquinas writes that “in distributive justice something is given to a private individual, insofar as what belongs to the whole is due to the part, and in a quantity that is proportionate to the importance of the position of that part in respect of the whole.”<sup>14</sup> Importantly, not all individuals necessarily have equal standing in a community, so distributive justice does not demand that benefits or costs be portioned equally to all individuals. “Consequently in distributive justice a person receives all the more of the common goods, according as he holds a more prominent position in the community.”<sup>15</sup> However, when two members do have equal standing, distributive justice demands that they receive equal benefits and bear equal burdens with respect to that community.

Distributive justice demands that goods belonging to a community or the costs borne by a community should be distributed among the members according to their standing in the community. A decision of how goods are distributed or of how costs are borne by the individuals within a community may be described as just or unjust. These decisions are made in one of three ways: (1) by an individual; (2) by a group of individuals, which I shall call a committee; or (3) by a custom, which may or may not have the force of law. The individual or the committee may or may not be a part of the community affected by the decision, though I suggest that subsidiarity demands that individuals or committees making decisions regarding the distribution of benefits or costs should belong to the communities affected by those decisions. An individual or committee members who makes a decision to distribute the goods of a community among the members of that community according to the standing of individuals within that community has acted justly, and those who habitually take care to do so have the virtue of distributive justice. Similarly, a custom that determines a distribution among members according to their standing is just, whereas a custom that does not do so is unjust.

The just distribution of the goods of a community among its members is the responsibility of individuals entrusted with authority to distribute them, so distributive justice pertains to the exercise of power. Josef Pieper writes, "Whoever speaks of distributive justice has to speak of the exercise of power. What is under discussion is the right order in the relation between those who have power and those who are entrusted or delivered to this power."<sup>16</sup> Distributive justice relates those in power to those affected by that power. Those who habitually distribute the goods of the community among its members in proportion to their standing may be said to have the virtue of distributive justice. When properly exercised, distributive justice conforms to the principle of subsidiarity and unites the community more closely in solidarity.

Those with the power to distribute goods among the members of a community should exercise distributive justice and those affected by that power should exercise social justice. The individual or committee members who are given the authority to distribute the goods of a community have the opportunity to practice the virtue of distributive justice when they make their decisions regarding such distributions. Where they make a sincere effort to estimate the relative standing of members in the community and distribute the goods according to those standings, they act justly. This particular exercise of the virtue is therefore specific to those individuals who act as leaders in their communities. More particularly, this exercise is attached to those offices in society in which distribution decisions are made. Certainly executives and government officials have these roles but

so also do parents, school and university board members, leaders of community organizations, and so forth.

When goods are distributed among the members of a community, the members are obligated to practice the virtue of social justice. This virtue may be practiced by accepting a just distribution made by an authority—by not arguing for a greater share in the goods of the community when the share received is just. This respects the authority of those in power within the community and preserves the harmony and integrity of the community. Where these virtues are not practiced, the community is divided in hostility between those with power and those without it.

This raises the question whether it is unjust for a man to accept a share of the goods of the community that is less than or greater than what is due to a member of his standing. The acceptance of one's share is generally understood to be passive, so there may be little opportunity to correct such an injustice, depending on the circumstances. Generally, it will be easier to rectify in smaller communities where there is more communication between leaders and members than there is in larger communities. If someone accepts a share smaller than he deserves, then at least one other community member has received a share larger than he deserves. Accepting the smaller share is equivalent to having received a rightful share and to have given the difference to the other beneficiaries. Thus, the acceptance of a share smaller than what is deserved is not an injustice but an act of generosity and even mercy, that is, to bear wrongs patiently. If someone receives a share larger than he deserves, then he is obligated to return the difference, assuming that this is feasible. When this is not feasible, it does not follow that he is free to do with the money as he pleases because it does not rightly belong to him but rather to the community and ultimately to God. In justice, the beneficiary of a share greater than his rightful due must look for an opportunity to return the value of the goods to the community or to God.

## **Distributive Justice, Solidarity, and Subsidiarity**

One important implication of the proportional nature of distributive justice is that if there are more goods to be distributed within a community, then each member of that community shares in the increase proportionally. “[T]his species of the just is intermediate, and the unjust is what violates the proportion; for the proportional is intermediate, and the just is proportional. (Mathematicians call this kind of proportion geometrical; for it is in geometrical proportion that it follows that the whole is to the whole as either part is to the corresponding

part.)”<sup>17</sup> In many social clubs, all members have equal standing, and all members pay equal dues. If the costs of maintaining the club go up, then the dues owed by each member go up proportionally; if the club benefited from a grant that reduced costs, then the dues for all would go down proportionally. Such a club satisfies distributive justice: All members have equal standing, and the costs are shared by all equally. What is essential is not the equality of the standing of the members but the relationship among their standing in the club and the proportion of the benefits that they receive and costs that they bear.

The exercise of distributive justice promotes solidarity, which is the degree of integration or unity of a community. In the example of the club, all of the members are affected proportionately to an increase in benefits of the club or to the costs of the club, and members of equal standing are equally affected. The family provides another example: As the income of the family increases, then the goods of each family member increase proportionally; if family income should fall, then the goods of each member decrease proportionally. The family that shares in each other’s joys and sorrows is a model of solidarity and a model community. Distributive justice extends this model to all communities, clarifying the manner by which the good or ill-fortune of the whole affects each of the parts. Were it possible that some members of the community suffer while others flourish, which can happen when distributive justice is not satisfied, the community would not be united, and, should this inequality persist, it would at some point cease to be a community. Such a community, having lost its essential characteristic of unity, would then fracture into smaller communities, one formed by the good-fortuned members and the other of those ill-fortuned ones.

All calculations pertaining to distributive justice, whether of the value of an object or the standing of an individual in a community, are estimates. Distributive justice is satisfied if the share received by an individual is approximately proportional to his standing in the community, just as commutative justice is satisfied if the value of two goods exchanged for each other are approximately equal. However, there is no firm rule for the point at which a larger or smaller share than expected is an injustice. Importantly, the calculation of one’s rightful share properly requires knowledge of how many goods are to be distributed throughout the community and the standing of all other members in the community, though it can be compared to the share received by another member of the community with known standing. Because distributive justice requires an estimate of the standings of the different members of a community, members of a community, having knowledge of the other members, are in a better position to satisfy the requirements of distributive justice than nonmembers, and smaller communities,

having fewer members to consider, can more easily satisfy distributive justice than larger communities.

This consideration of distributive justice indicates the importance of subsidiarity in the social order. Subsidiarity is the principle that an authority should perform only those tasks or make only those decisions that cannot be made by a subordinate authority. Leaders of communities must know the standings of the members of communities in order to satisfy distributive justice, and leaders of smaller or subordinate communities have greater knowledge of their members than do leaders of larger or superordinate communities. People have greater knowledge about their families than of their neighborhood, greater knowledge of their neighborhood than of their town, greater knowledge of their town than of their county, and so forth. Thus, subsidiarity and distributive justice both imply that those goods belonging to families should be distributed by families. Towns should distribute those goods belonging to the town that cannot be distributed by families. Analogously, the two principles imply that those goods belonging to firms should be distributed by firms, and only those goods that belong to the state and cannot be distributed by firms should be distributed by the state.

## Distributive Justice and the Firm

Distributive justice has important implications for the structure of firms. A firm is a type of community that is united in the production of goods and services, so it includes all forms of business, such as sole proprietorships, partnerships, corporations, and so forth. The profit of a firm is equal to its revenue less its expenses, or costs. Profit, revenue, and costs will be denoted by,  $\pi$ ,  $r$ , and  $c$ , respectively, so  $\pi = r - c$ .

These profits are distributed among the owners of the firm according to their ownership stake in the firm. In a corporation, the shareholders are the owners of the firm, and each share receives an equal fraction of the profit in the form of a dividend. If there are  $n$  shares, the dividend  $d$  is  $d = \pi/n$ .

Shareholders receive one dividend payment on each share owned, though this dividend is usually reinvested by the firm on their behalf in order to avoid taxes. In the distribution of dividends among shareholders, corporations exactly satisfy the requirements of distributive justice. The shareholders form a community in which the standing of each is determined by the number of shares owned by that person where an ownership of more shares constitutes a higher standing in the firm and thus deserves a higher return.

The problem with this structure of the firm is the observation that the community formed by the firm is composed not just of the shareholders but of the shareholders and the workers together. Both groups share in the purpose of the firm, that is, in its mission, and both the capital provided by the shareholders and the labor provided by the workers is necessary to produce the goods or services provided by the firm. However, labor does not receive a share of the profits but is considered a cost to the firm and as such is included in the costs, *c.* Compensation to labor is usually paid in the form of wages and salaries that are fixed by contracts, and ordinarily this compensation does not vary with the profits of the firm, though this is not necessarily the case. Where compensation does vary with the profits of the firm, it is usually salaries that vary, which are paid to management executives who work on behalf of shareholders. As a consequence, the workers, especially workers who work for wages, do not ordinarily share in the good or ill-fortune of the firm.

This firm structure, in which the workers do not share in the profits of the firm, does not satisfy the requirements of distributive justice and as such is disordered. The compensation received by workers does not increase with the increase in profits and does not decrease with a decrease in profits; the firm, which naturally forms a community, is not united. According to this structure, the shareholders form a community that does not include the workers, and the relationship between the workers and the shareholders is one of commutative justice, not distributive justice. The implications of this structure are that the workers do not share the same purpose as, and are not united with, the community of shareholders. It is rather as if the shareholders have their own purpose and have contracted the necessary work out to the workers, each of whom is an entrepreneur in the business of selling his labor. The inevitable consequence of this structure is friction between the workers and the shareholders. Shareholders exert pressure on executives to keep salaries and wages down, and workers, looking to get the highest compensation possible, unionize or threaten to unionize in order to get better bargaining power with the firm. Where there should be a unity of purpose there is instead conflict.

Before discussing remedies to the current structure, I would like to discuss alternative structures that a firm may take. In the structure I have just described, owners are the residual claimants to the revenues of the firm: The cost, including labor costs, are subtracted from the revenues, and the remainder or residual is claimed by the owners as a return on their invested capital. Two possible alternatives include having the workers be residual claimants or having the workers and shareholders jointly be residual claimants. Consider the case in which the workers are residual claimants to the revenues of the firm instead of the owners.

In this structure, the costs of capital, or a fair return to the investors, would be subtracted from the revenues of the firm, and the remainder would be divided among the workers. The problem with this structure is that the profits of the firm may be negative, in which case there would be no income to divide among the workers—only losses. Because both revenues and costs fluctuate with market conditions, there is nothing to prevent this from occurring and nothing to guarantee workers just compensation for their labor, which, according to Catholic teaching, should be sufficient for them to comfortably support a family. While workers might be better off in the good times, they would be worse off in the bad ones.

This example highlights the role of risk in the structure of the firm. The residual claimant to the revenues of the firm bears the most risk, including the risk of losing money. According to economic theory and Catholic teaching, risk is a real cost to the firm, and those who bear that risk should be compensated. Compensation for the cost of risk is a matter of justice.

These considerations suggest an alternative interpretation of the structure of the modern firm: that workers accept a reduction in their share of profits in exchange for a reduction of risk and more stable incomes. Note that the risks faced by a worker are reduced but not eliminated. When economic conditions worsen, companies will ordinarily lay off employees; thus, workers face a real risk of losing their jobs. While this argument is tempting, it is false for two reasons.

First, with the exception of a union whose importance in the economy is greatly diminished and continues to diminish, workers have little bargaining power within the firm, and, with the exception of upper-level management, little or no interaction with the shareholders at all. The idea that the modern structure is the result of a bargain between the shareholders and the workers corporately is implausible.

Second, because the risks and returns faced by companies vary from industry to industry, the reductions in workers' share of profits should also vary, with workers accepting a greater reduction in their profit shares in higher-risk industries and a lesser reduction in lower-risk industries. Instead, with few exceptions, workers generally receive no share of profits in any industries. If workers are undercompensated for the risks they relinquish, then shareholders are overcompensated for the risks they undertake. There is empirical support for this in the well-known equity premium puzzle. This puzzle regards the difference between the rates of return to stocks and bonds where stocks are considered riskier investments because they offer a higher rate of return. The puzzle is that the premium to investments in stocks, or equity, cannot be accounted for by preferences for risk-aversion.<sup>18</sup> Specifically, the return to shareholders on equity investments is greater than what is necessary to compensate them for the additional risk of equities relative to

bonds. This may explain what Pius XI meant when he writes: “Property, that is, ‘capital,’ has undoubtedly long been able to appropriate too much to itself.”<sup>19</sup> In the modern corporation, shareholders have greater bargaining power than workers. As a consequence of this greater power, the shareholders receive a higher return and the workers a lower return than is commensurate with or justified by their contribution to the firm where that contribution includes risk.

Now consider the case in which both the shareholders and the workers are residual claimants to the revenue of the firm. There are, in fact, many different ways to structure such a corporation. The simplest structure would be to include neither labor nor capital in the costs of the firm and to divide the profits among the workers and shareholders. Profits, however, may be negative, in which case workers would be uncompensated or even suffer a loss for their labor. A better alternative would be to pay workers wages or salaries enough to support a family and keep them with the firm, which would count expenses or costs to the firm, and then distribute a fraction of the profits among the workers and the rest among the shareholders. This could be accomplished within the existing corporate framework through either an expanded role of bonuses within companies or through the sale of shares of the firm to a representative of the workers, who would hold them on their behalf. Each of these remedies in turn is briefly discussed.

The first remedy to the structure of companies that would satisfy distributive justice is an expanded role of bonuses. Bonuses are ordinarily used as incentives to motivate workers and are distributed from profits at various times throughout the year. If bonuses were distributed to all workers according to their standing and if they increased in proportion to profit, then such a distribution of bonuses would satisfy the demands of distributive justice. The problem with this remedy is that bonuses are not thought of as due to workers, at least not by management or shareholders. Rather, they are thought to be something extra or additional, a reward or a gift, but not something earned and deserved by the workers. This view is incorrect because distributive justice is a type of justice and thus pertains to what is owed. Were such a remedy to be implemented, the term *bonus*, with its implications of generosity unconnected to justice, would likely have to be changed to a more appropriate term, such as *labor dividend* or simply *dividend*. As a matter of distributive justice, dividends paid to labor could not be withheld when profits were low and shareholders expected or desired a higher rate of return, nor could the proportion due to labor be reduced because profits were high and shareholders felt workers had received enough. Of course, dividends would not be expected by either workers or shareholders when the firm was unprofitable. Given the fact that not all investors would accept the Catholic teaching regarding distributive justice, there would be considerable pressure on executives to

reduce bonuses or the manner in which they are calculated to not let them grow as profits increase or to eliminate them when profits decrease.

The second remedy that would satisfy distributive justice would be for the firm to buy or retain a number of shares on behalf of the workers. The dividends earned on those shares would be distributed among the workers by a representative of them. Such an office does not exist in most companies, so this may necessitate the creation of a new office, perhaps that of a “Chief Labor Officer,” within the standard corporate structure. The number of shares held on behalf of the workers should correspond to the standing of the workers in the firm *vis-à-vis* the shareholders. Note that it is not necessary that the shares held corporately by the workers be voting shares, only that those shares receive a share in the firm’s profits in the form of dividends. It is also not necessary, nor is it necessarily desirable, that the workers of the firm own the shares in their own name, that is, it is not necessary that every worker be a shareholder. Employment in a firm is not permanent, and there is no reason that an employee should continue to receive a share in a firm’s profits after he has left the firm, which would be the case if he held the shares in his own name. If he wishes to continue to share in the profits of the firm, then he is free to purchase stock and invest in the firm as a shareholder.

Either an expanded role of bonuses or the joint ownership of an appropriate number of shares by the workers would satisfy the demands of distributive justice. Both structures promote the integrity of the firm, as both the shareholders and the workers share in the profits and in the losses. Furthermore, structuring firms according to distributive justice may have significant macroeconomic benefits over the typical corporate structure.

It is possible that recessions would be less severe if firm structure conformed to the demands of distributive justice than is possible within the typical structure. Because some of the compensation due to workers is tied to the profits of the firm, their compensation decreases when revenues decrease, relieving some of the pressure to let employees go in difficult times. This is especially relevant in a recession when falling revenues force firms to cut costs by laying off workers, wherein the cost of labor would fall with revenue if the structure of the firm satisfied the requirements of distributive justice. Workers would receive less compensation during the recession but more of them would keep their jobs. If distributive justice was satisfied by firms on an economy-wide scale, it is likely that it would reduce the severity of the recession because the effect of unemployment on consumer demand is more drastic than the effect of continued employment with reduced compensation.

## Distributive Justice and the State

The state has an essential role to play in the right ordering of society because it is proper for the state to administer justice, of which distributive justice is a part. Appropriate policies would establish norms and guidelines by which companies could determine the right fraction of profits to be distributed to workers and, where these had the force of law, would give workers recourse to legal redress for transgressions of distributive justice. This role for the government ordinarily leaves decisions regarding the distribution of a firm's income to the firm, intervening only as necessary.

The proposed remedies present a contrast to the standard approach of using tax and transfer policies to redistribute the income or wealth of society where this distribution is accomplished through social programs either directly as payments or indirectly in the form of benefits, for example, health care or education. The justification for such programs on the basis of income or wealth redistribution according to some "social ideal" or "socially just income distribution" is not founded in a correct understanding of distributive justice. In fact, Catholic teaching suggests several ways in which this approach is contrary to justice and the right ordering of society:

1. It presumes an injustice on those who pay more than they receive.
2. It does not redress actual injustices when they occur.
3. It fails to restore the solidarity or unity of the firm or subordinate community.
4. It is a violation of the rights proper to the firm, that is, it is contrary to the principle of subsidiarity.

First, such programs presume that an injustice has been committed by those who pay more than they receive. While men may become wealthy by unjust means, being wealthy is not in itself evidence or proof of an injustice. To tax a person because he is wealthy is really to fine him for being wealthy. If he has gained his wealth by just means, then he deserves his wealth and to fine him would be to fine an innocent man, which is contrary to justice. I am not arguing that the rich should not pay taxes—only that taxing the rich because they are rich is unjust.

Second, such tax and transfer policies do not redress actual injustices where they occur. If a firm is not distributing its earnings according to distributive justice, then it is committing an injustice to at least some members of the firm who receive less than they deserve. A tax and transfer policy does nothing to correct this injustice. There is no reason to believe that the tax on some firm members will be equal to the amount unjustly gained. There is also no reason to believe

that the benefits received by the workers, if any, will be equal to the amount taken from them. The dispensation of justice is proper to the government. Thus, the use of tax and transfer policies in lieu of the administration of distributive justice is contrary to natural law and is an abdication of responsibility of those in power who permit injustices to persist when they have the obligation to address them.

Third, tax and transfer policies fail to restore the unity of the firm. Distributive justice unites the firm in solidarity, and where distributive justice is absent conflict is to be expected. The health of a society is constituted by the health of relationships among individuals and communities within that society. Some of the most important relationships individuals have are with their fellow workers. When distributive justice is neglected, communities are not united and workers do not feel connected to their fellow workers and their fellow citizens. Loneliness and alienation are to be expected, and conflict tends to increase. While not all conflict is avoidable, distributive justice serves to reduce this conflict, creating or preserving a unity among men and within the nation that is the right of citizens to expect and the responsibility of government to confirm.

Fourth, tax and transfer policies are a violation of the rights of the firm. The profits of the firm are earned by the firm, and these profits properly belong to the firm, not the state. Because the firm can competently distribute those profits, the authority to distribute profits naturally belongs to the firm. The state has no right to interfere except in the case of a clear injustice. A tax and transfer policy arrogates this authority to the government, where it does not naturally belong, thus consequently violating the rights of the firm and principle of subsidiarity. As Pius XI writes, “Just as it is gravely wrong to take from individuals what they can accomplish by their own initiative and industry and give it to the community, so also it is an injustice and at the same time a grave evil and disturbance of right order to assign to a greater and higher association what lesser and subordinate organizations can do.”<sup>20</sup>

The earlier discussion illuminates in part why this is such an injustice: Shareholders and executives in a firm obviously have much better knowledge of the standings of members of that community than does the state. Consequently, they are in a much better standing to distribute the profits of the firm according to distributive justice. The state, with less knowledge of the firm, is much more likely to give some members of the firm less than what is due to them.

Let us separate the tax and transfer policy into two parts: tax policy and transfer policy. We will consider each in turn. Taxes may be justified in two ways: They may be assessed to finance activities undertaken by the state for which there are benefits received by members of the state, or they may be assessed on activities undertaken by persons subordinate to the state for which there are costs to the

state (social costs) in excess of the private costs of the activity. Clearly some taxes are owed by the firm to the government for the provision and maintenance of the common good. The common good is defined as the conditions for prosperity and includes just laws; the arbitration of disputes and the enforcement of contracts; the capture, prosecution, and punishment of criminals; and so forth. The firm clearly benefits from the common good, which may be thought of as an input in the productive process, and, therefore, the government has a right to a share of the profits of the firm, which may be assessed either directly through corporate taxes or indirectly through income taxes. Taxes for the provision of the common good are therefore justified and necessary. Are taxes for other purposes also justified? John XXIII writes, "As for the state, its whole *raison d'être* is the realization of the common good in the temporal order."<sup>21</sup> Catholic teaching gives no other justification for the existence of the state other than for the provision of the common good, so taxes for other purposes are therefore unjustified. The question remains whether the transfer policies of the state are necessary for the common good.

Like taxes, transfers may be justified in two ways: (1) They may be paid to persons subordinate to the state who do activities for which the social benefit is greater than the private benefit, that is, as a subsidy, or (2) they may be paid for activities of the state in which the members of the state are the proper beneficiaries, for example, the distribution of the revenue from the sale of publicly held land. However, in order to justify the transfer policies of the state, such as welfare programs, two conditions must be satisfied: They must be necessary for the common good, and they must be not able to be accomplished by a subordinate community. Every activity of the state is oriented toward providing some benefit, but I will limit my comments to those programs whose beneficiaries are poor; who are below a certain income level; and who receive benefits because they are poor, that is, programs for which poverty is the essential criterion of the beneficiaries.

First, it is generally true that for most benefits, the state is not the exclusive provider of benefits or relief to the poor. In the United States, the poor receive money from the state. They also receive food, clothing, rent assistance, and other aid from family members, friends, Saint Vincent de Paul, Goodwill Industries, and many other charitable organizations. They may receive free or discounted health care from Medicaid. They may also receive such care directly from hospitals, or they may receive financial assistance for their care from charitable organizations. Retirees, whose incomes are lower, receive benefits from Social Security and Medicare programs administered by the state. They also have pension plans, private savings accounts, and investment accounts, in addition to aid from children

or other family members who have a natural duty to care for them in old age. In each case, the existence of the provision of benefits by families, companies, and other communities subordinate to the state is evidence that the provision of such benefits can be accomplished by a community subordinate to the state and consequently must not be administered by the state. Such programs violate the principle of subsidiarity and are contrary to the right ordering of society, that is, they are disordered.

Second, nothing is gained by having benefits administered by the state instead of by subordinate communities; indeed much is lost, foremost among which is charity. Alexis de Toqueville, writing of the poor laws of England, in discussing the difference between charitable programs administered by the state, or legal charity, and that arising from individuals, writes the following:

[I]ndividual alms-giving established valuable ties between the rich and the poor. The deed itself involves the giver in the fate of the one whose poverty he has undertaken to alleviate. The latter, supported by aid which he has no right to demand and which he may have no hope of getting, feels inspired by gratitude. A moral tie is established between those two classes whose interests and passions so often conspire to separate them from each other, and although divided by circumstance they are willingly reconciled. This is not the case with legal charity. The latter allows the alms to persist but removes its morality. The law strips the man of wealth of a part of his surplus without consulting him, and sees the poor man only as a greedy stranger invited by the legislator to share his wealth. The poor man, on the other hand, feels no gratitude for a benefit that no one can refuse him and that could not satisfy him in any case. Public alms guarantee life but do not make it happier or more comfortable than alms-giving; legal charity does not thereby eliminate wealth or poverty in society. One class still views the world with fear and loathing while the other regards its misfortune with despair and envy. Far from uniting these two rival nations, who have existed since the beginning of the world and who are called the rich and the poor, into a single people, it breaks the only link which could be established between them.<sup>22</sup>

In this case, the benefits of these programs are less when administered by the state than when undertaken by individuals or subordinate communities. An argument based in justice not only fails to justify such programs but also actually provides grounds for their elimination. The poor laws of which de Tocqueville writes were the precursor to the welfare state in the United Kingdom and the general forerunner of the welfare programs and policies in place throughout the modern world. As he points out, these laws did not originate from the Catholic Church but arose, consequently, out of the Anglican schism:

At the time of the religious revolution under Henry VIII, which changed the face of England, almost all charitable foundations of the kingdom were suppressed; and since their wealth became the possession of the nobles and was not at all distributed among the common people, the poor remained as numerous as before and while the means of providing for them was partly destroyed. The numbers of the poor therefore grew beyond measure, and Elizabeth, Henry's daughter, struck by the appalling miseries of the people, wished to substitute an annual levy furnished by the local governments for the sharply reduced alms-giving caused by the suppression of the convents.<sup>23</sup>

Such policies, which would be supported and promoted by socialists and Marxists who could use them as a means of income redistribution did not escape the attention of the Holy Father. Leo XII, responding to the critics of the Church, writes:

At the present day many there are who, like the heathen of old, seek to blame and condemn the Church for such eminent charity. They would substitute in its stead a system of relief organized by the State. But no human expedients will ever make up for the devotedness and self sacrifice of Christian charity. Charity, as a virtue, pertains to the Church; for virtue it is not, unless it be drawn from the Most Sacred Heart of Jesus Christ; and whosoever turns his back on the Church cannot be near to Christ.<sup>24</sup>

John Paul II also writes:

In recent years the range of such intervention has vastly expanded, to the point of creating a new type of State, the so-called "Welfare State." This has happened in some countries in order to respond better to many needs and demands, by remedying forms of poverty and deprivation unworthy of the human person. However, excesses and abuses, especially in recent years, have provoked very harsh criticisms of the Welfare State, dubbed the "Social Assistance State." Malfunctions and defects in the Social Assistance State are the result of an inadequate understanding of the tasks proper to the State. Here again the principle of subsidiarity must be respected: a community of a higher order should not interfere in the internal life of a community of a lower order, depriving the latter of its functions, but rather should support it in case of need and help to coordinate its activity with the activities of the rest of society, always with a view to the common good.

By intervening directly and depriving society of its responsibility, the Social Assistance State leads to a loss of human energies and an inordinate increase of public agencies, which are dominated more by bureaucratic ways of thinking than by concern for serving their clients, and which are accompanied by

an enormous increase in spending. In fact, it would appear that needs are best understood and satisfied by people who are closest to them and who act as neighbours to those in need. It should be added that certain kinds of demands often call for a response which is not simply material but which is capable of perceiving the deeper human need. One thinks of the condition of refugees, immigrants, the elderly, the sick, and all those in circumstances which call for assistance, such as drug abusers: all these people can be helped effectively only by those who offer them genuine fraternal support, in addition to the necessary care.<sup>25</sup>

This passage reiterates many of the criticisms of welfare policies already raised here: such programs are not proper to the state; they are contrary to subsidiarity; they lead to a loss of human energies, especially charity; and they are better administered by communities subordinate to the state, for persons closer to those in need have a better understanding of those needs.

## Conclusion

The culture needs to recover the meaning of distributive justice inherited from the classical tradition and preserved in the teaching of the Catholic Church. This concept of distributive justice contrasts sharply with modern ones, which are due to social contract theory, as with Rawls, or arise from libertarianism, utilitarianism, or other secular philosophies. Modern discussions separate social justice from personal or individual virtue: Social justice is a consequence of policies or social structures and individual justice pertaining to personal transgressions. The classical understanding does not permit such a dichotomy, tracing all social injustices to personal vice or sin. Distributive justice only exists in a community to the extent that it is exercised by the leaders of that community. Injustice in the distribution of goods, of wealth, or of income has its origin not in the market, social institutions, or other impersonal social structures but in the deliberate decisions of men in power.

The teaching on distributive justice has implications for businessmen, investors, and politicians who should be just and conduct their affairs with justice. Businessmen should strive to practice the virtue of distributive justice in their businesses, especially when they are the majority or sole owners of their businesses and may distribute shares of their profits to their workers at their discretion. This will (1) promote unity between the management and the employees, and (2) in light of secular alternatives to work may increase employee and even customer loyalty.

Investors who own shares of a firm are owners of those companies. As owners, they should work to put into practice distributive justice through the distribution of a share of the profits to the employees in each of the companies they own. In many cases, investors will be minority shareholders and thus are unable to run the firm as distributive justice demands. However, they can educate other investors and cooperate with them, present their views at shareholders meetings or board meetings, and write letters to executives of the companies in which they own shares. Majority shareholders should make efforts to satisfy the requirements of distributive justice in the corporations that they control and for which they are responsible.

The classical understanding of distributive justice also has implications for politicians. The use of tax and transfer policies to redistribute the income or wealth of society is not proper to the role of government. According to subsidiarity, the responsibility of distributing goods is proper to the community to which they belong; consequently the responsibility of distributing income is proper to the firm that earned it. Politicians should recognize the rights of companies in these matters in their public discourse and in the laws that they pass. When distributive justice is not observed, the proper response of government is to put into place laws that give employees legal recourse that would restore the justice and the integrity of the firm, not to permit the injustice to persist and then seek to redress it through other means.

## Notes

- \* An earlier version of this article was presented at the Society of Catholic Social Scientists Annual Meeting at St. John's University School of Law on October 26–27, 2007.
- 1. Friedrich A. Hayek, "The Atavism of Social Justice," in *New Studies in Philosophy, Politics, Economics and the History of Ideas* (London: Routledge & Kegan Paul, 1978), chap. 5, 58.
- 2. Michael Novak, "Defining Social Justice," *First Things* 108, December 2000, 11–13.
- 3. Benedict XVI, *Caritas in Veritate*, Encyclical Letter (June 29, 2009), 35.
- 4. Saint Thomas Aquinas, *Summa Theologica*, II.ii.58.6.
- 5. Aquinas, *Summa*, II.ii.60.3, 81.8 and 113.1, for example.
- 6. Aristotle, *Nicomachean Ethics*, trans. W. D. Ross, V.1. <http://classics.mit.edu/Aristotle/nicomachaen.html>.

7. Pius XI, *Divini Redemptoris*, Encyclical Letter (March 19, 1937), 51.
8. Pius XI, *Quadragesimo Anno*, Encyclical Letter (May 15, 1931), 58.
9. Pius XI, *Quadragesimo Anno*, 110.
10. Cf. Paul VI, *Gaudium et Spes*, Encyclical Letter (December 7, 1965), 26.
11. Pius XI, *Quadragesimo Anno*, 71.
12. Leo XIII, *Rerum Novarum*, Encyclical Letter (May 15, 1891), 45.
13. Pius XI, *Quadragesimo Anno*, 71.
14. Aquinas, *Summa*, ii.II.62.2.
15. Aquinas, *Summa*, ii.II.62.2.
16. Josef Pieper, *The Four Cardinal Virtues* (Notre Dame: University of Notre Dame Press, 1966), 81.
17. Aristotle, *Nicomachean Ethics*, V.3.
18. Rajnish Mehra and Edward C. Prescott, “The Equity Premium: A Puzzle,” *Journal of Monetary Economics* 15 (1985): 145–61.
19. Pius XI, *Quadragesimo Anno*, 54.
20. Pius XI, *Quadragesimo Anno*, 79.
21. John XXIII, *Mater et Magistra*, Encyclical Letter (May 15, 1961), 20.
22. Alexis de Tocqueville, *Memoir on Pauperism* (New York: Cosimo Classics, 2005), pt. 2, par. 13.
23. Tocqueville, *Memoir on Pauperism*, pt. 2, par. 3.
24. Leo XIII, *Rerum Novarum*, 30.
25. John Paul II, *Centesimus Annus*, Encyclical Letter (May 1, 1991), 48.