

Given the nature and high quality of Nold's researches, he is definitely to be encouraged to write an intellectual biography of John XXII.

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Nonsense on Stilts? A Quaker view of Human Rights

EDITED BY NIGEL DOWER, PHILIP HILLS AND MICHAEL BARTLET

William Sessions, York, 2008, viii + 107 pp (paperback £7.50) ISBN: 978-1-85072-373-8

Quakers have an admirable history of standing up for human rights and individual conscience. Their belief in 'that of God in everyone' leads them to challenge anti-egalitarian laws and practices, though their Peace testimony in 1661 following the collapse of Cromwellian hopes led them into two centuries of political quietness.

The Quaker task is no less challenging today, both in a Britain experiencing a sustained erosion of long-cherished civil liberties, and further afield in a world struggling to find right responses to diverse abusive regimes such as Bosnia and Kosovo, Rwanda and Darfur, Iraq, Afghanistan, Burma, Zimbabwe, Xienjiang and Tibet.

The writers in this book explore a broad front of human rights, reaching out towards underlying principles which could be held by those with different beliefs or non-belief, and considering the Churches' historical ambivalence (eg slavery, Galileo, the right to life).

Inevitably there is some repetitiveness and overlap. Both Frank Cranmer and Michael Bartlett build on Lord Atkins' use of the Good Samaritan parable in his snail and ginger-beer judgement (*Donoghue v Stevenson*), though only Cranmer adds in a footnote the three-stage modification in *Caparo Industries plc v Dickman & ors* (1990).

The book's subtitle is misleading. The essayists make plain that there is not 'A Quaker view of human rights', and that their essays offer personal views. Alan Pleydell particularly wrestles with the difficulty of the pacifist position in the face of terrible state-internal abuses of power. He says that Quakers should not pretend to have all the answers, nor a unified view. Indeed to do so demeans others who have had the responsibility to struggle with desperately complex moral and practical dilemmas and then to act with humility and trepidation.

Churches do not come out well. Their record is some hostility to the gradual development of human rights, though the Enlightenment foundation

documents (the American Declaration of Independence 1776, the *Déclaration des Droits de l'Homme et du Citoyen* 1789) spring from scriptural belief in the sacredness of human life with unalienable rights. The optimism of the American Declaration that the pursuit of Happiness is a self-evident unalienable right (along with Life and Liberty) is the more remarkable considering the untroubled ease with which so many of the signatories continued to buy, own and sell slaves.

While individual Christians have played leading roles in campaigns for the marginalised and disadvantaged, the Churches' hostility has stemmed not only from a nervousness about rights of conscience, but more deeply from a fear that rights theory is dangerously close to Christian principles and could be a challenging alternative belief system, opening the door to the worst modern permissiveness.

From this developed the argument that God alone has rights; what we have are duties. This approach lets the Church claim a fundamental right for freedom of religion and exemptions from the UK Human Rights Act 1998, notwithstanding society having recognised other rights as equally fundamental. Is sexual orientation fundamental to identity, and therefore to 'that of God', or only a second-order right?

Several essayists seek to identify a Christian basis for human rights. For Nigel Dower, something about human rights in its modern secular form jars with the concept of 'that of God' in everyone: Quakers believe in answering 'that of God' in others and too much litigious claiming of one's own rights ignores respect for others' and the duty to be responsible in exercising one's own rights. Dower believes that Bentham's utilitarianism, which regarded human rights without law as 'nonsense on stilts' (the book's title), would have favoured the development of laws tending to the greater happiness of human beings.

None of the essayists fully engages with the deeper challenges posed by Christian 'right-order' theorists. For that we must look to Nicholas Wolterstorff's *Justice: Rights and Wrongs*, also published in 2008. Bartlett gets nearest when he writes of human rights as 'transformed from the reciprocal claims of a social contract into grace or gift . . . claims that arise simply by virtue of our human being, that is extrinsic to any reciprocal obligation'. The right-order theorists focus on 'righteousness' (especially as rectifying personal morality) while under-playing the scriptures' primary concern for social victims and specific injustices. Once one grants that the Creator God has worth, grounded in his own excellence, calling humans to worship and obedience, it follows that humans themselves have worth and consequent inherent rights. Such inherent rights are not individualistic but collective, foundational to human community. Embracing diversity the community collectively reflects the glory of the triune God.

Harvey Cox's essay quotes Bonhoeffer's unfinished *Ethics* and Dworkin in asking which rights are 'trumps' when rights conflict. While a right over-rides interpretations of collective general interest (provided the judges can construe at least implicit consent from a democratic majority), the trumps cluster not around liberty but around equality – implied rights to equal concern, respect and treatment. Cox's discussion of this benefits from his case-study of Northern Ireland's infringements of human rights in the search for longer-term security (1968–2000).

Together these essayists continue the Quakers' distinguished history of essential Christian thinking for the Church and for the world. They gather much useful material for the debates to go forward.

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Bishops, Texts and the Use of Canon Law Around 1100: Essays in Honour of Martin Brett

EDITED BY BRUCE C BRASINGTON AND KATHLEEN G CUSHING

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This new edition of essays celebrates the contributions of Martin Brett, whose work focuses on the collections of canon law compiled by or attributed to Ivo of Chartres (c. 1040–1115). Among his many achievements, Brett, in conjunction with other scholars, has produced a draft edition of Ivo's work including the *Decretum*, *Panormia*, and *Tripartita*. The texts are available online and Brett invites scholars to contribute their expertise to the project for 'common profit' (<<http://project.knowledgeforge.net/ivo/>>). The essays contained in this volume focus on the time period from 1000 to the mid-twelfth century and are of high quality. Scholars and students of pre-Gratian canon law will find the articles useful and interesting.

The essays are divided into two sections. Part I, 'Bishops and Their Texts', explores the compilation and dissemination of various collections of canon law. The second part, 'Texts and the Use of Canon Law', examines aspects of the transmission of canon law collections and focuses on the use of law and its interpretation. Included in this section are articles that explore both the methods and intentions of the compilers of canonical collections. The sections work well together and complement one another. While I do not have the space