

## BOOK REVIEWS

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### Justice Rights and Wrongs

NICHOLAS WOLTERSTORFF

Princeton University Press, Princeton and Oxford, 2008, xiv + 400pp  
(hardback \$39.50/£23.95) ISBN: 978-0-691-12967-9

God is back. After several decades in which no serious political philosopher would take theism as their point of departure, Nicholas Wolterstorff (Noah Porter Professor Emeritus of Political Theology at Yale University) has done just that – producing a theory of justice that seriously challenges the secular dominance of the subject. His dazzling treatment will engage not just philosophers but also lawyers and theologians. Correctly compared in importance to John Rawls' magisterial *Theory of Justice*, Wolterstorff's book has the signal advantage of being written in a style considerably more accessible to non-philosophers.

Wolterstorff's purpose is to challenge a familiar line of reasoning – both in academic and lay religious circles – that the entire human rights project is overblown, incoherent and excessively individualistic. In contrast he makes a powerful argument for (limited) human rights grounded explicitly in a Christian approach and reclaims what he argues is a rich biblical heritage of rights thinking. This, Wolterstorff claims, gives a more convincing ground for believing in human rights than secular concepts such as dignity or respect.

Wolterstorff therefore engages two quite different groups of thinkers: on the one hand Christian right-order theorists who place obligations rather than rights at the centre of the moral universe and, on the other, liberal political theorists who attempt to find some secular grounding for human rights such as rationality or human capacities.

Regarding the first group, Wolterstorff argues in Part I of the book ('The archaeology of rights') that Christian 'right-order' theorists (such as Oliver O'Donovan in *The Desire of the Nations*) have incorrectly taken objection to the possessive individualism of natural rights. Instead, their commitment to natural law as founding natural obligations should logically entail the recognition of correlative natural rights (see pp 31–35). Moreover, such writers have neglected their own tradition: in chapters 3–5 Wolterstorff presents a reading of the Old and New Testaments that reclaims rights. The Old Testament concern for *rectifying* justice (*mishpat*) has to be taken alongside practical moral concern for widows, orphans, the lowly and the poor which presupposes *primary* justice in terms of rights and wrongs. His chapters on justice in the New Testament involve a detailed response to the view of Nygren (in *Agape and Eros*)

that justice has been supplanted by love. Here, Wolterstorff presents a reading of Luke and Acts that stresses Jesus as the bringer of justice to the downtrodden who himself falls victim of injustice.

Christian tradition follows, then, what Wolterstorff terms the ‘patient perspective’ – the viewpoint of the victim rather than the moralist seeking to live a good life (a distinction developed at greater length in Part II, ‘Fusion of narrative with theory: the goods to which we have rights’). This leads him to refute the claims of some theorists that use of rights is linguistically unnecessary. The patient perspective takes seriously beliefs and linguistic usage about *wrongdoing* to others. For Wolterstorff, rights are not about entitlements; they are about treating human beings with correct respect (see his development of the ‘under-respect’ principle – ie treating people at less than their worth – in Part III).

Regarding the second group of thinkers (secular theorists), in Part III (‘Theory: having a right to a good’) Wolterstorff provides a powerful critique of the major attempts to give secular grounding to human rights. Kantian attempts to derive rights from rational capacity would leave Alzheimer’s sufferers, for example, with a weaker case for rights than fully rational adults. Similar criticism applies to Dworkin’s notion of equal respect and to Gewirth’s principle of generic consistency.

In contrast to all of these, Wolterstorff advances a theistic view grounded on:

a worth-imparting relation of human beings to God that does not in any way involve reference to human capacities. ... [B]eing loved by God gives a human being great worth. And if God equally and permanently loves each and every creature who bears the *imago dei*, ... bearing that property gives to each human being who bears it the worth in which natural human rights inhere’ (pp 352–3).

Intriguingly, the reason for God’s equal love for all human beings is not explicitly accounted for. It appears as a kind of definitional full stop. Some readers may feel that the theory is insufficiently distinctively Christian at this point. The redemptive work of Christ is not central, although in chapters 4 and 5 Wolterstorff has made effective use of the concept of forgiveness in the account of New Testament recognition of rights.

It is a strength, however, that this is a theory for all human beings rather than simply the rational elite of Western societies who typically populate the works of the major liberal theorists. Many non-secularists will recognise Wolterstorff’s concern that Alzheimer’s sufferers and others who are mentally impaired are at risk of being treated with *under-respect* as a result of the erosion of what he calls the moral sub-culture of rights (p 390). Nevertheless, it is a part of Wolterstorff’s case that human rights language – especially in the major UN documents – is over-stretched. He disputes, for example, that there can be a

human right to education, since some human beings, including the severely mentally impaired, are unable to benefit from it (see Chapter 14). Here it is arguable that his critique proves too much – a blind, deaf and dumb person may be unable to use the right of freedom of expression, to take an obvious case. Following this approach to its logical conclusion could result either in a very short list of human rights or none at all.

Despite this, *Justice: Rights and Wrongs* is a major contribution to political and legal theory. A short review cannot give more than a taste of the breadth, rigour and sophistication of the arguments. It is certainly worthy of our respect and deserves to be widely read and debated.

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## The Formation and Ordination of Clergy in Anglican and Roman Catholic Canon Law

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## Marriage in Anglican and Roman Catholic Canon Law

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The Colloquium of Anglican and Roman Catholic Canon Lawyers is one of the initiatives that have emerged from the Centre for the Study of Law and Religion at Cardiff. Over the last decade they have discussed a series of topics.<sup>1</sup> Both these latest collections have been published, in a format reminiscent of this *Journal*, by the Centre for Law and Religion at Cardiff, from where they may be obtained.

1 Details were published in this *Journal* at: First Colloquium, Rome, 1999, on Comparative Law of Church Property, (1999) 5 Ecc LJ 281; Second Colloquium, Windsor, 2000, on Clergy Discipline, (2001) 6 Ecc LJ 61; Third Colloquium, Rome, 2002, on Church Membership and the Process of Christian Initiation, (2002) 6 Ecc LJ 403; Fourth Colloquium, Cardiff and St David's, 2003, on Authority, (2003) 7 Ecc LJ 225; Fifth Colloquium, London, 2004, on the development of a strategy to identify 'canonical opportunities' for further ecumenical dialogue, (2005) 8 Ecc LJ 99. More details on the Colloquium in general can be found in 'A decade of ecumenical dialogue on canon law', (2009) 11 Ecc LJ 284–328.