

Nicholas Wolterstorff, *Justice: Rights and Wrongs*. Princeton: Princeton University Press, 2008. xiv + 398 pages. \$24.95, paper, \$39.50, cloth.

This book is an attempt to speak up for the wronged of the world My speaking up for the wrong of the world takes the form, in this book, of doing what I can to undermine those frameworks of conviction that prevent us from acknowledging that the other comes before us bearing a claim on us, and of offering an alternative framework, one that opens up to such acknowledgements (ix).

According to Nicholas Wolterstorff's highly acclaimed and landmark book *Justice: Rights and Wrongs* (comparisons have been made to John Rawls's *Theory of Justice*), any political framework not based upon "inherent human rights," that is, "normative social relationships . . . in the form of the other bearing a legitimate claim on me as to how I treat her" (4) cannot do justice to the wronged of the world—any other framework must be, in a word, unjust. Secondly, this exclusively just political framework can only be grounded in theistic belief, both theoretically and practically, for human beings have the right not to be wronged only because they are all equally loved by God—and God Himself has the right to be obeyed, loved, and not wronged.

If contemporary academics, politicians, and talking heads think and speak of human rights as attached to autonomous, atomistic individuals in virtue of their willful right to do what they want, this is not the fault of inherent human rights; it is due to ignorance of their true character, purpose, and genealogy, and of a corrupt, egocentric culture that has subjectivized, secularized, and privatized something that is God-given and intrinsically normative and social. For Wolterstorff, the misconstrual of a corrupted rights idiom and practice is one of the reasons for the unfortunate opposition to rights by many "right-order" and "eudaimonistic" theorists such as Alasdair MacIntyre and Stanley Hauerwas. However, there is a more philosophically foundational and historically complex reason for the great misunderstanding among Christian political philosophers and theologians about the nature of rights, and it is the correcting of this misunderstanding to which this rigorously and sophisticatedly argued book is devoted.

Wolterstorff constructs a compelling argument to show, with the help of the groundbreaking scholarship of Brian Tierney and Charles J. Reid Jr. on the *prima facie* evidence for the notion of subjective rights in the early medieval period, that not only can the notion of inherent

human rights be traced back past Hobbes and Locke to William of Ockham and Thomas Aquinas, but it can also be found in medieval canon law, the writings of the Church Fathers, the New Testament, and even the Old Testament. Wolterstorff also claims that eudaimonistic ethics is ultimately irreconcilable with Christian ethics, and that Augustine was the first Christian thinker fully to break free from the charity- and rights-stifling, self-centered, “well-being” ethics of Aristotle and the stoics. Though his argument is very worth considering in virtue of its cogent presentation of the definite tension between a happiness ethics based upon the pursuit of “life-goods” and an obligation ethics bound up with loving one’s fellow man because God does, Wolterstorff goes too far in a Nygrenian direction here and is not ultimately persuasive. He certainly does not do justice to St. Thomas Aquinas’s masterful synthesis of eudaimonism and divine-law ethics, although he argues rightly that it is not easy to find a clear presentation of subjective right in Aquinas.

Recently John R. T. Lamont (*The Thomist*, April 2009) and John Milbank (work-in-progress, http://theologyphilosophycentre.co.uk/papers/Milbank_AgainstHumanRights.pdf) have argued persuasively that the work of Martin Villey, the French legal scholar and philosopher, demonstrates major flaws in the work of Tierney and Reid’s historical narrative, and thus in Wolterstorff’s thesis. According to Villey, terms such as *ius, facultas*—and even the quite modern sounding *potestas*—can certainly be found in the writings of medieval canon lawyers, decretalists, and theologians, but these terms by no means connoted anything like a *subjective* right. Rather, they indicated the rights of persons in relation to an *objective* right, in the context of *id quod iustum est*, meaning, not only an individual’s just *act*, which could connote something distinctly subjective, but the inherently social and relational state of affairs or *object* brought about by just acts.

Wolterstorff’s account of justice is arguably the best philosophical defense of inherent human rights published in decades. It is a superior work, not only in its rigorous argumentation, meticulous distinctions, and generous dialectical sensitivity, but also, and primarily, in its unapologetic and robust use of revealed theology. In this respect, the Calvinist Wolterstorff’s mode of treating an issue as fundamental as the nature of justice is superior to the Catholic MacIntyre’s, for the latter has always insisted on keeping his thought “theology-free,” as it were, to the detriment of his otherwise incomparable philosophical thought. Philosophy alone cannot settle the issue of inherent human rights. Nevertheless, MacIntyre’s purely philosophical position on inherent human rights as “nonsense on stilts” is, I think, the sounder position, for

it is, especially in light of the recent scholarship of Milbank and Lamont, more reconcilable with both classical and Christian thought. If only MacIntyre would develop his philosophical thought on politics in the light of revealed theology, it could supply the kind of “alternative framework” Wolterstorff desires, and it would be much more effective in defeating our regnant, Godless, subjectivist liberalism.

As MacIntyre has shown, however universal and theologically mandated the right not to be wronged is, in itself and in abstract thought, any such right, when actually existing in practice, *in concreto*, in a particularized form through legislative or customary articulation and practical application in the social and political life of this or that city, it is in some sense *socially and politically conferred*. Inherent human rights do exist, but the term *right* just doesn’t capture what they are, and perhaps it would be better to stop using the term altogether due to its inevitable connotations of subjectivity, conflict, ethical relativity, and egoism. Moreover, “rights” are never recognized and applied in the rough-and-ready reality of political life as abstract, inherent, individual, and universal, but only as social components of particularized, customary, and historical institutions and practices, and always within the context of particular and concrete social and political experience. Thus, a “right-order” framework for justice seems inescapable, even natural, and thus not to be condemned as unchristian and unjust, *pace* Wolterstorff. Perhaps some synthesis between inherent human rights and right-order justice, a mean between MacIntyre’s perhaps extreme, anti-rights position and Wolterstorff’s rights-as-trumps, is the more theologically and philosophically sound prescription.

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