



*Justice: Rights and Wrongs,*  
by Nicholas Wolterstorff  
(Princeton, 2008)

# BOOK REVIEW

by Scott Pryor

What do you get when you combine the contemporary emphasis on human rights, the Christian faith, and analytic philosophy? *Justice: Rights and Wrongs* by Nicholas Wolterstorff (Princeton, 2008). Wolterstorff recently retired as Noah Porter Professor of Philosophical Theology at Yale, and before coming to Yale in 1989, he taught at Calvin College. Together with Alvin Plantinga, Wolterstorff is widely recognized as bringing the rigor of analytic philosophy to the fields of philosophy of religion and the philosophical implications of Christianity specifically. He describes his reasons for writing *Justice* in personal terms. At a conference sponsored by a leading Reformed, Christian university in South Africa in 1976 Wolterstorff observed, in the responses of Afrikaner scholars to wrongs identified by blacks and “coloreds,” how appeals to examples of individual love and charity could be tools of oppression. From that time Wolterstorff increasingly realized that the concepts of justice and injustice were as equally fundamental as those of love and mercy. And he increasingly observed how the rich and powerful used appeals to love to blunt if not avoid legitimate claims of the wronged to justice.

*Justice* is a book of narrative and analytic philosophy, eminently readable but quite rigorous. Rejecting “methodological atheism,” Wolterstorff announces early in his Preface that he seeks to “develop a theistic account, specifically, a Christian account” of primary justice.

Wolterstorff anticipates objections to importing religious ideas into analytic philosophy by observing that “once upon a time” philosophers assumed that philosophy and religion had to be grounded in a few foundational and rational certitudes, excluding by practice if not definition concepts such as God and revelation. Foundationalism, however, has faded as the presupposition of analytic philosophers. In its place he suggests the contemporary paradigm as one of “dialogic pluralism” in which only the goal of the academic enterprise (rather than its starting point) is agreement so that along the way the philosopher is free to appropriate things from folks of various persuasions.

Beginning with biblical exegesis, Wolterstorff observes that the Old Testament has much to say about just and unjust actions, and also quite a bit about the role of justice in God’s relationship to his people (and humans in general). He conducts a lengthy analysis of the Old Testament Scriptures and correctly concludes that there are passages in which the Hebrew word *mishpat* [ מִשְׁפָּט ] (commonly translated as “judgment”) “is unambiguously used to refer to primary justice,” (73), not merely a well-ordered judiciary.

Wolterstorff next turns to the question of the proper role of justice in the gentile “nations.” Even though the nations did not have God’s Torah, the book of Amos makes it clear that the nations knew (or should have known) better than to do that for which they were condemned. Whence this knowledge? Hard to know for sure but Wolterstorff cites with approval Michael Novak’s *Natural Law in Judaism* at this point. Wolterstorff then proceeds to demonstrate the centrality of justice in the New Testament.

Moving from exegesis to philosophy Wolterstorff asks: Are rights grounded in duties? Or vice versa? More broadly, what accounts for rights and duties anyway? First, Wolterstorff addresses and rejects the divine command theory that posits that duties (the results of God’s commands) are fundamental and

מִשְׁפָּט

judgment or justice

**‘WHILE READING  
WOLTERSTORFF IS NOT  
FOR THE LACKADAISICAL,  
IT IS AN EXCELLENT  
RESOURCE FOR  
CHRISTIANS IN THE  
LEGAL ACADEMY.’**

## ‘JUSTICE IS A BOOK OF NARRATIVE AND ANALYTIC PHILOSOPHY, EMINENTLY READABLE BUT QUITE RIGOROUS.’

thus rights are derived from obligations. What the divine command theory lacks is an explanation of *why* commands—even divine commands—create moral duties (or rights, for that matter). Any persuasive theory of rights must presuppose something by virtue of which commands create obligations rather than constitute mere verbal acts.

What is this presupposition? What is the ground of moral obligation? Wolterstorff posits the existence of general “standing rights” and correlative obligations that under gird the ability of specific commands (or promises) to create specific moral obligations. The standing relationship creates the normative context which turns properly issued commands and promises into moral obligations.

Wolterstorff’s claim about standing rights and obligations entails something that many Christians might find unacceptable: that the human–divine relationship includes not only a normative context within which humans have a standing obligation to obey God (which forms the foundation for specific divine commands that create specific moral obligations) but that the same standing relationship forms the matrix within which human beings can have rights against God. He argues that if this were not the case then God’s promises (or set of promises, commonly called a covenant) would not create a moral obligation on the part of God. And if God had no moral obligation to keep His promises, humans would have no moral right to God’s performance of His promises.

Finally, Wolterstorff progresses to the question, how do rights work? Citing Ronald Dworkin for coining the phrase, Wolterstorff characterizes rights as *trumps*. Unlike boosters that add some points to a utilitarian calculation, one who plays the trump card of a right takes the hand: “If I have a right against you to the good of some action on your part, then your performing that action is to take precedence for you over whatever balance of life–good and evils might ensue . . .” (291)

So what accounts for attaching certain rights to the status of being human? The image of God in man [Genesis 1:26–27; 9:6] is the standard starting place for Christian theistic accounting for human rights. But just what is the image of God? Wolterstorff ties the image of God to the dominion mandate (or blessing). In other words, of all the ways in which human beings might be said to reflect or image God, that set that is “necessary for receiving and exercising the blessing or mandate of dominion” ties together those that are in fact used by ancient Hebrew writers when they expound on the idea of the image of God in man. (347)

But for Wolterstorff belief in human nature rooted in the image of God is not enough to account for human rights.

Why not? For the same reason belief in human nature rooted in the capacity for rational agency isn’t enough: it doesn’t matter that someone else has the set of capacities tied to the image of God; if I don’t have them (because I’m profoundly mentally handicapped, in a persistent vegetative state, or suffering late-term dementia), I’m not due the respect that such capacities deserve. Dominion-related human nature resembles God but that doesn’t mean every human being does.

Wolterstorff doesn’t give up the quest for a Christian theistic account for human rights and next asks if there is “some worth-imparting relation of human beings to God that does not in any way involve a reference to human capacities”? (352) He concludes there is and that relationship is one that should be familiar to economists: it is one of bestowed (or imputed) worth. All human beings are respect-worthy—even those who cannot exercise the capacities associated with being in the image of God—because God loves them. Thus, God’s love is the foundation for human rights.

A criticism and a commendation: First, “image of God” is more basic than God’s love. In other words, how could God not respect something in his own image? Put theologically, the relationship of covenant accounts for God’s love; covenant has lexical priority over love. And the prior covenant relationship (between God and humanity) is founded in Adam’s (and his posterity’s) status as images of God.

A strong commendation: While reading Wolterstorff is not for the lackadaisical, it is an excellent resource for Christians in the legal academy. Wolterstorff is well acquainted with the legal theory and it’s enjoyable to see him deal with it masterfully. This book can supply law students (and others) with the tools to criticize the standard attacks of naturalistic legal realism and post-modern critical theory as well as to articulate a positive Christian response to the question of the foundation of human rights.



*C. Scott Pryor, Professor of Law at Regent University School of Law since 1998, was previously a Shareholder in the firm Howard, Solocheck & Weber in Milwaukee, WI. He received his J.D. from the University of Wisconsin, his M.A. from Reformed Theological Seminary and his B.A. from Dordt College. He has been a member of CLS since 1989.*