
Focus on
Nicholas
Wolterstorff

NICHOLAS WOLTERSTORFF'S *JUSTICE: RIGHTS AND WRONGS*: AN INTRODUCTION

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ABSTRACT

This introduction sets the stage for four papers on Nicholas Wolterstorff's *Justice: Rights and Wrongs*, written by Harold Attridge, Oliver O'Donovan, Richard Bernstein, and myself. In his book, Wolterstorff defends an account of human rights. The first section of this introduction distinguishes Wolterstorff's account of rights from the alternative account of rights against which he contends. The alternative account draws much of its power from a historical narrative according to which theory and politics supplanted earlier ways of thinking about justice. The second section sketches that narrative and Wolterstorff's counter-narrative. The third section draws together the main points of Wolterstorff's own account.

KEY WORDS: *justice, nominalism, right-order theory, human rights, Wolterstorff*

JUSTICE IS ONE OF A HANDFUL of topics that has dominated philosophical ethics in recent decades. The problems about justice that have commanded the most attention in the philosophical literature have been problems raised by thinkers working within the liberal tradition. These thinkers have largely taken the politics of rights for granted. While they acknowledge that rights need to be provided with some philosophical foundation, they have assumed that that foundation can be provided and that significant progress has recently been made in understanding what rights are and why we have them.

Religious ethicists and moral theologians have been attentive to this philosophical work. Unfortunately, philosophers have been far less ready to return the favor by attending to work in religious ethics and moral theology—despite the fact that some of this work expresses deep reservations about liberalism and about rights in particular. If these reservations do attract attention, it is too often perfunctory and ends in dismissal without any serious attempt to come to grips with the deeper motivations of the criticism. The results are misunderstanding and missed opportunities to converse across disciplinary boundaries that are far more permeable than disciplinary literature sometimes suggest.

The focus of the following essays is not justice, but a book about justice: Nicholas Wolterstorff's *Justice: Rights and Wrongs* (2008). Wolterstorff taught philosophy at Calvin College for many years before moving to Yale Divinity School as the Noah Porter Professor of Philosophical Theology. Throughout his career—in books and articles on aesthetics, epistemology, the history of philosophy, and the philosophy of religion—Wolterstorff has explored religious questions with philosophical rigor and philosophical questions with exquisite sensitivity to religious concerns. As I hope will be clear from this introduction, *Justice: Rights and Wrongs* is no exception. The literature and the range of problems Wolterstorff takes up, and the clarity with which he treats them, all make the book of great interest to religious ethicists and moral theologians as well as ethicists and political theorists working within professional philosophy.

Justice was the subject of prepublication conferences at Emory University's Center for the Study of Law and Religion, and at the University of Virginia's Institute for the Advanced Study of Culture. Three of the papers that make up this focus issue—those by Richard Bernstein, Oliver O'Donovan, and myself—were first presented at the Virginia conference. An additional paper, by Harold Attridge, supplements those three. In bringing together philosophers, a moral theologian, and a scripture scholar to engage a thinker of Wolterstorff's interests on the subject of justice, this collection of essays tries to exemplify the kind of interdisciplinary conversation it hopes to encourage.

Wolterstorff develops a theory according to which justice is “ultimately grounded on inherent rights” (2008, 21). He does not attempt to show that justice requires the recognition of any given set of rights, such as those listed in the American Bill of Rights or the *Universal Declaration of Human Rights*. Rather, his book explores the philosophical foundations of rights. In implying that some rights inhere in human beings, Wolterstorff means that human beings have some rights simply by virtue of “the worth of beings of their sort” (2008, 10–11). This claim, which lies at the heart of Wolterstorff's theory, requires considerable unpacking. We will have to see what kind of worth human beings have, how they come to have it, whether all and only human beings have worth of that kind, and how that worth grounds rights.

Wolterstorff's account of the worth that grounds human rights is irreducibly theistic and, he says, specifically Christian (2008, x). Human beings have worth because they are loved by the God of the Hebrew and Christian Scriptures, and loved by God in a quite specific way—in what Wolterstorff calls “the mode of attachment.” Love as attachment is not a love that responds to excellences of the beloved; it

is simply the love that a lover has for things and persons to which he or she is bonded (2008, 189–90). Wolterstorff finds this kind of love discussed in Augustine. The worth we have by virtue of being loved by God in this way is, he thinks, what grounds our rights.

I will say more about this account in the third section of this introduction. But I believe we can learn quite a bit about Wolterstorff's theory of justice, and about the interest of that theory for moral philosophy, moral theology, and religious ethics, by looking at the conception of justice with which he explicitly contrasts his own. That conception is one he calls "justice as right order." The conception is, he argues, widely influential. It underlies much of the criticism of rights theory and rights talk that enjoys such currency, particularly among religious thinkers.

Wolterstorff remarks that he initially found many critiques of rights confusing (2008, xii). Sympathizers of rights may well share this experience. Those critiques can be highly polemical and are often leveled in abstraction from the details of the developed intellectual positions at which they are aimed. Wolterstorff has made a tremendous contribution to what we might call the "cartography" of philosophical and religious ethics by locating and mapping a single position that is occupied by the diverse critics of rights whom he groups together. Seeing exactly what distinguishes their conception of justice, in a way that explains their criticisms, sheds a great deal of light on Wolterstorff's book and on the larger debates to which that book makes so signal a contribution.

Wolterstorff's own attempt to say what is at issue between right order theorists and rights theorists takes up a relatively small portion of his book. However, because of its importance, and because it is the part of the book that is least well canvassed in the focus essays, I will begin with it and give it disproportionate attention. A good deal of the book is given to historical narrative; I will discuss this in the second section of this introduction. I will then lay out the essentials of Wolterstorff's own view in section three.

1. Right Order Theory

The right order conception of justice is, Wolterstorff says, a conception espoused by—among others—Oliver O'Donovan, Joan Lockwood O'Donovan, Alasdair MacIntyre, and Stanley Hauerwas. By defending a Christian theory of human rights, Wolterstorff hopes to offer an account that Christians can embrace. By defending it against the right order theorists he identifies, he—like Jeffrey Stout in his own recent book (2004, 75–76)—hopes to counter their influence among Christians outside the academy as well as within it (Wolterstorff 2008, 1–2).

It may be surprising that Wolterstorff ascribes a conception of justice to Hauerwas at all, since Hauerwas has so famously said that “justice is a bad idea for Christians” (1991, 45). But Wolterstorff is surely right to read Hauerwas as objecting, not to justice, but to a particular conception of justice that he sees embodied, and degraded, in contemporary liberal democracies (Wolterstorff 2008, 94–96). Christians who follow Hauerwas in thinking that justice is a bad idea, and those who follow Anders Nygren in saying that Christianity has rendered justice “obsolete” (Wolterstorff 2008, 1), are exaggerating just as surely as those who follow Marx in claiming that full communist society is “beyond justice” (Rawls 2007, 335). Norms of justice apply to every human society. The question Wolterstorff takes up is that of which conception of justice—justice as inherent rights or justice as right order—is the most defensible. He is quite right that this question is obscured if the fundamental difference between him and his opponents is described as a difference over whether justice is desirable at all.

As Wolterstorff notes, advocates of justice as right order typically inveigh against natural rights. They sometimes take natural rights to be the rights human beings would have—in the words of MacIntyre that Wolterstorff quotes—if they were “stripped of all social status, [rights] possessed by an individual as he or she is alone, prior to any communal relationships” (2008, 32–33). However, Wolterstorff counters, “no proponent of natural rights . . . engage in, or attempts to engage in, the stripping process of which MacIntyre speaks.” “In identifying certain of the rights of a member of the social order as *natural* rights,” he continues, “one is not engaged in the impossible project of imagining this entity as a purely natural, asocial being. One is simply taking note of what does and does not account for her having those rights” (2008, 33).

What does and does not account for someone’s having natural rights, in Wolterstorff’s view? Natural rights, he says, are rights that are not socially conferred. That is, they are rights that do not depend upon social practices or institutions. Once we see that this is what natural rights are, Wolterstorff thinks, it is clear that, far from rejecting the existence of natural rights, proponents of justice as right order are committed to their existence. For right order theorists typically agree that human beings have natural obligations. As we will see, Wolterstorff thinks rights are correlative to obligations: if I have an obligation to you, then you have a right against me. The right order theorist’s recognition of natural obligations therefore commits her to the recognition of natural rights. Therefore, Wolterstorff thinks that casting difference between the right order conception of justice and his own as a difference over the existence of natural rights is no closer to the truth than is casting it as a difference over the desirability of justice.

At one point, Wolterstorff says right order theorists deny that being human is “by itself, enough” to account for why people have rights. This remark might be read as suggesting that the difference between right order theory and Wolterstorff’s inherent rights theory is that he asserts what right order theorists deny, namely the sufficiency of humanity “by itself” to ground rights. But Wolterstorff does not think that *humanity* is sufficient to ground rights either, since he thinks human beings have rights because of their *worth*.¹ One of the problems to which his theistic theory is a solution is the problem of how that worth is to be accounted for. Wolterstorff’s answer, as we have already seen, is that it is accounted for by God’s standing to us in a certain value-conferring relation. Of course, Wolterstorff would still insist that while on his view, an important form of human *worth* or *value* is conferred, the *rights which are grounded on that value* are not. This is what he thinks distinguishes his view from right order theories. According to right order theories, all *rights* are conferred, but this way of putting the difference may leave out something that is essential to right order theories, at least when taken in conjunction with what is said about how right order theorists think rights are conferred.

Wolterstorff suggests that right order theorists think rights are conferred by laws, by agreements, or by standards that transcend any actual society. These laws, agreements, and standards establish objective obligations among persons and, in that way, confer their rights. A central element of right order theories is what they say about how these standards put individual persons under objective obligations. The standards that establish such obligations are standards of justice. These standards are social. As Wolterstorff notes at one point, right order theorists think that “[j]ustice is present in a society . . . insofar as the society measures up to whatever is the standard for the rightly ordered society” (2008, 30). This means that objective obligations are specified—and hence rights are conferred—by norms that apply, in the first instance, to *societies*.² According to right order theorists, the reason concrete individuals have obligations—and hence rights—is that they are, by nature, members of societies that are held to those standards. Right order theorists therefore think that individuals’ natural rights are not just conferred but are also *membership-derivative*: derivative from their being part of a group the members of

¹ In a revealing passage Wolterstorff says that “*worth* is sufficient for having rights,” not that *humanity* is sufficient (2008, 36; my emphasis).

² Wolterstorff 2008, 265 does recognize this explicitly where he avers that “the norm for right order is thought of as a matrix specifying in a general way *the obligations of members of the social order*.” My point in the text is that the social character of the matrix is not connected with the description of what divides Wolterstorff from the right order theorists.

which, as such, have obligations. If that group is all-inclusive, then individuals' rights are derivative from their belonging to a kind the members of which, as such, have obligations.

On Wolterstorff's own view, by contrast, the natural rights of individuals are not membership-derivative. That is because rights are founded on a value that is conferred by God, and God does not confer such value mediately on individuals by conferring it on their societies or kinds. Rather, God confers it immediately on individual human beings by loving them. Moreover, because the love that confers that value is love as attachment, it is love God bestows without regard to any excellences—such as rationality—that have traditionally been thought to define the human species. God loves all human beings, and that love grounds rights, regardless of what human beings may or may not have in common.

Wolterstorff does not rehearse this line of thought explicitly, and nothing he says compels this interpretation. Nevertheless, I think we can read this line into Wolterstorff's especially important remark that "if God loves, in the mode of attachment, *each and every human being equally* and permanently, then natural human rights inhere in the worth bestowed on human beings by that love" (2008, 360; my emphasis). Moreover, we can see why Wolterstorff would be drawn to a view according to which rights are not membership-derivative. For Wolterstorff wants an account of rights that will support his claim that all human beings have rights, regardless of their physical or mental capacities, and perhaps of their state of consciousness. An account that grounds rights on group membership or shared, kind-specific excellences seems unlikely to deliver that.

Some of Wolterstorff's remarks suggest he thinks that in locating what divides him from right order theorists in the question of whether rights are inherent or conferred, he has seen more clearly than they have what is at stake between them. This way of drawing the contrast, however, still leaves many of the right order theorists' criticisms of rights theory unexplained. Now suppose that the contrast Wolterstorff wants to draw is characterized as a disagreement about whether individuals' rights are or are not also membership-derivative, derivative from their membership in a group or a kind. Then that contrast looks much more like the contrast right order theorists themselves have described. We can see why Oliver O'Donovan says in his contribution to this focus issue that "[r]adically multiple rights arise from, and reflect, the radical ontological distinctness and multiplicity of human persons" and that "[m]ultiple rights express a plural ontology of difference, the difference between every rights-bearer and every other, instead of a unitary ontology of human likeness." In addition, we can see why Joan Lockwood O'Donovan and other right order theorists

have associated rights theory with nominalism (Wolterstorff 2008, 12). For whatever it is that makes all the holders of human rights *human*—such as a universal or a form, an essence or soul—does not do much work in a rights theory like Wolterstorff’s (2008, 321). Though he does not say so, Wolterstorff’s is just one kind of rights theory, and differs in a significant respect from theories that ground rights differently. Moreover, right order theorists will dissent from these other kinds of rights theories on grounds that differ from those on which they dissent from Wolterstorff’s.

Suppose one thinks, as some prominent defenders of rights do, that human beings are to be thought of as having a capacity for, and a fundamental interest in, deciding for themselves how to live their lives. Since acting on this interest requires certain immunities from interference by other persons, by civil society, and by the state, it is natural for an account of rights to found rights, in part, on our need for such immunities and, ultimately, on our interest in self-determination.

The result would be a very different account of rights than Wolterstorff’s, since he founds rights on bestowed worth and insists that bestowed worth “does not in any way involve reference to human capacities” (2008, 352). But if this alternative account of rights is the one right order theorists have in view, we can understand some of their other criticisms of rights theory. When Oliver O’Donovan says—as Wolterstorff quotes him—that a right is “a primitive endowment of power with which the subject first engages society,” what he has in mind is an account according to which rights exist to confer immunities (2008, 31). The view of human beings on which the alternative account rests, the view of them as having an interest in deciding on their own view of the good, can plausibly be described—as it often is by right order theorists—as individualistic. If one of the “powers with which the subject first engages society” is the power over property, as it seems to be in Locke, then we can understand the (in my view mistaken) association of all rights theory with possessive individualism (see 2008, 13).

The individualistic view of the person can plausibly be contrasted with a view of persons as naturally oriented toward the common good of the groups to which they naturally belong. If one thinks, as some right order theorists do, that the latter view of human nature is the correct one, then conceiving of human beings as if they have no *telos*, but have instead a fundamental interest in fixing their ends for themselves, will seem to be an act of illegitimate abstraction. Since what is thought to have been abstracted away are the communal ties in which the human good is to be found, that act of abstraction will be criticized as an act of imagining an asocial person. The fiction of a state of nature functions, in some rights theories, to make that abstraction

vivid so as to make fundamental human interests more clearly visible. It is because right order theorists think such theories mistake our interests so profoundly that they seize on the fiction and say just the sort of thing about rights theories that MacIntyre does.

Wolterstorff's identification of the right order conception of justice as a distinctive conception is extremely illuminating. The distinction enables us to look at contemporary debates about justice and rights in an entirely different light, and to see into them far more deeply. Reflecting on how the distinction is best cast shows, I believe, that we can understand right order theorists' criticisms of rights theories only by appreciating that some of them are aimed at theories like Wolterstorff's which deny that obligations are membership-derivative and that others are aimed at theories with very different underpinnings than Wolterstorff's.

Whether an interest-based theory of rights can provide what Wolterstorff thinks a rights theory must deliver to be correct is an interesting question. Whether they were ever meant to do so is another. In his essay, O'Donovan suggests that concern with the kind of rights Wolterstorff is concerned to ground—human rights, rights possessed by every human being—arose very late in theorizing about rights. This suggests that interest-based theories were framed to serve different political purposes altogether.³ In my essay, I ask whether an account of rights like Wolterstorff's, which disconnects rights from interests, can deliver what any rights theory has to deliver: a plausible explanation of how rights-violations wrong the rights-bearer.

2. The Historical Narrative

The power and tenacity of the right order conception of justice stem, Wolterstorff states, from the historical narratives propounded by its advocates. According to those narratives, a conception of justice as founded on inherent rights displaced the right order conception in the late medieval and modern periods. To break the grip of the right order theory, Wolterstorff says, he must tell a counter-narrative. That historical counter-narrative, including the part Wolterstorff names "Fusion of Narrative with Theory," constitutes two-thirds of *Justice: Rights and Wrongs*. If the systematic and critical parts of Wolterstorff's book are analytically powerful, the historical and narrative parts are breathtaking in their learning and scope.

³ O'Donovan suggests they were framed to serve the interests of the propertied class. One way in which they might do that is by licensing a regime in which voting rights depend upon a property qualification, as in Locke's view. For an argument that social contract theories, which make many of Locke's assumptions, are not committed to such a regime under post-industrial economic conditions, see Cohen 1986.

In the previous section, I said very briefly why right order theorists might associate Wolterstorff's account of inherent rights with nominalism. In fact, according to one of the narratives spun by right order theorists, the concept of rights was born of that metaphysical position. The concept of rights was, they say, first formulated and deployed by the great nominalist philosopher and controversialist William of Ockham in the fourteenth-century struggles over the mendicant orders. The concept was later taken up, refined, and cemented into modern moral consciousness by thinkers of the European Enlightenment. One of the points of the right order theorists' narrative is to suggest that rights theory departs quite radically from a philosophical and Christian tradition of long standing. However, their narratives are not just stories of departure. They are also tales of decline. That is what gives the narratives their polemical force.

The narrative according to which rights were born of nominalism is deeply indebted to the work of the French historian Michel Villey. That narrative has been contested by the great legal historian Brian Tierney (1997). Wolterstorff draws on Tierney to cast some initial doubts on the narrative, but the real force of Wolterstorff's counter-narrative is conveyed by his own careful rereading of the relevant religious and philosophical history.

Some of that rereading is a rereading of the Hebrew and Christian Scriptures, to which Wolterstorff devotes three important chapters. These chapters show a lifetime's reflection on the Scriptures. The argument is linguistically informed, and their conclusion is subtle. Attridge summarizes it in his contribution to this focus issue: "Wolterstorff does not claim that in the Hebrew Bible or in the New Testament there is any explicit theory of human or natural rights, but rather an ethical framework that assumes that something like such rights are in effect." Wolterstorff also claims that implicit in the scriptures is the assumption that those rights are grounded in human worth (2008, 131).

If Wolterstorff's readings of Scripture are sound, then he has made a powerful point against the right order theorist. As he puts it, speaking of his own counter-narrative:

If this is correct, then the polemic we have been considering has things exactly upside down. The right order theorist discerns that talk of rights as inherent has become the principal language of secular moralists, who claim it as their own. She accepts this claim of the secularists, hands title to the language over to them, and resolves herself to use only the language of right order. Thereby she alienates her birthright and places it in the hands of those many of whom lack the resources for safeguarding it [2008, 64].

Three hundred pages later, in a stirring conclusion, Wolterstorff intimates that our best hope for safeguarding a commitment to human rights lies in widespread acceptance of their theistic underpinning (2008, 393).

Justice: Rights and Wrongs merits and will receive a great deal of critical attention. If this focus issue is any indication, a good deal of that attention will be centered on this historical counter-narrative. Attridge's contribution offers some measured corrections to Wolterstorff's reading of the Christian Scriptures, especially the Gospel of Luke. O'Donovan offers a vigorous, sophisticated, and broad-gauged critique of the counter-narrative.

3. Justice as Inherent Rights

We have seen that Wolterstorff thinks there are some rights that are inherent rather than conferred, and that inherent rights are not membership-derivative. According to his account, each human being has these rights because of the worth she has in virtue of being loved by God in "the mode of attachment." Many of the details of Wolterstorff's account have already been anticipated; they are also spelled out in my paper and in Bernstein's. In this section, I will simply draw the main points together in a way that, I hope, displays the broad contours of the view.

Wolterstorff's account is an account of what he calls "primary justice." It is not intended to cover the rectification of departures from justice, but Wolterstorff does not idealize away all such departures, nor does he try to give an account of a perfectly just society. Rather, Wolterstorff argues that rights are essential to our thinking about justice in part because they are essential to our thinking about *injustice*, and to thinking about injustice from the victim's point of view. "The language of rights and of being wronged," he writes, "enables the oppressed to bring their own moral condition into the picture: they have been deprived of their right to better treatment, treated as if they were of little worth" (2008, 9). This is something that the language of obligations does not convey, since that language expresses matters from the agent's rather than the patient's point of view.

What are rights? According to Wolterstorff, they are "normative social relationships." More specifically, they are claims to the good of being treated in certain ways by persons and other social entities (2008, 263). As I noted earlier, *Justice: Rights and Wrongs* is an attempt to show why persons stand in these relationships to others and to certain goods. It is not an attempt to argue that human beings have a particular set of rights. Indeed, Bernstein takes Wolterstorff to task

for failing to give us an account that would help to settle what human rights we have.

As we have already seen, Wolterstorff thinks that rights and obligations are correlative. He expresses the relation between rights and duties very precisely in what he calls the “Principle of Correlatives”: If Y belongs to the sort of entity that can have rights, then X has an obligation toward Y to do or refrain from doing A if and only if Y has a right against X to X’s doing or refraining from doing A (2008, 34). One natural answer to the question of why we stand in these “normative social relationships,” which exploits the Principle of Correlatives, is that we stand in them because we are under obligations. I have a right to the free enjoyment of my home, for example, because others are obligated not to enter it unbidden. I have a right to traverse public spaces unmolested because others are obligated to leave me alone. This answer prompts the further question of what grounds these obligations. Many responses to *that* question are possible: that God has imposed certain obligations upon us by fiat, for example, or that we are obligated not to do things that are—in some way that needs to be spelled out—bad. What these answers have in common is that they attempt to ground justice on something other than rights. This, as we saw, is the strategy of the right order theorist. Wolterstorff does not simply contrast his own account with the right order theorist’s. He criticizes right order theory in some detail. The version he considers is one according to which justice is founded on obligations imposed by divine command. The arguments against divine command theories of obligation are laid out in the pivotal chapter twelve of *Justice*.

We saw earlier that the right order theorist thinks obligations are established by norms that are ordained for the government or ordering of societies. That is why right order theorists are committed to thinking that natural rights are membership-derived. A question that needs to be asked, then, is whether the divine command theory at which Wolterstorff takes aim reflects the social nature of the commands. Does it make a difference to the right order theorist’s argument that those commands are the rules of a society—or, in Jerome Schneewind’s phrase, of a “divine corporation” (Schneewind 1984)⁴—members of which naturally need a sovereign to order their behavior toward a common good? How appeal to a divine corporation would alter the defense of divine command theory is for the right order theorist to say. If Wolterstorff’s arguments still succeed, then the right order theorist must be wrong. Justice must be founded on rights and not obligations.

⁴ Schneewind very helpfully fills in the background assumptions of pre-Kantian right order theory.

What accounts for our having rights? In the constructive part of his book, Wolterstorff develops a very ingenious answer to this question, an answer that he hopes will account for why each and every human being has rights, regardless of her capacities.

The first step toward the answer pushes off from the place that rights occupy in our practical reasoning. Suppose someone has a right to be treated in a certain way—he has the right to a Social Security check because he is an American over 65, or she has the right to be declared the winner of a piano competition because of her superior performance (Wolterstorff 2008, 288–92). Then the fact that he or she has that right is not simply to be weighed in a balance with other considerations that bear on our actions. We are not to consider what is to be gained and lost by issuing a Social Security check or by awarding first place in a piano competition. We are just supposed to do it. Thus, the fact that someone has a right is supposed to preempt competing considerations, so that they have no force or weight at all in our practical reasoning. When someone has a right, considerations that compete with it are, Wolterstorff says, “off the table” (2008, 291), “no questions asked” (2008, 292). That is why it is said that rights are peremptory or—in Ronald Dworkin’s memorable and picturesque phrase—that rights are “trumps” (1977, 153).

The trumping force of rights provides a promising clue, Wolterstorff thinks, to why we have them. Since rights are claims to good treatment, to violate someone’s rights is to deprive her of a form of good treatment to which she has a claim. To do this is to wrong her. I believe Wolterstorff thinks it obvious that not only are we never to wrong others, but also the fact that some act would wrong her preempts the force of any reasons we might have to perform the act. So the source of the peremptory force of rights is the peremptory force of the wrongness of violating rights. Rights are trumps, we might say, because wrongs are trumps. That is why Wolterstorff states that “*wronging* is the source of rights” (2008, 293).

Why is it wrong to violate someone’s rights? The wrong cannot reside simply in, for example, the physical harm done to someone when her right not to be tortured is violated, since she could suffer comparable physical harm from an accident. Accidents are not violations of rights and do not constitute wrongings. At the heart of wronging, Wolterstorff argues, is a failure to show respect for the one who is wronged.

Wronging is disrespectful treatment—treatment of which Wolterstorff gives a fascinating analysis, using the novel notion of an action’s “respect-disrespect import” (2008, 296). Someone can act without intending to be disrespectful, but her action can express disrespect for someone else even so. It does so because of the “disrespect import” her

action has. The upshot of Wolterstorff's analysis is that someone subjects another to disrespectful treatment when the respect-disrespect import of her action fails to comport with the worth that she has. Thus to fail to respond appropriately to someone's worth is to disrespect—or, as Wolterstorff says, to “under-respect”—her. Wolterstorff thinks that it is always wrong to treat something as having less worth than it does. This, he says, is his *Ur Principle* (2008, 370). To under-respect someone's worth therefore wrongs her. Wronging, as we saw, is the source of rights. So the ultimate explanation of why human beings have rights, and have claims to certain sorts of treatment, is that a failure to treat human beings in the requisite ways is a failure to respond appropriately to their worth.

At this point, we might have expected Wolterstorff to use the notions of respect and worth to explain a crucial move in his account, one that I previously said he takes as obvious—the claim that wrongs trump. He might have said that if some act would express disrespect for another, then the fact that it would preempts any reasons in favor of performing it. That is, we might have expected him to say that wrongs trump because disrespect trumps. Of course, given his analysis of disrespect, Wolterstorff would then have to say that if some act would amount to treating something as having lesser worth than it does, then *that* fact trumps competing considerations and takes them “off the table.” That would be a very strong claim, much stronger than the claim that treating something as having lesser worth than it does is always wrong. Perhaps Wolterstorff thinks it too strong, and that is why he seems not to take his argument in this direction.

The crux of Wolterstorff's account of rights is therefore, as Bernstein points out, his account of human worth. We have already seen what that account says. Human beings have many kinds of worth. The relevant kind is that which is bestowed on each of them by God, in virtue of God's love for each of them, given in the mode of attachment. That kind of love is, I suggested above, bestowed individual by individual, rather than on humankind as a whole. As we have seen, the love of attachment is not given in response to any of the beloved individual's excellences (Wolterstorff 2008, 189–90), and the worth that results does not involve any reference to human capacities (2008, 352). Why, then, does God love individual human beings at all, and love us equally and permanently? These are among the questions that Bernstein presses in his subtle and searching examination of Wolterstorff's view.

A brief introduction cannot do justice to the richness, nuance, and scope of *Justice: Rights and Wrongs*. I have barely touched on some parts of the book. I have said nothing at all about others, such as the very interesting treatment of Augustine and eudaimonism that

Wolterstorff develops in great detail. *Justice: Rights and Wrongs* is a splendid contribution to religious and philosophical ethics. It is hard to think of anyone else on the contemporary scene with the learning, the skill, and the conviction to write it. The book will be fully understood and appreciated only after it receives the sustained attention it so richly deserves. The contributions to this issue of the *JRE* are therefore intended merely to start what will no doubt be a long and fruitful discussion of Wolterstorff's superb book.

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