

RECONSIDERATIONS

EXPLORING CHRISTIAN THOUGHT IN THE UNIVERSITY COMMUNITY

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SPEAKING UP FOR RIGHTS, PART 1

Nicholas Wolterstorff

Editor's note: Nicholas Wolterstorff delivered a Culture Seminar lecture on February 19 at the University of Florida. What follows is a slightly abridged version of his talk. We offer Part 1 in this edition, with Part 2 to follow in the next edition. This essay is based on Wolterstorff's recent book Justice: Rights and Wrongs (Princeton University Press, 2008).

Justice and rights are the most contested part of our moral vocabulary, contested not only, or even mainly, by philosophers and other theorists, but within society generally. Few people oppose talk about responsibility and obligation – therapists who believe that guilt feelings are a bad thing, philosophers who see no acceptable way of accounting for obligation, that's about it. Lots of people pay little attention to their own obligations; but few declare themselves opposed to talk about obligations. So too with virtue and love. Though many care little about either, few express opposition to talk about them.

Justice and rights are different. Opposition to rights-talk is common. Some of those opposed are also opposed to talking about justice; they connect the two, rights and justice. Others want to pull them apart. Justice is fine; it's talk about rights that's bad.

Why this hostility? Let's take a brief survey. Start with justice. Wide swaths of American Christians are hostile to talk about justice because they believe that in the New Testament, love has supplanted justice – except for retributive justice. Jesus did not teach, in the second of

the two great commandments, that we are to treat people justly; he taught that we are to love our neighbors as ourselves. In his now-classic book, *Agape and Eros*, published in the early 1930's, the Swedish Lutheran bishop, Anders Nygren, worked out the idea in detail. After interpreting the love that Jesus ascribed to God and enjoined on us with regard to our fellows as the love of pure impartial benevolence, Nygren declared that what we learn from Jesus' words and deeds is that where such "spontaneous love and generosity are found, the order of justice is obsolete and invalidated" (90).

This attack on justice, coming as it does from within my own religious community, is not one that I can ignore; most secular academics would be inclined not to give it the time of day. I think that's a mistake on their part. Americans continue to be a religious people, dominantly Christian; we must expect consequences for our culture and society as a whole if

many among us believe that justice is outmoded. And in any case, similar things are being said by secularists, albeit for different reasons.

In her essay, "The Need for More than Justice," Annette Baier argues that though justice may still have a place, it has to be supplemented with virtues less cold and calculating. "Care," she says, "is the new buzz-word, . . . a felt concern for the good of others and for community with them. The 'cold jealous virtue of justice' (Hume) is found to be too cold, and it is 'warmer' more communitarian virtues and social ideals that are being called in to supplement it."¹

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Others on the contemporary scene are opposed not so much to talk about justice as to talk about rights. The opposition is for a variety of reasons. Some oppose rights-talk because they find so many rights-claims silly that they think it best to purge our vocabulary of all such talk. I agree with the diagnosis but not with the prescribed cure; many rights-claims are silly. The U.N. Declaration on Human Rights declares, in Article 24, that everybody has a right to periodic vacations with pay. Many people don't work for pay. Some, such as children and the handicapped, don't work at all; others work, but not for pay – farmers, housewives, and the like. So how could everybody have a right to a periodic vacation with pay? Claims like this give rights a bad name.

Others are opposed to rights-talk for political reasons. All the great social protest movements of the twentieth century in the West employed the language of rights. They employed other language as well; but the language of rights was prominent in their vocabulary because, in general, it proved the most powerful. I have in mind the movements of protest against the position assigned in society to children, to women, to Jews, to African-Americans, to homosexuals; I also have in mind the protests against the Afrikaner regime in South Africa and against the Communist regimes in Hungary and Poland. It was these movements that made common coinage of such phrases as "children's rights," "women's rights," "civil rights," "human rights," and so forth.

Others, again, are opposed to rights-talk for social reasons. They charge that rights-talk expresses and encourages one of the most pervasive and malignant diseases of modern society, possessive individualism. In using such talk one places oneself at the center of the moral universe, focusing on one's own entitlements to the neglect of one's obligations to others and the cultivation of those other-directed virtues that are indispensable to the flourishing of our lives together. The prevalence of rights-talk, so it is said, obscures from us our responsibilities to each other and to our communities, obscures from us the singular importance of love, care, friendship, and the like. It demotes the giving self and promotes the

grasping self, demotes the humble self and promotes the haughty self. It both encourages and is encouraged by the possessive atomism of the capitalist economy and the liberal polity. It invites us to think of ourselves as sovereign individuals.

Rights-talk is said to be for the purpose of *me* claiming *my possessions*, *you* claiming *your possessions*, *him* claiming *his possessions*. That's what it's for: claiming one's possessions, giving vent to one's possessiveness, each against the other. Possessive individualists are not abusing an innocent language by wresting it to their own evil purposes. They are using it as it was meant to be used. Rights-talk is inherently individualistic and possessive.

It is my judgment that some of these objections – not all – rest on a mistaken understanding of what rights actually are. Hence the way to begin a defense against this fusillade of objections is to make clear what it is that we are talking about.

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I hold that justice is constituted of enjoying rights; a society is just insofar as its members are enjoying those goods to which they have a right. And I hold that rights are normative social relationships; sociality is built into the essence of rights. A right is always a right *with regard to* someone. In the limiting

case, that 'someone' is oneself; one is other to oneself. Usually the other is somebody else than oneself. Rights are toward the other, with regard to the other. Rights are normative bonds between oneself and the other. And for the most part, those normative bonds of oneself to the other are not generated by any exercise of will on one's part. The bond is there already, antecedent to one's will, binding oneself and the other together. The other comes into my presence already standing in this normative bond to me.

This normative bond is in the form of the other bearing a legitimate claim on me as to how I treat her, a legitimate claim to my doing certain things to her and refraining from doing other things. If I fail to do the former things, I violate the bond; if I do not refrain from doing the latter things, I also violate the bond. I do not break the normative

bond; that still holds. She continues to have that legitimate claim on me as to how I treat her. *I violate* the bond.

The legitimate claim against me by the other is a claim to my enhancing her well-being in certain ways. The action or inaction on my part to which the other has a right against me is an action or inaction that would be a good in her life. A common apothegm in present-day political liberalism is that “the right has priority over the good.” In the order of concepts, it’s the other way around: the good has priority over the right. One’s rights are rights to goods in one’s life. The converse does not hold: there are many things that are or would be goods in one’s life to which one does not have a right. I think it would be a great good in my life if Rembrandt’s wonderful painting, *The Jewish Bride*, were hanging on my living room wall. Sad to say, I don’t have a right to that good.

I hold that it is on account of her worth that the other comes into my presence bearing legitimate claims against me as to how I treat her. The rights of the other against me are actions and restraints from action that due respect for her worth requires of me. To fail to treat her as she has a right to my treating her is to demean her, to treat her as if she had less worth than she does. To spy on her for prurient reasons, to insult her, to torture her, to bad-mouth her, is to demean her.

And to demean her is to wrong her. If I fail to treat her in the way she has a right to my treating her, I am guilty; but she is wronged. My moral condition is that of being guilty; her moral condition is that of being wronged.

Lastly, rights are boundary-markers for our pursuit of life-goods. I am never to enhance the good in someone’s life, my own or another’s, or that of many others, at the cost of wronging someone or other, depriving her of that to which she has a right. I am never to pursue life-goods at the cost of demeaning someone. Rights have been described, and correctly so in my judgments, as *trumps*. It may be that I can bring about a wide range of life-goods by some course of action which requires that I deprive someone of some good to which she has a right, thereby wronging her. I am never to do that.

The language of rights is for talking about these matters. It is for talking about these normative social bonds. It is for talking about the fact that sometimes by not enhancing the well-being of the other I fail to give her due respect. It is for talking about that curious and sometimes perplexing interaction, within the realm of the good, between the worth of the other person and the worth of goods in her life and in the lives of others.

But if this is what rights are, how did rights-talk ever get such a bad name? It’s easy to see why those who oppose social protest movements prefer that the debate not be conducted in terms of rights. The rights of the other place limits on how I treat her. Not even for reasons of great goods to be achieved am I permitted to treat her with under-respect. Those who oppose liberation movements almost always claim that some great good will be maintained and some great evil averted if the status quo is preserved; they don’t want to hear about limits on what they are allowed to do to the other in maintaining the status quo. Likewise those who want to reshape society to fit their social ideals – national socialists, communists, and the like – don’t want to hear about the limits that rights are, the boundaries that must not be crossed on pain of violating the worth of the other.

That all seems clear enough. But if rights are what I claim they are, normative social bonds, why would anybody connect them with possessive individualism? There’s a normative social bond between me and the other whereby the other bears legitimate claims on me as to how I treat her and whereby I bear legitimate claims on her as to how she treats me. What connection could there possibly be between that and possessive individualism?

I think the clue lies not in rights themselves but in the honoring and dishonoring of rights and in the claiming of rights. Notice that it is one thing for the other to have a legitimate claim against me; it is a quite different thing for me to *honor* that legitimate claim. Likewise, it is one thing for me to have a legitimate claim against the other; it

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is a quite different thing for me to *claim* that good, to engage in the action of insisting that the legitimate claim be honored. Having a legitimate claim to police protection is one thing; going to a meeting of the city council to insist that the police honor that claim is another.

Now imagine a society inhabited by possessive individualists. What will they do? Each will claim his own rights while neglecting or refusing to honor the rights of others. In no way does this alter the structure of the rights themselves; that structure remains intact and symmetrical. The other comes into my presence bearing claims against me; I come into her presence bearing claims against her. It's the practices of *honoring* and *claiming* rights that have been distorted.

But note that the language of love and responsibility can also be abused, used to express appalling attitudes of domination on the one hand and servility on the other. And while we're on the topic of individualism, let's note that rights-talk scarcely has a monopoly on the language of choice for the self-preoccupied individualist. We have all known self-preoccupied persons who thought and spoke not at all in terms of rights but entirely in terms of obligation; their souls were filled to overflowing with their own rectitude - or their own guilt. Offensive or sickly self-preoccupation comes in many forms. Sometimes it employs the language of rights, sometimes it employs the language of duty, sometimes it employs neither.

I have explained, all too briefly what rights are and what it is, within reality, that right-talk brings to speech. But why is it important that rights be brought to speech? The critics point to the abuses of rights-talk. I concede the abuses. But rather than concluding that we should abolish rights-talk so as to eliminate the abuses, I hold that we should heal rights-talk of the abuses. I think something of enormous worth would be lost if we could no longer bring rights, and the violation of rights, to speech. The critics focus entirely on the abuse of rights-talk; they do not ask what would be lost if we threw it all out.

What would be lost is our ability to bring to speech one of the two fundamental dimensions of the moral order - the recipient-dimension, the patient-dimension. To the moral status of each of us there are two dimensions, that of moral agent and that of moral patient or recipient. When we speak of duty, guilt, benevolence, virtue, rational

agency, and the like, we focus on the agent-dimension; when we speak of rights and of being wronged, we focus on the recipient-dimension. To eliminate rights-talk would be to make impossible the coming to speech of the recipient-dimension of the moral order.

It may be said, in reply, that rights are the same thing as duties in different words. Everything that can be said in the language of rights can be said in the language of obligation; same facts, different words. I think the best way to see that this is not correct, that we are dealing here with two distinct dimensions of the moral order, connected, of course, not independent, rather than with one dimension differently described, is to look at duties and rights from the dark side - from the side of being guilty and from the side of being wronged. One is guilty if one has failed to do what one was obligated to do; one is wronged if one has not been treated as one had a right to be treated. I think we all have the intuition that your being guilty and my being wronged are not the same thing in different words.

When one thinks of what one is doing in terms of obligations, one focuses on the bearing of one's actions on one's own moral condition: one is upright or guilty. When one thinks of what one is doing in terms of rights, one focuses on the bearing of one's action on the recipient: her rights are honored or she is wronged. If one thinks exclusively in terms of obligations, and if, furthermore, one thinks of guilt as guilt for violating the moral law rather than guilt for wronging the other, then the person who has been wronged falls entirely out of view.

The language of duty and guilt enables the battered wife to point to the effect of her spouse's actions on his moral condition; he is now guilty. The language of rights and of being wronged enables her to point to the effect of her spouse's action on her own moral condition; she has been wronged, deprived of her right to better treatment, treated as if she were of little worth. He is not only guilty of having acted out of accord with the moral law; he is guilty of having wronged *her*.

The language of duty and guilt enables the oppressed to point to the effect of the oppressor's actions on the moral condition of the oppressors; the oppressors are guilty. The language of rights and of being wronged enables the oppressed to bring their own moral condition into the picture:

Continued on Page 7

NEWS FROM THE CENTER

SPRING 2008 ACADEMIC PROGRAM

Director's Class - "Reading the Gospels, part 1"

Lunchtime discussion for students led by **Richard Horner**
Wednesdays, through April 16, 11:45 am - 12:35 pm

Monday Class - "Technology and Local Ecological Health"

Speakers include: **Bron Taylor** (Religion, Univ. of Florida), **Anna Peterson** (Religion, Univ. of Florida),
Ed Barnard (Florida Division of Forestry), **Leslie Thiele** (Political Science, Univ. of Florida),
Calvin DeWitt (Univ. of Wisconsin-Madison)
Mondays, February 25 - April 7, 7:30 pm

Reading Group: "The Health and Wealth of the Community: Selected Readings"

Sarah Hamersma and **Todd Best**, facilitators
Monthly, Fridays, 11:45 am - 12:35 pm
 March 21: *Small Wonder* by Barbara Kingsolver
 April 18: *Sex, Economy, Freedom, & Community* by Wendell Berry

Culture Seminar

Calvin DeWitt, Professor of Environmental Studies, Univ. of Wisconsin-Madison
 "Environmental Studies as a Nexus for Restoring Fragmentation in Higher Education"
Tuesday, April 8, 4:00 pm, Keene Center - University of Florida

Note: In February, Nicholas Wolterstorff presented two lectures as a guest of the Center.
 Both are available as audio files on our website (christianstudycenter.org - resources - audio).

IN MEMORIAM

The following have made contributions to the Christian Study Center
 in memory of **Eleanor Shultz**:

Susan Neely
Betty J. and Obie McCarty
Joan McDonald
Jane S. Morgan

For the latest calendar updates as well as essays, back issues of Reconsiderations,
 and audio files from classes and lectures, visit our website at christianstudycenter.org

REVIEW:
TWITCHELL ON THE CHURCH

C. John and Susan Sommerville

James B. Twitchell, *Shopping for God: How Christianity Went from in Your Heart to in Your Face* (Simon and Schuster, 2007), 291 pp., \$26.

Jim Twitchell has long been my colleague at the University of Florida. His English department shared the same building as my history department, and his ironic smile is a familiar sight around the place. He became something of an outcast in his department when he took to writing popular, money-making books, and lately, he has become absorbed in several books on American consumerism, like *Lead Us Into Temptation* (2000). Writing them has given Jim considerable expertise on the advertising industry, a topic that the rest of us may instinctively shy away from.

This year his offering is called *Shopping for God: How Christianity Went from in Your Heart to in Your Face*. That title is not calculated to warm the hearts of those promoting the Church's mission. The Christian Study Center's student-age population might become unduly alarmed at the idea that the Church is immersed in the mundane aspects of common life, and doubtless we have more pressing things to confront. But those who are a little older, like the readers of *Reconsiderations*, will not be astonished to hear that the Church necessarily exists "in the world." Still, advertising ranks as one of the shadiest elements in our world and we might prefer to treat with a tone of horror. But that is not in Jim's nature.

Perhaps we need reminding that Christians believe in the Incarnation, that the divine can operate in the mundane. Given Jim's accepting nature (he has published books on the literary themes of horror, vampirism, and the incest taboo without losing that sense of humor) one can almost believe that his new book is an unconscious exercise in incarnational theology. The Church regularly has to absorb some of the substance of the world, bringing the mundane into itself and transforming it for better purposes. If the Church can find place for rock music then there is probably nothing that cannot be redeemed. I don't think Jim would object to that reading of his book. He is careful to say that he doesn't have a dog in this fight, and describes his own religious outlook as "apatheist" (apathetic). But it's pretty clear that he is pulling for the Church to avoid the worst transgressions of the advertisers. He hopes it won't lose its distinctiveness, but will turn it to good.

Nobody should be surprised to hear that the Church is in the selling business, which is more sophisticated than ever before in history. But it is important that the Church not be manipulated by its own techniques. Twitchell's treatment of this matter has shortcomings. It seems rather scattered, the chapter titles are no great help, because organization is not its strength. But there is an awful lot of fascinating and timely detail, from a great deal of time-consuming research and interviewing. And it is written with admirable even-handedness and sympathy, along with the joviality that maintains reader interest. Not least, there is little danger that the author is pulling any punches, as might be the case with more obviously religious authors. So maybe this is the book Christians need on this troubling subject.

Jim knows some history, and where the Church has come from. In Europe, state churches once had a monopoly on religious life, whether or not there was grumbling from the balcony. It lost that position, and this happened earlier in the United States than any other place in the Western world. From a very early date, religion in America partially escaped from the churches and began running on revivalistic techniques. George Whitefield (1714-70) was a genius at this, and his campaigns through the colonies taught him how to use the brand-new periodical media to promote his ministry. He never disgraced his ministry, nor did John Wesley, who pioneered the new ways of religious organization, in the Methodist "societies." So "movement organization" is not something new to American religious history.

Twitchell quotes a former chaplain to the U. S. Senate: "In the beginning the church was a fellowship of men and women centering on the living Christ. Then the church moved to Greece, where it became a philosophy. Then it moved to Rome, where it became an institution. Next it moved to Europe, where it became a culture. And finally, it moved to American, where it became an enterprise." (20) This was said before a vibrant Christianity moved on to the southern hemisphere, where it may become something else again. In all this, the Church tries to discern the hand of providence.

Revivalism momentarily escaped the Church in the 1960s, with the advent of Woodstock and other highly secular festivities. What Twitchell finds interesting is that the Church has seized this ground back since then. The megachurch, he says, is the application of the Woodstock principle to religion. Megachurches, he defines as those that bring out

Continued on Page 7

Sommerville Continued From Page 6

2,000 attendees per week. Gigachurches are those with 10,000, rising to one in Korea with an unimaginable 75,000 members. Numbers have grown from perhaps 10 in 1970, to 50 in 1980, 250 in 1990, and 1210 in 2005. The book is mostly about the techniques adopted by megachurches, without the gasps of shock that many authors would feign. Jim does not engage in cheap shots; he genuinely finds megachurches fascinating.

What is the point of these freaks of organization? It is not simply the modern world's need for excitement, or American gigantism. Of course we hear that if businesses are not growing they are dying, and business is our model for all organizations now (not excluding universities). If simply being fashionable is the driving force being megachurches, we can expect them to peak, and the ship to be quickly deserted. The Church's worst nightmare should be mere "popularity."

Twitchell thinks there is a more significant reason behind the growth of megachurches, which is the male psyche. Men, in much of American society, find it impossible to express religious feeling in front of their womenfolk. This produced strain within the older religious model. Successful mega-ministries have found ways to overcome male fears, so that families can worship together. So there's more than just fashion at work here. It's a sample of the insights one can gain from this interesting book.

A board member of the Christian Study Center, C. John Somerville is Emeritus Professor of History at the University of Florida. Susan Somerville is a teacher, homemaker, and wife of John Somerville.

Wolterstorff Continued From Page 4

they have been wronged, deprived of their right to better treatment, treated as if they were of little worth. The reason the language of rights has proved so powerful in social protest movements is that it brings the victims and their moral condition into the light of day.

Nicholas Wolterstorff is Noah Porter Professor Emeritus of Philosophical Theology at Yale University and Senior Scholar at the Institute for Advanced Studies in Culture at the University of Virginia.

¹In Virginia Held, ed., *Justice and Care: Essential Readings in Feminist Ethics* (Boulder, CO; Westview Press; 1995), p. 48. I thank Eleonore Stump for calling this essay to my attention.

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INSIDE THIS EDITION

Essay: "Speaking Up For Rights, Part 1" by Nicholas Wolterstorff, p. 1.

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Review essay: "Twitchell on the Church?" by C. John and Susan Sommerville, p. 6.

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SPRING CALENDAR HIGHLIGHTS

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