

RECONSIDERATIONS

EXPLORING CHRISTIAN THOUGHT IN THE UNIVERSITY COMMUNITY

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SPEAKING UP FOR RIGHTS, PART 2: ORIGINS OF RIGHTS-TALK

Nicholas Wolterstorff

Editor's note: Nicholas Wolterstorff delivered a Culture Seminar lecture on February 19 at the University of Florida. We offer here Part 2 of an abridged version of his talk; Part 1 appeared in the March edition. This essay is based on Wolterstorff's recent book Justice: Rights and Wrongs (Princeton University Press, 2008).

Let me now take the next step of observing that the condemnation of rights-talk as expressing and abetting possessive individualism is often supported by a narrative concerning the origin of the idea of rights – or more specifically, by a narrative concerning the origin of the idea of natural rights. My guess is that you have heard this narrative. The idea of natural rights, so it is commonly said, arose out of the individualistic thought of the Enlightenment – the word “secular” usually prefacing the word “Enlightenment” – *secular Enlightenment*. A variant on this narrative is that though the political philosophers of the secular Enlightenment certainly employed the idea of natural rights, they did not originate it; it first made its appearance some centuries earlier when the nominalist William of Ockham introduced and employed the idea early in the fourteenth century in the course of defending his fellow Franciscans against attacks from the pope. You will find Leo Strauss, Alasdair MacIntyre, Stanley Hauerwas, along with a host of others telling the former story; you will find Oliver and Joan O'Donovan, along with a few others, telling the latter story.

Either way, the claim is that the idea of natural rights originated within individualistic frames of

thought and has no use outside such frameworks. It carries individualism in its DNA. It must on that account be rejected. Contrary to what I said above, possessive individualists are not abusing rights-language when they use it for their own malign purposes. They invented rights-language for their malign purposes.

My reply to this narrative depends in good measure on the labors of others. As the result of recent work by some legal historians of the medieval period, especially Brian Tierney and Charles Reid, and by some legal historians of the

Reformation period, especially John Witte, we now know that these common narratives concerning the origin of the idea of natural rights are plainly false. Witte has shown that the idea of natural rights was in common use among writers in various branches of the Protestant Reformation, especially the Reformed; the claim that the idea originated with the supposedly secular Enlightenment political

thinkers is plainly false. And in his book, *The Idea of Natural Rights: Studies on Natural Rights, Natural Law and Church Law 1150-1625* (Atlanta: Scholars Press, 1997), Brian Tierney shows that in the mid-twelfth century, thus two centuries before Ockham, canon lawyers were employing the concept of natural (subjective) rights in their comments on Gratian's *Decretum* and in their discussion of ecclesiastical legal issues of the day. Nobody would accuse either the Reformation historians or the canon lawyers of the 1100's of being possessive individualists in their thought.

I think the evidence points to the conclusion

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that not only did the twelfth century canon lawyers articulate and self-consciously employ the concept of natural human rights; they were the first to do so. But now notice that it's quite possible for someone to *recognize* what we *conceptualize* as natural human rights without himself formulating and employing the concept. In general, we don't conceptualize everything that we recognize. So when one learns that the twelfth century canon lawyers were the first to conceptualize natural human rights, a natural question to ask is whether there are indications that such rights were nonetheless recognized before the twelfth century.

I think there are such indications. A considerable amount of the work of the twelfth century canon lawyers consisted of commenting on passages from the Church Fathers; and in some of the Church Fathers there is unmistakably a recognition of natural human rights. This comes out especially in what the Church Fathers have to say about the status of the poor. Let me quote a passage from a sermon of the great preacher of the Orthodox Church, John Chrysostomos. John preached the sermon in January of 388 or 389, in the city of Antioch. The passage occurs in the second of seven sermons that John preached on the New Testament parable of the Rich Man and Lazarus (Luke 16: 19-31). This passage is rather long; but it's so powerful that I think we should have the whole thing.

"This also is theft, not to share one's possessions." Perhaps this statement seems surprising to you, but do not be surprised. I shall bring you testimony from the divine Scriptures, saying that not only the theft of others' goods but also the failure to share one's own goods is theft and swindle and defraudation. What is this testimony? Accusing the Jews by the prophet, God says, "The earth has brought forth her increase, and you have not brought forth your tithes; but the theft of the poor is in your houses." Since you have not given the accustomed offerings, He says, you have stolen the goods of the poor. He says this to show the rich that they hold the goods of the poor even if they have inherited them from their fathers or no matter how they have gathered their wealth. And elsewhere the Scripture says, "Deprive not the poor of his living." To

On occasion, the biblical writers explicitly connect our worth with how we are to be treated.

deprive is to take what belongs to another, for it is called deprivation when we take and keep what belongs to others...Just as an official in the imperial treasury, if he neglects to distribute where he is ordered, but spends instead for his own indolence, pays the penalty and is put to death, so also the rich man is a kind of steward of the money which is owed for distribution to the poor. He is directed to distribute it to his fellow servants who are in want. So if he spends more on himself than his need requires, he will pay the harshest penalty hereafter. For his own goods are not his own, but belong to his fellow servants. Therefore let us use our goods sparingly, as belonging to others...

The poor man has but one plea, his want and his standing in need; do not require anything else from him; but even if he is the most wicked of all men and is at a loss for his necessary sustenance, let us free him from hunger...The almsgiver is a harbor for those in necessity; a harbor receives all who have encountered shipwreck; and frees them from danger; whether they are bad or good or whatever they are who are in danger, it escorts them into its own shelter. So you likewise, when you see on earth the man who encountered the shipwreck of poverty, do not judge him, do not seek an account of his life, but free him from his misfortune...

Need alone is this poor man's worthiness; if anyone at all ever comes to us with this recommendation, let us not meddle any further. We do not provide for the manners but for the man. We show mercy on him not because of his virtue but because of his misfortune...I beg you remember this without fail, that not to share our own wealth with the poor is theft from the poor and deprivation of their means of life; we do not possess our own wealth but theirs.

Over and over, with rich and varied language, John sounds the same theme: means of sustenance *belong* to the poor. They do not belong to the poor on account of some accomplishment on their part; they belong to them on account of their need. They do not belong to the poor on account of the laws or practices of Antioch; they belong to them because they are human beings. They do not belong to the poor on account of their virtue; need alone is the poor man's worthiness.

I see no other way to interpret what John is doing with his powerful rhetoric than reminding his audience, rich and poor alike, of the *rights* of the poor – that is, their *natural human* rights. Failure of the wealthy to share with the poor is *theft* on the part of the rich; they are in possession of what *belongs* to the poor. The poor are *wronged* because they do not have what is theirs by natural right.

Chrysostom was not idiosyncratic in the world of Christian antiquity in speaking thus about the poor. “Not from your own do you bestow upon the poor man, but you make return from what is his,” said Ambrose of Milan. And here is Basil of Caesarea:

That bread which you keep, belongs to the hungry; that coat which you preserve in your wardrobe, to the naked; those shoes which are rotting in your possession, to the shoeless; that gold which you have hidden in the ground, to the needy. Wherefore, as often as you were able to help others, and refused, so often did you do them wrong.

In describing the plight of the impoverished in terms of justice, Chrysostom, Ambrose, and Basil were not engaging in a feat of great moral imagination. The theme of justice is dominant in the Hebrew Bible/Old Testament. And over and over when the theme is sounded, the plight of the widows, the orphans, the aliens, and the impoverished is highlighted. The Church Fathers were simply echoing what they heard in Scripture.

Or were they? In connecting the plight of the poor with justice they were certainly echoing Scripture. But in their recognition of rights were they perhaps going beyond Scripture?

I think not. Start with the fact that running throughout Scripture is the idea of rendering to God the praise and obedience that are due God. Given the account of rights that I spelled out earlier, this is just the idea of rendering to God the praise and obedience that God has a right to. “Ascribe to the Lord the glory due his name,” says the Psalmist (96:8). Need I add that it is God’s worth that gives God a right to our praise and obedience.

But we human beings fail to render to God the praise and obedience that are due God; our failure to do so wrongs God. I would say that it is especially in their attribution of forgiveness to God that the biblical writers recognize that God has been wronged, deprived of what God has a right to. For notice that I can forgive you only if you have wronged me – and only for the wrong you have done me. I cannot just scatter forgiveness hither and yon. It is commonly observed that forgiveness is a matter of mercy, not of justice; and that is certainly true. What is not so commonly observed is the point just made: I can forgive you only if you have deprived me of what I had a right to and I recognize that you have. In attributing forgiveness to God, the writers of Scripture recognized that God has rights.

That leaves open the possibility that they recognized that God has rights but did not recognize that we do; indeed, it leaves open the possibility that they thought we have no rights. Or to put the point in other words, it leaves open the possibility that they thought of justice for God in terms of rights but thought of justice among us in some other way. Though I have not up to this point mentioned it, there are a good many writers, Christian and otherwise, who oppose the idea of thinking of justice in terms of rights; they hold that justice should instead be thought of in terms of right social order.

The suggestion won’t do, that the biblical writers recognize that God has rights but not that we do. Here’s one reason. Suppose I am right, that the ascription of forgiveness to God by the biblical writers implies their recognition of the fact that God has been wronged by us; then Jesus’ injunction to us to forgive implies Jesus’ recognition that we are wronged by each other. Jesus tells us that we are to forgive those who wrong us.

A second reason the suggestion won’t do is that just as the biblical writers ascribe worth to God, so also they ascribe worth to us. We are created in the image of God; we image the divine. On account of being so created, our place in the cosmic hierarchy, says the psalmist in Psalm 8, is just a bit below the angels. On occasion, the biblical writers explicitly connect our worth with how we are to be treated. In a well known pas-

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sage in Genesis 9:6 we read, "Whoever sheds the blood of a human, by a human shall that person's blood be shed; for in his own image God made humankind." And in his gospel, Matthew reports Jesus as justifying his healing on the Sabbath with these words: "Suppose one of you has only one sheep and it falls into a pit on the Sabbath; will you not lay hold of it and lift it out? How much more valuable is a human being than a sheep?" (Matt. 12:11)

Let me summarize my counter-narrative concerning the origin of the idea of natural rights. I hold that the recognition of natural human rights has its origins neither in seventeenth century political individualism nor in fourteenth century nominalism, but in the Hebrew and Christian Scriptures. The biblical writers did not explicitly conceptualize natural rights; explicit conceptualization had to await the canon lawyers of the twelfth century. But they did *recognize* what you and I call "natural rights." They assumed that, on account of God's worth, God has a natural right to our praise and obedience. They held that we human beings have violated that natural right of God; we have wronged God. They speak of God as angry on that account. But they go on to say that God is a forgiving God; God forgives those who have wronged him.

The recognition in Scripture of our natural rights is somewhat less definite than is the recognition of God's rights. But the former recognition is unmistakably there as well. Jesus says that we are to forgive those who wrong us just as God forgives those who wrong God; that presupposes that we can be wronged, deprived of what we have a right to. And Jesus says that God treats us as he does because we are of worth.

The recognition of natural human rights goes from Scripture into the Church Fathers, and from there into the canon lawyers of the twelfth century, who at last explicitly conceptualize such rights.

I mentioned earlier that a good many of my fellow Christians embrace the common narrative which says that the concept of natural human rights was an invention of the secular Enlightenment or of the nominalist William of Ockham, and that it carries possessive individualism in its DNA. Having accepted this narrative, they have handed over the concept of natural human rights to the secularist and announced that henceforth they will confine themselves to using

the language of benevolence, charity, duty, and the like. I find this painful. The recognition of natural human rights is a gift of the Hebrew and Christian Scriptures to the world. It is a pearl of great price. Once one has affirmed that each human being has the worth that ensues upon being created in the image of God and being redemptively loved by God, the recognition of natural human rights is right there in front of one.

An obvious question to ask at this point is whether the recognition of natural human rights can also be found in other ancient sources. Be it granted that it can be found in Hebrew and Christian Scripture; is it to be found only there?

I am not well versed in Islam, but I have Muslim acquaintances who argue that the recognition of natural rights is also to be found in the Koran. As to the philosophers of pagan antiquity, I spend a long chapter in my book, *Justice: Rights and Wrongs*, arguing that the ethical framework within which they did their thinking, customarily called *eudaimonism*, did not enable them to recognize natural rights. The reason is this: a right, so I have suggested, is what respect for the worth of a person or human being requires. But the ancient pagan ethicists did not work with the idea of the worth of persons or human beings; they worked only with the idea of the relative worth of human lives.

I close by returning to my main point. The other comes into my presence as a creature of worth; I likewise come into her presence as a creature of worth. On account of that worth, she has legitimate claims on me as to how I treat her, and I have legitimate claims on her as to how she treats me. If I fail to treat her as she has a right to be treated, she is wronged; if she fails to treat me as I have a right to be treated, I am wronged. The language of rights is for bringing this fundamental dimension of the moral order to speech.

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.

NEWS FROM THE CENTER

SPRING 2008 PROGRAM REVIEW

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

Instructor: **Richard Horner**, Executive Director
Wednesdays during the spring semester

Monday Class - "Technology and Local Ecological Health"

Instructors: **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 during the spring semester

Reading Group - "The Health and Wealth of the Community"

Facilitators: **Sarah Hamersma** (Economics, Univ. of Florida) and **Todd Best**, Director of Programs
Fridays, monthly during the semester

Graduate Roundtable

Facilitator: **Todd Best**, Director of Programs
Select Fridays throughout the semester

CULTURE SEMINAR LECTURE SERIES

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

"Speaking Up For Rights"

February 19 - Keene Center at UF

(Wolterstorff also delivered a talk on "Love and Justice" at the Center on February 18.)

Calvin DeWitt, Professor of Environmental Studies, Univ. of Wisconsin-Madison

"Environmental Studies as a Nexus for Restoring Fragmentation in Higher Education"

April 8 - Keene Center at UF

(DeWitt also delivered a talk on "A Theology of Ecology" at the Study Center on April 7.)

*note: you will find audio files of several of our events on our website. Go to christianstudycenter.org - resources - audio.

Have you responded to the letter from the President of the Board?

In early May, we sent out the annual letter from our Board President, Jay Lynch. We trust you've had a chance to look over that letter. If you have not yet responded, we would be very appreciative of your contribution to help us through the lean summer months.

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WHO CARES WHAT JANE AUSTEN THINKS?

C. John Sommerville

If you are one of the hoard of Jane Austen fans, you may wonder why she treats religion so casually. Some of her most ridiculous characters, like Mr. Collins in *Pride and Prejudice* and Mr. Elton in *Emma*, are clergymen. There is also the tiresome Dr. Grant in *Mansfield Park* and Catherine Morland's clergyman father in *Northanger Abbey*, for whom the best that one can say is that he was "a very respectable man, though his name was Richard." Jane's father was also a clergyman, and we might suspect that she was one of those preachers' kids whose favorite view of the church was in the rear-view mirror.

We bring this up only because Ms. Austen's view of religion tells us a lot about how things have changed in English-speaking societies in the last 200 years. And it may help us to understand the present a little better.

There is only one of Austen's novels in which religion is discussed, and it is everybody's least favorite, *Mansfield Park*. Fanny Price, the heroine, is so good that she risks giving goodness a bad name. For Hollywood to make a movie out of it, they had to rewrite the book, making her a sassy little thing. But we need to remind ourselves that no fewer than three of Austen's perfect heroes had freely chosen to become clergymen. This was despite the fact that all three were born into the gentry, which should have opened any career to them. None of them was actually the family's heir, but all three resisted temptations to choose something other than the church. And Jane rewarded them with heroines who were dying for them. These, of course, were Edmund Bertram in *Mansfield Park*, Henry Tilney in *Northanger Abbey* and Edward Ferrars in *Sense and Sensibility*.

I've always thought that poor Jane was writing herself into the plots of those three novels, dreaming herself into bliss as the wife of these, her most sympathetic males. Her own modest circumstances would never have allowed her to aspire to Mr. Darcy or Captain Wentworth or Mr. Knightley. And we are told nothing of those men's religious views. But Jane seemed to make sure her own fictional future involved someone like her father, grandfather, and

two favorite brothers - all clergymen.

It took me awhile to realize how religion forms the background to these novels. It comes up so naturally we hardly notice it. Remember in *Pride and Prejudice* when bad Mr. Wickham calmly discusses the possibility of becoming a clergyman? He and Lizzie speak of it as a matter of whether he would enjoy making sermons. Or in *Mansfield Park*, when the equally bad Henry Crawford allows to Fanny that he might enjoy preaching, but only to London audiences, and only now and then. Other characters, like the delicious Mary Crawford, dismissed the profession as only suitable for the lazy or the dull, without being contradicted.

The key here is that in 1800 nobody thought that you needed a special, dramatic, or spiritual "calling" to the ministry. Society was sufficiently united in its religious views that about anyone could have taken the job. Though some people were more fervent than others, everyone pretty much agreed on what Christianity meant. They could almost have drawn lots to choose the Church of England clergy - to decide who would officiate on Sunday and at weddings or funerals, et cetera. Naturally, it was understood that if religion were to be respected, the clergy would have to represent a respectable level of education and background.

In those days there were Methodists and Baptists who did make an issue of conversion and of special callings. Now conversion, in this case, always means turning one's back on the usual standards of society and culture. Therefore, these "evangelicals" were a standing rebuke to the conventional religion of the day. We know from her letters that Jane Austen was critical of such "non-conformists," and Miss Crawford is allowed to ridicule them. Jane disapproved of authors like Hannah More, who wrote stories that encouraged a more heartfelt religion, even when her favorite sister Cassandra recommended them to her.

The odd thing is that just after Austen's death (in 1817) Evangelicalism started becoming much more popular in England, in what we call the Victorian Era. This was a century in which the middle classes of a growing urban society began to challenge the political and economic power of the old aristocracy. Middle-class religion, which was supposed to be more fervent, was dissatisfied with the traditionally

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superior and skeptical attitude of the aristocracy toward the church. Jane never discusses the middle classes. Her whole life as an author was spent peeping through the shrubbery at the gentry and lower aristocracy, although her family was of a lower, professional rank. But Victorian novelists made aristocrats their villains, seeing them from the point of view of a society that was losing its fear of them.

Today we are a long way from the society in which Austen felt comfortable. We are not bound together by agreement on ultimate values or concerns. America, especially, has tried to accommodate all its diverse immigrants. So we are bound together by rules of procedure, so that everyone has equal freedoms. We feel that this is best accomplished if religion is considered strictly a private affair. This is called democracy, tolerance, multiculturalism, open-mindedness, diversity, not being judgmental, minding your own business. As a way of keeping the peace, it works to an extent. But we are finding that we can't deal with our big social problems, that require serious argument and judgment. So, as you've noticed, we are becoming politically and culturally dysfunctional.

There is a passage on religion in *Mansfield Park*, however, where we must believe that Ms. Austen is speaking for herself. Miss Crawford is trying to

charm or shame Edmund into taking up a profession that will make himself more eligible for her designs on him. Edmund accuses her of parroting the opinion fashionable in London, and says: "I cannot call that situation nothing, which has the charge of all that is of the first importance to mankind, individually or collectively considered, temporally and eternally - which has the guardianship of religion and morals, and consequently of the manners which result from their influence." This is as close to preaching as Jane's characters ever come.

Jane Austen was more comfortable with her religion than we can, or should, be. There is an adage that all ages are equidistant from God. But religion has a different social position today. If a character in a novel nowadays is identified as religious, it becomes the only important dimension of his or her personality. Religion is not supposed to have any official standing but to be thoroughly voluntary, depending entirely on commitment, faith, sincerity. Yet it may be more vibrant for all that. So, in contrast to Austen's age, religion faces different challenges today, and different possibilities.

C. John Sommerville is Emeritus Professor of History at the University of Florida and a board member of the Christian Study Center.

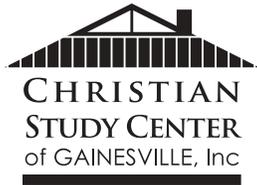
NOTES AND NAMES FROM THE CENTER

Sarah Hamersma, Pascal Society advisor and Assistant Professor of Economics at UF, was awarded the Warrington College of Business Administration Teacher of the Year for 2007-08.

President of the Board **Jay Lynch**, M.D. received the University of Florida College of Medicine 2008 Hippocratic Award for excellence in teaching medicine for the third time. He also delivered an address at the 2008 University of Florida College of Medicine commencement on May 17.

Executive Director **Richard Horner** delivered the commencement address for Berean Academy in Tampa, Florida on May 16.

This summer Director of Programs **Todd Best** and **Stephen Addcox** of the Graduate Roundtable are teaching a class called "Beyond Narnia: The Theological Essays of C. S. Lewis" at Christ Community Church in Gainesville.



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INSIDE THIS EDITION

Essay: "Speaking Up For Rights, Part 2" by Nicholas Wolterstorff, p. 1.

Over and over, with rich and varied language, John sounds the same theme: means of sustenance belong to the poor. They do not belong to the poor on account of some accomplishment on their part; they belong to them on account of their need. They do not belong to the poor on account of the laws or practices of Antioch; they belong to them because they are human beings. They do not belong to the poor on account of their virtue; need alone is the poor man's worthiness.

Review essay: "Who Cares What Jane Austen Thinks?" by C. John Sommerville, p. 6.

...Ms. Austen's view of religion tells us a lot about how things have changed in English-speaking societies in the last 200 years. And it may help us to understand the present a little better.

FALL PREVIEW

Monday Class - "The Eclipse and Re-emergence of the Human in the University"

Instructors from UF and beyond
Mondays in the fall - 7:30pm

Reading Group: "Christianity and Culture"

Facilitated Todd Best, readings tba
Fridays - monthly in the fall - 11:45am

Director's Class - "The Embodied Life" (tentative)

Taught by Richard Horner. Lunch provided. Especially for undergraduate students.
Wednesdays in the fall - 11:45 - 12:35 (period 5)

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