

Nicholas Wolterstorff, *Justice in Love* – a review and response.¹

Jonathan Chaplin

Nicholas Wolterstorff's book Justice in Love (2011)² is an important new exploration of the relationship between these two vital and often misunderstood ethical concepts. This article surveys the book and assesses some of the issues it raises.

Introduction

This is a philosophical book but the relationship between justice and love is not an academic question. On 8 November 1987 a bomb planted by the Provisional IRA exploded at a Remembrance Sunday service in Enniskillen, killing eleven and injuring sixty-three. One of the dead was Marie Wilson, a twenty-year old nursing student. Her father Gordon was buried next to her under six feet of rubble and held her hand as she slipped away. A devout Christian, upon his release from hospital hours later he told a reporter: 'I have no desire for revenge or retaliation. Killing the people who killed my daughter will not bring her back. So I forgive the bombers and I leave everything to God and I believe someday, I will see my daughter again'. Together with many messages of appreciation he received came others which were critical: his 'loving' offer of forgiveness, they charged, muted the siren call of justice and diminished the worth of the victims.³

In *Justice in Love (JL)*, American Christian philosopher Nicholas Wolterstorff offers a lucid and stirring answer to the barrage of highly-charged questions that incidents like this evoke. A sequel to *Justice: Rights and Wrongs*,⁴ *JL* completes the account by confronting the question of how precisely justice relates to love. It offers a feast of insight, wisdom and clarification, even for those who cannot endorse all its conclusions.

Justice is within, not against, love

The central claim of the book is that there is no inherent tension between justice and love; rather, justice is *within* love – it is an expression of love. This is not in itself an original claim, but the way Wolterstorff executes it sheds a great deal of light on what is at stake in the debate. He begins by taking to task what he calls 'benevolence-agapism', the view that 'agapic love' not only exceeds the demands of justice, but operates in a different moral space entirely. There must be no obligation in agapic love, for such love 'casts out all thought of justice and injustice....[It] is blind and deaf to justice and injustice' (42). Benevolence-agapists think that love is utterly gratuitous because it is modelled on the boundless, spontaneous benevolence displayed in God's forgiveness of us (45, 143). The conclusion is that '[w]here agapic love and justice conflict, God chooses love over justice; we are to do likewise' (49).

There are, perhaps, few defenders of such 'benevolence-agapism' today, but Wolterstorff's extensive critique of it serves as a very useful foil for his own view. Benevolence-agapism is, he claims, simply incoherent. Consider again the case of forgiveness: 'if we look closely at the nature of forgiveness, we will see that the person who thinks entirely in terms of love and takes no note of injustice cannot forgive' (53). While to forgive does require that we forego our 'corrective rights' (54), the act of forgiveness presupposes that we have actually been wronged – namely, that our *rights* have been violated. Here it is important to note that, for Wolterstorff, the term 'rights' captures the essence of what 'justice' amounts to, and 'wrongs' the core of what injustice means (90). Thus: 'not only can one not *understand* oneself as forgiving someone without employing the concepts of rights and wrongs, justice and injustice. One cannot even *perform the act* of forgiving someone without employing those concepts' (55).

The case of forgiveness is just one particularly telling example of Wolterstorff's claim that the wider norm of agapic love cannot but presuppose some concept of justice. I think he successfully vindicates that claim in the book, and I think that the claim stands even if one is not finally persuaded (as I am not) of his *specific definition* of justice as 'respect for *rights*'. For Wolterstorff shows that the supposed tension between justice and love is foreign to the plain teaching of Jesus himself. For Jesus, notably in the Sermon on the Mount, the 'various ways of treating the neighbor justly are cited as examples of loving one's neighbor....Treating the neighbor justly is an *example* of loving him, a way of loving him. Love is not justice-indifferent benevolence' (83).

'Care-agapism' and forgiveness

On this compelling biblical foundation, Wolterstorff builds his own account of the relationship between justice and love, 'care-agapism'. His formal definition of 'care' is 'seeking to promote what one believes to be [a] person's good or right' (103). That is, not only their 'good', but their 'right' – what is due them *in justice*. Care thus 'combines seeking to enhance someone's flourishing with seeking to secure their just treatment' (101). This core proposition is spelled out extensively in the book.

Wolterstorff addresses many key questions evoked by this view. Let me allude to just four. First, for whom should we care? Wolterstorff critiques what he sees as an idealizing tendency within benevolence-agapism, responding with a welcome note of what one might call 'creational realism'. Because of the specificity and diversity of our locations, situations and callings (as creatures), we cannot meaningfully set ourselves to promote the 'good or right' of *everyone in the world*. But, some might retort, does this not compromise the universal scope of Christian agape? Wolterstorff's answer is that, while our *care* is inevitably limited and preferential, our respecting of the *rights* of all must not be. On account of our finitude, we cannot be universal dispensers of agapic love. But we are nevertheless bound by the universal rule that we may never seek the good of some by treating another unjustly (130-133). Justice ensures that our care of *some*, is respectful of *all*.

Second, what does forgiveness actually consists in? His succinct answer is that forgiveness is 'the enacted resolution no longer to hold against the wrongdoer what he did to one...no longer to count the sin against him' (169). To forgive someone is 'to engage him as I would if I regarded that deed as not

belonging to his moral history' (170) – like a prosecutor deciding not to press charges against someone even though they thought he had broken the law (171). Forgiveness is not a binding moral obligation, such that we would be wronging a wrongdoer if we did not forgive him; and this is so even if the wrongdoer repents. It is not a duty of justice but 'an act of supererogatory grace' (188).

Third, what is the point of forgiveness and of the repentance that may evoke it? Wolterstorff's answer is that they make reconciliation possible: 'Repentance and forgiveness bear the potential of liberating both victim and malefactor from the on-going morally destructive effects of the wrongdoing and of giving to each a new insight into the moral character of the other; thereby they open up the possibility of a renewed relationship' (189).⁵

Fourth, what, then, is the relationship between forgiveness and repentance – the 'Gordon Wilson question'? Wolterstorff's answer is a robust version of the 'conditional' theory of forgiveness: forgiveness is only possible if the wrongdoer repents.⁶ This is because 'in the absence of repentance, to enact the resolution not to hold the deed against the wrongdoer is to insult him and demean oneself, thereby wronging both alike' (173). To enact such a resolution toward someone who 'continues to stand behind the deed' is to fail to treat both deed and doer with moral seriousness – 'to downplay rather than forgive' (173). The injustice must first be named as an injustice if it is to be jettisoned by the victim from his view of the wrongdoer's moral history. So understood, forgiveness affirms the claims of justice in the very act of forgiving.⁷

Does love exclude 'retribution'?

These are only four of the claims in the book that are bound to evoke debate. Here I will consider another, in more detail. Wolterstorff argues that Jesus, especially in the Sermon on the Mount, comprehensively repudiates 'the reciprocity code' (120) – any 'paying back [of] evil with proportionate evil' (122). That will certainly be accepted by most readers, but Wolterstorff will run into considerable opposition when he goes on to argue that renouncing the reciprocity code necessarily means rejecting the *very idea of retribution*.

On the one hand, he holds, rejecting reciprocity and retribution does not mean passivity in the face of injustice. For there are circumstances where 'imposing injury' on the evildoer turns out to be necessary, such as in order to protect third parties.

But since agapic care is to be the controlling norm in any response to injustice, any such injury must be 'justified by some greater good that it brings about, not by the fact that the wrongdoer imposed an injury' (128). Wolterstorff claims to find beneath the idea of retribution a deeply-rooted but problematic assumption: that there is, programmed into the moral ontology of the world, an imperative to restore the equilibrium of the moral order when it is disturbed by some violation, and to do so by an *equal and opposite reaction*. He categorically, and in my view rightly, rejects this essentially pagan idea. He adds, moreover, that '[i]f redressing injury has any place at all in the moral order, God will do it. Leave it to God' (128).

But, Wolterstorff thinks, much Christian thought has been thrust into needless perplexity on the question as a result of a mistaken conception of *punishment*. It has, fatally, been viewed through the lens of the reciprocity code. The assumption – held by Anselm among others – is that 'what's due the wrongdoer is punishment. Hence to forgive him is to violate justice' (163). He confesses to being 'confounded' by this widely-held Christian view, given Jesus' unambiguous rejection of the reciprocity code (192). But here I must admit to being confounded by Wolterstorff's confoundment. In answer to the question why such a view has been so pervasively endorsed by Christians down the ages, he simply says, 'I don't know' (193). All he can come up with by way of explanation is that the reciprocity code has had 'such a tight grip on human thought and imagination' that it could not even be dislodged by Jesus' crystal clear teaching. 'All about us people talk about getting even, giving malefactors what they have coming to them; it's hard to resist thinking the same way' (193).

But this social-psychological interpretation of the dominance of the idea of retribution will not do. Whatever the deficiencies of the classical retributive theory, Wolterstorff is too quick to conclude that the notion of strict moral equivalence – the idea the punishment must exactly match the offence so that "the moral order is thereby vindicated" (194) – has been essential to Christian accounts of retribution.

Yet the alternative theory of punishment Wolterstorff proposes turns out to be very appealing, if not as different to the retributive theory as he assumes. Drawing on the work of Joel Feinberg, he proposes that the real purpose of punishment is not 'payback' but 'moral disapproval' (195). In punishment, society *publicly reprov*es the wrong done (197). What is more,

punishment backed by such a 'reprobative rationale' can actually be a manifestation of care, because it promotes the good of punisher, wrongdoer and society. And, finally, this is precisely what Paul has in mind in Romans 13 when he asserts that government must 'execute wrath on the wrongdoer' (198). 'Nowhere does [Paul] suggest that retributive punishment is a legitimate function of government...[I]f there is to be vengeance, evil repaid by evil, it's up to God to do it. The God-given task of government is reprobative punishment, not retributive punishment (198).⁸

The general claim that punishment is essentially a reprobative act, and the specific claim that Paul's view of government does not imply *moral equivalence*, are valid insights. But is the reprobative theory, after all so different to retributivism? Oliver O'Donovan, for example, also rejects what he calls a 'moral exchange' view of retribution (roughly, Wolterstorff's 'moral equivalence').⁹ Yet he has no difficulty in retaining the concept of retribution, understood less restrictively than in Wolterstorff as the idea that 'in punishment something which the offender *has put forth comes back*'.¹⁰ But, O'Donovan rightly argues, what the offender 'gets back' is not something equivalent but something wholly different: 'not an echo but an answer...a "judgment".' More precisely, it is an 'enacted judgment', an 'expressive act' by political authority on the malefactor.¹¹ We seem not a thousand miles from Wolterstorff's reprobative theory.

The justice of God's love

The final part of the book explores the momentous theme of 'The Justice of God's Love'. Here Wolterstorff offers a critical elaboration of the 'new Paul' school of New Testament studies represented by writers such as N. T. Wright. A key claim of this school is that the architectonic idea in Paul's theology of justification is not the forensic justification of the individual sinner but 'the justice of God's generosity in offering justification to Jews and Gentiles alike' (246). Wolterstorff wants to push the school yet further. Whereas, for Wright, what is revealed in God's justification of the Gentiles is his 'covenant faithfulness', for Wolterstorff it is God's 'justice': not the '*mere fact*' of covenant fidelity but its substantive *content* (250).¹² This content is the universal requirements of God's 'primary justice', articulated for Jews in *Torah* and for Gentiles in nature. Justification presupposes that God holds to account all human beings according to what they know of his justice. And it makes possible God's pardoning of those who have 'faith'.

But what is this justifying 'faith?' Here Wolterstorff boldly sets up camp right in the middle of the minefield of Pauline studies (and there is space here only to report, not critically assess, his view). Justifying faith is the faith of those who acknowledge, honour and obey God (275). 'Justification on the basis of [such] faith...has always been part of God's way of dealing with wayward humanity' (275). So in offering justification to Gentiles *as well as* Jews, God is now showing how he has no favourites, how he treats all humans justly. Justification is disclosed in Jesus Christ, and 'it is on account of the fidelity of Jesus Christ that God forgives anyone at all' (275).¹³ Wolterstorff is aware that this is not a complete account of Paul's theology of justification. He admits he has not offered an account of *how* the faithfulness of Jesus in dying for us actually works (280-1); he has not offered a theology of the cross. But some will nevertheless regard the suggestion that a justifying faith necessarily includes the 'doing of justice' as amounting to a return to 'salvation by works'. While on that quite specific point I am with Wolterstorff, this is another occasion where a more patient engagement with the best arguments of his likely critics would have strengthened his case.

Conclusion

This article has aimed to convey a flavour of *Justice in Love* in the hope that it will be read and critically assessed not only by students of theological ethics but also by all those who daily confront the pressing, and often painful, dilemmas of practising loving justice in the footsteps of Christ in a broken world. But if we have eyes to see, that will be all of us.

1. This is an edited version of 'Can Forgiveness Mute Justice?' appearing in *Comment* magazine (March 2013), published by Cardus (www.cardus.ca/comment). Thanks to the editor for permission to republish it here.

2. Eerdmans, 2011. Page references in the text are to this work.

3. Later, Gordon Wilson modified his views on the event.

4. Nicholas Wolterstorff, *Justice: Rights and Wrongs* (Princeton, 2008). For critical discussions, see the special issue of *Studies in Christian Ethics* 23.2 (2010), guest-edited by Jonathan Chaplin and Joshua Hordern, which also contains a précis of *Justice: Rights and Wrongs* by Joshua Hordern.

5. He adds, soberly: 'Forgiveness as a mode of caring about the other is hard to bring off. It does not come naturally. What comes naturally is nursing one's anger and lusting for revenge' (190).

6. For an overview of some variants of this theory, see David John Sandifer, 'Is Forgiveness Conditional?', *Ethics in Brief* 17.3 (2011). See also Harry Bunting, 'Political Forgiveness', *Ethics in Brief* 14.2 (2009). It is worth noting that Wolterstorff does not, like some conditionalists, argue for such conditionality on an analogy with how God forgives.

7. So for Wilson to describe his response to the bombers as him having 'forgiven' them is, for Wolterstorff, to have inadvertently mischaracterised the very moral structure of his own action. For one cannot *forgive* a murderer who still 'stands behind the deed'. In fact, the Provisional IRA later 'apologised' for the bomb, claiming it was intended for security forces not civilians. But that was after Wilson's statement; and in any case such 'apologies' were never anything more than crude and wholly disingenuous PR tactics.

8. In fact, Wolterstorff himself earlier offered a compelling account of the retributive role of government in Romans 13: 'Theological Foundations for an Evangelical Political Philosophy', in Ronald J. Sider and Dianne Knippers, eds., *Toward an Evangelical Public Policy* (Baker, 2005). Of course an author is entitled to change his mind. But I think he got it right first time.

9. Oliver O'Donovan, *The Ways of Judgment* (Eerdmans, 2005), 10.

10. My emphasis.

11. O'Donovan, *Ways of Judgment*, 107.

12. I doubt that N. T. Wright would view this as an adequate summary of his position.

13. 'To have faith in God is to trust in God and to seek to obey him, it is to fully acknowledge God as who God is. In the words of Peter, it is to fear God and do justice. So far is faith from being an add-on that it is one's life orientation; to have faith in God is to be oriented to God and to doing justice. To have faith in God requires repenting of all the ways in which one has wronged God and neighbour. The reason God justifies those who have faith and not some other set of human beings is that it is with these that God can become friends' (276).

For further reading:

- Anthony Bash, *Forgiveness and Christian Ethics* (Cambridge, 2010).
- Christopher Marshall, *Beyond Retribution: A New Testament Vision for Justice, Crime and Punishment* (Eerdmans, 2001).
- Oliver O'Donovan, *The Ways of Judgment* (Eerdmans, 2005).
- *Studies in Christian Ethics* 23.2 (2010): *Justice: Rights and Wrongs – Critical and Interdisciplinary Engagements with Nicholas Wolterstorff*. Guest-edited by Jonathan Chaplin and Joshua Hordern.
- Miroslav Volf, *Exclusion and Embrace: A Theological Exploration of Identity, Otherness and Reconciliation* (Abingdon Press, 1996).
- Nicholas Wolterstorff, *Justice: Rights and Wrongs* (Princeton, 2008).

Jonathan Chaplin is Director of the Kirby Laing Institute for Christian Ethics.