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Disciplinary Responses to Theology Brief Preview

**DISCIPLINARY RESPONSES TO NICHOLAS WOLTERSTORFF'S
JUSTICE PREVIEW**

LAW

Benny Tai, Law, U of Hong Kong

- As a scholar studying the rule of law, the *Justice Preview* provides clear ideas on the concept of justice and rights and their inter-relationships. It confirms my understanding that the law should protect all the rights that a human person deserves to enjoy as a dignified being.
- The Preview mentions that the Old Testament urges social (systemic) justice and condemn social (systemic) injustice in the laws and the social practices. It is very relevant to my work on the rule of law as it concerns systemic issues.
- I am a social activist fighting for the political rights, the rule of law and autonomy of Hong Kong people. I advocate the principle of civil disobedience as the guiding principle of the political movements in Hong Kong. Removing injustice is an integral part of the principle of civil disobedience as it justifies the unlawful action of protesters.
- The Preview mentions that whenever human beings interact with each other, they are divinely called to treat other justly. Systemic change is not sufficient to mend injustice in society. There must also be a cultural change in society. My work with social movements, teaching and other community activities are actually different forms of civic education aiming to shape the legal culture of the Hong Kong society to embrace the value of justice.

Jide Nzelibe, Law, Northwestern University

- The relationship between individual and systemic (or social) conceptions of justice in the preview does connect with my research, as my work explores how what starts out as low-stakes individual claims for justice among narrow economic groups may sometimes bleed over into claims about threats to one's national or social identity.

María Carmelina Londoño Lázaro, Facultad de Derecho y Ciencias Políticas, Universidad de la Sabana, Colombia

- As a commentary to Prof. Wolterstorff's paper, I see a perfect alignment between the requirements of the first-order and second-order justice and my own commitment to promoting socially responsible business in Latin America, as well as my critical analysis on the jurisprudence of the Inter American Court of Human Rights.

Karen Kong, Faculty of Law, The University of Hong Kong

- My research on social and economic rights is closely related to social justice, as it looks at how resources should be fairly distributed in the society based on human rights norms. 'Render to each what is his right' can be applied to social and economic rights as well, as each person has a moral claim to basic necessities in this world. Treating each person that shows due respect for his worth should include respecting his dignity and ensuring his basic needs like food, water, shelter, primary healthcare and basic education are not deprived of. If the society's resources are concentrated unfairly on the rich and powerful, or if the rules of the society are designed in such a way that the poor's resources or due are being unfairly taken away or withheld by the rich, the society fails to fulfil social and economic rights to all equally or to achieve social justice.
- Some issues about human rights and justice include, whether migrants, non-nationals and refugees should be given the same rights as citizens? Should the grounds of discrimination be limited to personal characteristics listed in the international human rights instruments, such as race, colour, sex and religion? When there are discrepancies between human rights norms and the Bible, how should they be dealt with by academics?

Nicholas Aroney, Law, U of Queensland, Australia

- The distinction between first and second order justice is important. I would suggest a further distinction however. The first order of justice is defined by reference to 'interactions'. While actions are an important aspect, there is also the equally important, and perhaps even more fundamental, dimension of justice as character or virtue. I would be good to have more on this.
- There is a connection between the preview's emphases on the social dimensions of justice, justice as rights, and rights grounded in dignity and work I have recently done on the social ontology of human dignity. This social ontology not only involves interactions between individuals, but the formation of associations, organisations and other forms of 'corporate' identity. It has to do with the social and communal contexts in which the human person, human dignity and human rights are understood. I have argued that the International Convention on Civil and Political Rights (ICCPR), and similar human rights instruments, recognise and protect human rights in the context

of such forms of human community. For example, the human right to freedom of religion is something exercised 'in community with others', and includes the right to establish and maintain religious associations and organisations.

Carlos Bernal-Pulido, Justice, Colombian Constitutional Court; Law Faculty, Macquarie U, Australia

I have worked on (1) corrective justice and (2) on the connection between the nature of law and the concept of justice. Both topics relate to Prof. Wolterstorff's ideas.

Dinesha Samararatne, Law, University of Melbourne; U of Colombo, Sri Lanka

I found the Brief to be convincing. It affirms my view that we are confronted with justice issues in the micro and the macro events of our lives and our work. However, I find that justice understood as 'rights' can sometimes be too abstract. Disagreements as to what 'rights' or what 'justice' ought to mean can sometimes distract us. When reading the Brief, I was reminded of Amartya Sen's work on justice. Following Sen's argument, I find it easier to agree on what constitutes 'injustice' and to consider what 'justice' could look like in relation to that injustice. I use this approach in working out my assessments of methodology in comparative constitutional law and in gender justice.

This Brief reminded me of the need to critique the methods and boundaries of our disciplines. If our scholarly commitment is to first-order justice, the methods that we employ and how we demarcate our disciplinary boundaries too must be aligned with that commitment. Reviewing our methodological and disciplinary commitments periodically and in community with like-minded scholars will help us to be honest in this process. In my work, adopting this process has helped me to be more modest about the claims that I make in my writing and to seek guidance from other disciplines in finding answers to the questions that I work with.

Anna High, Law, U of Otago, New Zealand

The idea of first-order justice as predicated on the inherent excellence and dignity of persons resonates strongly with my current research into the notion of "sexual dignity". I am also interested in collaborating with indigenous researchers to consider comparative dimensions of the dignity of persons.

HUMANITIES

John Coffey, History, University of Leicester, UK

My research connects pretty directly with Nicholas Wolterstorff's reflections, and with his published work on justice and rights, which I greatly appreciate. I'm preoccupied by the problem of injustice in Christian history:

- The Christian propensity towards injustice. Christians have not only been complicit in racial slavery and religious coercion - Christian nations/cultures took these practices to new heights, and took centuries to recognise them as injustice.
- The ideological uses of the Bible. Here I'm using the term 'ideology' in its pejorative sense, as the (often self-deceptive) legitimization of injustice. The Bible was insistently used to justify religious coercion and slavery (each defended as a means to the good end of conversion). This raises a *theological* question: Why is inspired Scripture so susceptible to abuse? Perhaps this is like asking why the created order is so open to human abuse - the prestige and power of the Bible meant that it was bound to be recruited to dubious causes. Unjust uses of the Bible and of Nature tell us more about humans than about God. But it does raise a *hermeneutical* question: How (given the susceptibility of the Bible to abuse) do we read it so that we do justly, and love mercy, and walk humbly with our God?
- The limits of the drive towards justice in a fallen world. Postcolonial critics allege that 'religious freedom' and 'antislavery' were both employed to justify Western cultural imperialism. There are problems with that claim, but some truth in it too. Even the greatest triumphs of Christian abolitionists were not as unsullied as we like to think. The Africans liberated from British slave ships were often subjected to further abuses as apprentices or conscripts; the West Indian slaves emancipated in the 1830s continued to be subjugated under white colonial rule. How can we maintain a thirst for justice while recognising (with Augustine) that life in a fallen world is not perfectible, and that even our best efforts fall short and have downsides we never imagined?

Chris Watkin, French Studies, Monash University, Australia

Any connections or any questions that link your work with its themes.

- I'm interested in how one understands justice not on the level of individual relationships but at the level of whole societies, hence my interest in social contract theories.
- Questions raised in the paper relate directly to my research projects on freedom and emancipation. Respect for justice almost always includes, I think, curtailing my natural freedoms for the sake of a wider social good. The social contract is a great example of this.

- I'm also interested in how such contracts are being extended today to include non-human parties: animals, particular features of the environment. The paper states that "considerations of justice are relevant to any discipline or area of inquiry that deals, in whole or in part, either directly or indirectly, with the interactions of human beings", which I take to mean between two or more human beings. What about human interactions with non-human actors? Can I treat my dog unjustly, if no other human is concerned? Can I treat a river unjustly, if my interaction with it has no effect on other human beings? I think a Christian approach has unique things to say about this.

COMMENTS:

- I wonder whether there is not a distinctively biblical concept of justice that triangulates the Aristotelian and Ulpian notions. Perhaps something like this: I treat you as worthy not atomistically (your worth inheres in your own existence divorced from any context), but relationally (you have worth only as a gift from God, by his decree). This fundamentally reorients rights discourse, and I think it's also a truer reflection of how rights discourse in fact functions, both theologically and in secular society (I could expand). I don't "have rights"; I am (if you like) "related right-ly" to God.

I'd love the paper to reflect upon the unique way in which Scripture and Christian theology bring together justice and mercy, or grace and truth (John 1), or love and faithfulness (Psalm 117; Exodus 34:6). It seems to me that this is one area where Christians have something genuinely radical and subversive to contribute to debates on justice, challenging the terms of the secular debate.

Joy Pachuau, History, Jawaharlal Nehru University, New Delhi, India

There are many societies in the world, especially those that have been designated 'tribal', where social solidarity and individual rights are at the expense of each other. The societies that I have in mind are also Christian. A lack of social solidarity can mean at one level a loss of identity for the individual and yet it can come at the cost of individual rights. How does one approach the issue of justice and rights under such social circumstances?

Peter Anstey, Philosophy, University of Sydney

I agree that the issue is very important, but I'm afraid that I see things differently.

- In my view the important distinction is not between his 'first-order' and 'second-order' justice, but between distributive justice and retributive justice. It is these forms of justice that are largely in view in the Old and New Testaments.
- Again, I don't believe that speaking about justice in terms of rights is always helpful: firstly, because the notion of

rights is foreign to Scripture; and secondly, because, in my view, rights are derived from more fundamental moral concepts, and analysing moral issues in terms of rights can result in one losing touch with the more fundamental concepts. For example, take the passive right of a child to be cared for by their parent. This right is founded on the duty of care that pertains to the parent: take away the duty of care and the right disappears. Here the fundamental moral concept is duty of care. Once we have that, there is a sense in which the child gets the right 'for free'. In some contexts rights-speak seems to be helpful, but I would certainly advise against using it as a term of reference for understanding the nature of justice.

Allan Bell, Sociolinguistics, Auckland University of Technology and Laidlaw College, NZ

- I found this Brief on Justice stimulating and timely. This is a core issue for us as Christians and scholars. I do however feel some discomfort – for reasons I am not yet clear on in myself - about grounding justice primarily in 'rights'. This is not my area of expertise, but the rights discourse seems to run a risk of being rather egocentric, perhaps too much of a reflection of a Western Enlightenment focus on the individual. I wonder if a biblical approach to justice needs to be based more in Gospel concepts of doing to others as one would be done to, of care for the neighbour, of behaviour towards 'the stranger' (in Old Testament terms). I realize that Nicholas Wolterstorff frames rights in terms of giving them to others, but I feel there is something more to be said on orientations to self and other here.
- In my field of sociolinguistics, language as used in society has a strong justice aspect. Individuals and societies make judgments on other individuals and groups on the basis of their language. How you talk affects how you are regarded. Language is always given a social value, whether that be prestigious (say, French in postcolonial contexts) or derogatory (say, African American English). These judgments are often the basis of social injustice. They may control the kind of job someone gets, or the school someone goes to.
- Within the field of sociolinguistics, many scholars – and many of these are Christians – focus on language as a potential tool of disadvantage, for example in education. Language is often mentioned in human rights charters, and one approach within sociolinguistics field is even called 'Linguistic Human Rights'. This includes the linguistic dimensions of how individuals and groups are portrayed in media representations.
- There are biblical examples of the operation of language injustice. The story of Babel has been used to classify multilingualism as a curse and denigrate it and its users as dysfunctional. The reactions to Peter's accent in John's account of Jesus' trial show the distinctiveness of the Galilean dialect – note that Peter and presumably Jesus both spoke with a socially marginalized and denigrated accent.
- Sociolinguistics is one of those fields where interaction is absolutely central to its concerns – one approach is even called 'interactional sociolinguistics'. There can be no language without listeners as well as speakers, and interaction is the key site of study in the field, the main source of data, and a principal locus of description and

theorization.

Dorothy Oluwagbemi-Jacob, Philosophy, University of Calabar, Nigeria.

- The problem of justice at the first order level, both in the Old Testament Scripture and contemporary world can be traced to human natural propensity to be egocentric:

How can this natural propensity be tempered so that the human person can see the external other as the extension of the self that is deserving of consideration and respect regarding rights and justice?

- Perpetrators of the acts of injustice at the first order level know that they are engaged in justice breaches but choose to pay lip service to justice. How can knowing and doing what justice demands be made to connect?

Casey Strine, Ancient Near Eastern History & Literature, University of Sheffield

- Insofar as this argument depends on interpretations of texts from the Hebrew Bible and their contribution to ethics, this intersects with writing I have done on particular texts (in Genesis, Jeremiah, and Ezekiel) and with my contention that there are significant impediments to Western thinkers understanding the ethical perspective of these texts.
- I want to query whether 'rights' is the appropriate term for what is advocated in this preview. Would it not be more appropriate to maintain that the value (or worth, as it is said in the preview) of every human being means all people have obligations in how they treat others? This reverses the perspective of the language in the essay—focusing on the Other rather than the Self—and seems to better reflect what is said in the final five paragraphs in my reading of them. This change would also engage other relevant texts (e.g., Gen 9:6; Matt 22:39 et passim).

Eleanor Stump, Philosophy, St. Louis U, US

On Justice: In recent decades, at least in certain philosophical circles, justice has lost some of its lustre as a virtue for establishing and sustaining good relationships in a society. In the view of some feminist philosophers, for example, ethics based on justice needs to be supplemented, or even supplanted, by an "ethics of care". One of the problems faced by those who think an ethics of care should supplant, rather than supplement, an ethics of justice is that it is not immediately apparent how to ward off certain sorts of exploitation on an ethics of care alone, without reference to justice. The problem for ethical theorists regarding the apparently competing claims of an ethics of care and an ethics of justice has a certain resemblance to the problem for political theorists regarding the difficulty of "reconciling the standpoint of the collectivity

with the standpoint of the individual". I think Aquinas's account of justice has the resources for dealing with the problem.

Osam Edim Temple, Philosophy, Nigeria

- Prof. Wolterstorff's emphasis on justice touches pertinent questions which I raise in my research. Today there is a huge church structure with tentacles spread across the globe. There are issues of gender and racial discrimination, unequal treatments, exploitation, gaps between the clergy and the laity, coercive practices and clash of cultures. Does the ordinary believer have access to the risen Christ? Justice and fairness were underlying reasons behind the reformation. Should the reformation continue?
- It is imperative for Christian scholars to integrate faith and scholarship, but this is often difficult in certain contexts. The Ulpian formula grounds justice in rights. What are the rights of the Christian scholar and what is due to them within the context of the university system? To what extent will Christian academics go to ask for justice on the basis of their belief? To what extent can they get involved in academic competition and rivalries? What principles guide their relationship with colleagues, students and institutions? These questions require clarity in their understanding of the concepts of justice and fairness.

DIVINITY / THEOLOGY

Christopher Hays, New Testament, Fundación Universitaria Seminario Bíblico de Colombia, Medellín, Colombia

Here in Colombia, the armed conflict has resulted in literally millions of documented human rights violations; the government has responded by making human rights a major part of the educational curriculum for the past generation. Rights discourse is pervasive, and generally in a "second order" fashion. There is a lot to celebrate in that, to be sure. But a couple of downsides have attended the prominence on rights discourse, at least in a Colombian context. A) The emphasis on rights has fostered a great deal of passivity and a certain attitude of entitlement in Colombian society, including in relation to things that are not actually human rights but may be legal rights. B) The government is seen as the primary conveyer of second order justice and restorer of violated rights, in spite of the fact that the government has neither the resources nor the bureaucratic & moral capacities to fulfill that task. And, C), as a combination of A and B, people in this context think very little about their own agency and responsibilities vis-a-vis either first or second order justice; quite the contrary, the nation is marked by an endemic corruption and lack of integrity (including among Christians), and people seldom consider that they have an obligation to either practice integrity or to be an agent of restorative justice. These

create pretty vicious social dynamics.

Because of the context in which I work in Colombia, I was struck by the way that Prof. Wolterstorff's statement that "rights are grounded in the worth (excellence, dignity) of the rights-bearer". Here in Colombia, people would ground rights in our inherent dignity, but not *excellence*. But I think that, in my context, a great deal could be gained by speaking about rights in a way that balances not only the rights you have because of your inherent dignity with the fact that being the sort of person with such profound and irreducible dignity means that you are, by your nature, a person of excellencies, excellencies with ramifications for the way in which you are also an agent of justice (first and second order) for others. This is not by any stretch to deny the necessity of protecting against human rights violations nor to undercut the role of the state in doing so. It is rather to try to activate individuals and communities as being agents of justice, rather than simply being claimants for justice.

Maybe the Colombian situation is not pertinent to the US or European discourse, but those are the thoughts that came to my mind when reading Prof. Wolterstorff's excellent preview.

Oliver O'Donovan, Theology, Edinburgh

It will be no news to my friend Nicholas Wolterstorff, I am afraid, that I have profound difficulties with his approach to the topic of justice, since our differences on the topic have in the past appeared in print. The following statements of the disagreement are no more than Summary headings:

- The essence of justice lies in what he calls "second-order justice", i.e. in the act of judgment which distinguishes innocence from guilt and creates a new public context of right. Many of the biblical texts that refer to "justice" are in fact referring to the "act of justice" - which is Aquinas' name for judgment. Judgment is performed primarily by God, and by humans as authorised under God. Justice is the name for the condition established by judgment.
- The overarching normative moral category governing interactions among persons considered apart from the exercise of judgment, is not justice, but love. That our day-to-day interactions may be qualified as just is determined by the fact that they are, in fact, always governed by divine judgment that precedes them. The "ordinary" interaction is never prior to the act of judgment. It is for this reason that human interactions qualified primarily by other virtues may and must also display justice as well as the other virtues. So while I agree with NW in his claims for the comprehensiveness of justice as a criterion for all kinds of interaction, I think he fails to explain how it is that a relation clearly normed by the virtue of wisdom, such as that between teacher and pupil, must also display justice.
- Justice is always a public state of affairs, a set of relations among or between different agents, and cannot be accounted for as a sum of subjective rights held by individual or particular agents. The conception of subjective rights is a medieval development, and it has its areas of usefulness. But rights derive from justice, not justice from rights.

Jonathan Brant, Theology, Oxford

- If justice is about 'interactions between human beings' then the 'actors' or the 'agents' are clearly important, opening up an interesting question: What virtues might be necessary to underwrite the ability to interact justly – honesty, humility, gratitude?
- What might an artform such as documentary cinema, often explicitly concerned with questions of justice, contribute to our discussion of this important topic?

K.K. Yeo, Divinity, Garrett Seminary and Northwestern University

- The Preview evokes for me the significance that language (Hebrew, Greek, Latin, English) plays in communication of shared, core ideas, such as the nuances of meaning in that English word and concept called "justice" or "righteousness". I am intrigued by the OT meanings that associate justice with God's character, God the judge in the context of cosmic court, and the ways an OT, Middle Eastern concept of justice may have affinities with oriental worldviews, most importantly for me with Confucian thought on "uprightness", beginning with cultivation of one's inner character and then extending from the family out into the public realm. The Preview provokes me to think more on the commensurability and/or incommensurability of cross-linguistic understanding of justice or rights, judgment or accountability.
- I wonder about the differentiation between "orders" (first and second) of justice, whether they are prominent in the Bible or method of studying the Bible, and whether they are helpful to our society today. Does the difference between first and second imply a hierarchy, i.e., first-order principles are higher order and second-order are derivative? Or can there be a disjunction between the two such that second order institutions of justice can or should be appraised by first order principles? Are first-order theological principles equivalent to what biblical studies call "universals", as different from "contextuals"? Are second-order theological structure equivalent to what biblical scholars name as "materiality" in institutions or one's social location? Are first and second orders speak of "justice" in the language of "powers" and "practices" respectively?
- I find the "application" discussion of the Preview insightful, thus affirming for me that biblical interpretation needs to be done that way.

Jennifer Herdt, Divinity, Yale University

- Do we have obligations of justice only to fellow human beings, or also to non-human animals? potential trans-humans, robots, and extra-terrestrials?

- To what extent is what is owed to another determined by their membership in a particular natural kind, i.e., their humanity? And to what extent is it determined by particular features of that individual, or of particular social groups or institutions to which that individual belongs?
- Defenders of inalienable natural rights (e.g., Locke, Frederick Douglass) often insist that while these natural rights cannot be taken away, they can be forfeited, together with the dignity of humanity. What is secured by theological affirmations of the *imago dei* and of universal human dignity if theological justifications for the forfeiture of that dignity can and are often given?

Ryan McAnnally-Linz, Theology, Yale

- Wolterstorff's rights-based account of justice has significant bearing on the ethics of home-making and home-maintenance, particularly in a world where there are millions who have no house to call home, no land that will treat them as belonging, or highly insecure habitations. It pushes in the direction of asking what, if any, quality of home is *due* to a human being and to whom the correlative duty of providing such a home belongs.
- I find myself wondering whether a rights-based account of justice inevitably brings together justice and debts, and if so, whether one or the other of the two tends to take the lead. That is, does this construal of justice push toward a paradigm of justice as "paying one's debts" and of the moral agent as perpetually indebted? All of this has implications for my work on gratitude to God.

SOCIAL SCIENCES, PUBLIC POLICY

Luke Glanville, International Relations, Australian National University

I'm very much looking forward to the fuller version. Two things came to mind when reading this two page version:

- I would be very interested to see Wolterstorff grapple with the global/international dimensions of justice - both with respect to the OT (e.g. Israel's call to love the (often foreign) stranger; condemnations of the injustices of nations in Amos etc) and also today. I have drawn on Wolterstorff's writing about justice & flourishing & (domestic) politics in my own work on these (international) issues, and would be eager to read his own thoughts on such international matters.

- I would be very interested to see some explanation for why Wolterstorff explores justice by focusing on rights, rather than responsibilities. I wonder if focusing on responsibilities might enable a more comprehensive approach by enabling consideration of who in particular is required to secure the rights of others (a crucial issue in matters of environmental justice, refugees, etc).

Robert Joustra, Politics, Redeemer U, Canada

- I appreciate very much Nick's foundation of justice in relationships. This is, to me, a very Biblical picture. It also drives me into Scripture itself, searching after what a "right relationship" might actually be. How, after all, to understand the normative structure of a friendship, or a business relationship, or our relationship to creation? We have clues, I think, in the "first book" of Creation, but the "second book" of the Scriptures gives us the best picture of what *shalom*, right relationships, might *specifically* look like.
- On the other hand, while - as a political scientist - I appreciate this renaissance in justice as a driving category across disciplines, I also worry that this renaissance can preclude what other disciplines are really *for*. I agree with Nick that justice is a feature of every relationship, but it may not be the defining or central aspect. If we read literature, or participate in art, or theater, and all of these simply become a vehicle for conversations about justice, or - even worse - become largely utilitarian mediums for partisan or political commentary, we've suffered a real loss on the intrinsic nature of these activities. None of this is to say justice, as right relationship, should not be a constant partner, but by raising questions of art and history and music into a central, driving question about justice, I fear we lose what some might call the 'leading aspect' of these areas, reducing them to a medium for activism, rather than their full worth.

Karen Man Yee LEE, Law and Social Science, Education University, Hong Kong

- The idea of justice underlies the study of law. As the preview identifies two fundamental forms of justice, first-order and second-order, there are also two essential notions of justice, procedural and substantial. My research on lawyers' professional identity reveals lawyers' general tendency to emphasize the former; their understanding of the latter appears to vary, depending on factors such as their primary motivation for studying law, university majors, employment experiences, and age and class.
- While legal authorities are mostly concerned and deal with issues arising from second-order justice, for example, of attributing legal liabilities and dispensing punishment, ordinary people may be more concerned about whether they are treated "justly", not only by the legal system, but also the social and political systems, the ramifications of which affect almost all aspects of their lives, be it education, employment, and the exercise of various social and political rights. This is an increasingly fraught issue in Hong Kong where a growing number of people are

increasingly dissatisfied with the way they are treated by the city's undemocratic government in a highly polarized political environment.

Peter Sloman, Politics, University of Cambridge, UK

- One of the themes I trace in my work is the rise of what Professor Wolterstorff calls the 'Aristotelian' notion of distributive justice in Anglo-American thought over the last century. I'd be interested in reflecting on what role Christian thinkers have played in shaping prevailing conceptions of justice and rights, both in and outside the Church.
- Professor Wolterstorff's discussion of architecture and buildings set me thinking about the ways in which justice (or injustice) can come to be embedded in social institutions. How should we understand the relationship between our interpersonal behaviour and collective structures? Do the same concepts and criteria of justice apply on both these levels?

Gordon Menzies, Economics, U of Technology Sydney

- J S Mills conception of society is that unless you harm others (in which case 2nd order comes in) the only thing that determines proper action is your unfettered freedom. I have criticized this framework.
- I argue in a book that the Power Discourse of Nietzsche which privileges the strong, competent and beautiful provides a legitimizing narrative for free market liberalism.
- Grounding justice in rights based on worth (or place in the scriptural narrative) connects justice to anthropology and a narrative of human flourishing, which has been a concern of my economic work with Donald Hay

Judy Dean, Business, Brandeis University, USA

- This excellent discussion of justice grounded in rights, and rights being "what respect for worth requires," closely links up with the equitable "distribution of [economic] benefits."
- Economic efficiency can actually be a strong ally for justice, especially for the poor. In a world of scarce resources and great need, good stewardship requires us to be efficient so that nothing is wasted.
- Current anti-trade attitudes might change if we showed respect for the worth of people in other countries and desired their flourishing as well as our own.

Emily Burdett, Psychology and Cognitive Science, University of Nottingham, UK

The Justice Preview that Wolterstorff outlines seems to fit intuitively with how we form understandings of interaction and justice. Some of my work examines how children understand fairness and I use stories to try to convey different scenarios to children. In some recent work it seems children have an intuitive sense that it is wrong when another causes harm and they aren't surprised when something bad befalls that person. However, they are surprised when another causes harm and good things are bestowed on this person. Children feel this is surprising and wrong. (Perhaps sometimes why the Gospel is so provoking!)

Christopher Marshall, Government, Victoria U, New Zealand

Professor Wolterstorff's introductory pages on the meaning of justice and its connection to human dignity and rights is brilliantly clear and pertinent to my area of work, as well as to the wider field of scholarship. His distinction between first order and second order justice is very helpful, not least because it can be used to reinforce the central principle of restorative justice – namely, that “second-order” interventions should not be understood simply as “reprimands, punishments and the like” but, more fundamentally, as the attempt to *restore* first-order justice, to make things right again. Of course, speaking generically of “human interactions” and “rendering persons their due” does not always capture the profoundly covenantal or relational emphasis of biblical justice or its cosmic scope. But it is certainly true that, in every field of endeavour, “whenever human beings interact with each other, they are divinely called to treat each other justly”

Erin Goheen Glanville, Coordinated Arts Program, University of British Columbia.

1/

- One thing I wonder as I read this short paper is the place of environmental justice and whether justice is always only about human to human relations. Environmental justice links to my work in that resource extraction is closely connected to (very often behind) human displacement. But beyond that link, there is an element of in/justice even in our relationship to the non-human creation. Is there a third-order justice that recognizes "undue burdens" on the land?
- Another thing I wonder about is how Christian theology of the 'imago dei' and the way it is connected to human rights relates to historical attempts to exclude certain kinds of persons from the 'human' category. I've taken to using the term 'people' rather than 'human' because of this baggage.
- Lastly, I'm teaching on forced displacement cultures in globalization right now and students are really struck by the injustice of powerful nations who intervene globally or fuel conflicts in other regions, but then, in turn, do not accept

the responsibility for the resulting forced displacement (closing refugee resettlement, for instance). How do we get to that macro-level using the first order (human to human) and second-order (consequences and penalties) justice framework? Does this framework allow for injustice infecting the very bones of an institution, a system, and etc, quite apart from the human beings who inhabit or create it?

2/ When I'm teaching undergraduate students the idea of structural injustice, here are the kinds of things I talk about in broad strokes:

- Structural violence both creates and then impacts migrants who have been forced to move: a. in the way human rights are (in the end) dependent on citizenship in a nation-state; b. insofar as a piece of paper (passport) proves or disproves a person's very existence in the world (thus a person born into a 'state' that doesn't recognize their humanity because of their ethnicity or race or what have you, can exist without recourse to human rights claims their whole lives); c. in the way a globe completely demarcated by political territories labels people who move, in order to manage them closely while continuing to free up the movement of goods that contribute to capitalism; d. in the way nation-to-nation relations keep states from dialoguing about human rights abuses, and world peace comes at the expense of hidden suffering everywhere; e. in the way a refugee claim process asks a vulnerable person to demonstrate fear, uncover their bodily wounds, and recount trauma--all in a context where suspicion and distrust are the very motivation for listening.
- Individuals can be co-opted by and participate in structural violence; individuals can also mitigate and even undermine structural violence. And structures can be more and less violent, even as violence exists in every structure.

3/ I agree with the assessment Wolterstorff gives of justice in the academy. A few extra thoughts:

- The inequities within the academic system are glaringly obvious and difficult to process: they are not something I want to dwell on because it becomes a distraction from good work but they produce disillusionment at times. In Covid, for instance, the experience of working from home for both students and faculty with less stable home environments or less resources disadvantages them considerably. Lots of good work is being done to support first generation students and to support students who are minorities in university classrooms where their lives and histories are discussed in dehumanizing ways. Parents who take their "best years" away from work to give to their children (the most vulnerable of people) often pay the cost of that work in their careers, and I see this also as a justice issue--the relational justice of nurturing kids alongside the need for relational justice in making sure people are supported to make that choice (not treated as if they have a 'shelf life.'
- I also think of academics who do work that is relationally complicated because they are trying to work slowly through issues of justice. I wonder how Christian universities might be a different witness: making sure the slowness of just work is not disincentivized. One example might be researchers who interview in a community, but choose to do it relationally rather than in a way that feels like data extraction to the community. This may take an enormous amount of time but be more just. Yet, publications will come slower. Can the relational work of justice be

recognized as academic output?

Donald Hay, Economics, Oxford

I found the preview very clear and helpful. Here are some connections with my current academic preoccupations:

- Is the desire for justice a fundamental human characteristic, and if so, what is its origin? How might a Christian understanding relate to those of evolutionary psychology and social constructionism?
- What can 'justice' contribute to the resolution of issues where the effects are intergenerational e.g the effects of climate change, government fiscal deficits
- How does the biblical understanding of justice in the context of covenant relate to justice in the context of contract?
- Justice is a major theme of contemporary political philosophy: e.g .Rawls, *The theory of justice*, Sen, *The idea of justice*, and the immense literatures that these and other writers have provoked . There are contrasting approaches: a focus on transcendental conceptions of justice (principles of justice as the foundations of a just society) versus comparative conceptions (seeking ways to evaluate change without any particular vision of the 'good society'); or a focus on the institutions of a just society versus the rules of just behaviour. Where does a Christian understanding of justice fit into this intellectual context – if at all?
- The Biblical concept of justice appears to emphasise 'second order justice' – that is putting wrongs right. This may involve punishments but often focusses on restitution (as in the OT Law). But there are also powerful themes around forgiveness, reconciliation, salvation, restoration, which lie at the heart of the Gospel. These themes seem to be absent from much contemporary secular writing about justice.

Ruth N. López Turley, Sociology, Rice University

- My work is informed by my sociological understanding of equity and social justice, but it is motivated by my Biblical understanding of justice/righteousness, especially justice and mercy, which go hand in hand. While justice may be about giving people what they are due, mercy is about *not* giving people what they are due, and although they appear to be contradictory, the tension between justice and mercy is exactly why they must be applied together.
- When it comes to education, we systemically (and *systematically*) withhold justice and mercy from the poor, the fatherless, foreigners, and all the groups that are explicitly listed in the Bible as those to whom we must show

justice and mercy. Those of us in power, even those who claim to follow Jesus, frequently withhold resources and separate ourselves, especially our children, from those with whom God identifies. My hope is that my work sheds light on our brokenness and is used to help make our education systems more just and merciful.

Emily Messer, Evolution, Variation, and Ontogeny of Learning (EVO-Learn) Laboratory, Department of Psychology, University of Texas, Austin.

- The theme of the brief on human interaction at the core of acting justly connects with my work studying learning and teaching in different human populations. Largely these are NON-WEIRD (Western Educated Industrialised, Rich, & Democratic) societies with varying levels of interactions with others across the world. I'm interested in cross-cultural differences with regards to different societies' approaches to justice.
- While the brief focuses on first order justice, with Ulpian's definition preferred, Aristotle's definition explaining justice as fairness also presents some interesting insights, (despite all cases of injustice not always consisting of inequitable distributions of benefits or burdens). I'm interested in how children come to understand justice. For instance, the development of sharing and fairness in children, how children learn right from wrong, and how their social group can impact upon this learning and acceptance.
- Although not touched upon in this review brief, I also wondered about animal rights and welfare within this theme, too. How potentially could the human right to justice and to being treated in a particular way impact on/with how animals are treated?

Terry Halliday, Sociology, American Bar Foundation/Australian National University

- the interactionist core to the preview's treatment of justice resonates strongly with my sociological research, ranging from global lawmaking interactions inside international organizations to everyday relations among defendants, lawyers, judges, prosecutors, police in China's justice system and its other systems of coercive control.
- while the preview emphasis on first-order justice makes good sense, and relates to my work on transnational legal orders, and international human rights, the nitty-gritty of second-order justice, e.g., of protecting basic legal freedoms, holding a justice system accountable by a vigilant civil society, ensuring rule of law protected by a moderate state, is a persistent battleground in comparative and historical conflicts over the prospects of an open legal-political society. I'd welcome reflections on what it takes to create theologically sound institutions of second-order justice.
- In the making of laws for the world, I am keen to be armed with justice principles that international organization

(IO) scholars can apply to the actors who make the rules in global governance, how they are made, and with what impact. Not least, how does global governance act justly, especially in relation to weak actors, such as peripheral and fragile states and peoples, in a global world?

APPLIED, BIOLOGICAL, NATURAL, PHYSICAL SCIENCES.

Daniel Hastings, Aeronautics and Astronautics, MIT

- Satellites tend to be expensive. How can the results of space based observation be made useful to all nations especially those who cannot afford them.
- Will the proliferate dumping of debris in space hamper others from using space?

Jeff Hardin, Biology, University of Wisconsin-Madison

In one sense, especially among young people, "justice" - by which they mean "social justice" - is au courant to be sure. And yet in my undergraduate embryonic development course I find students are ill-equipped to think about the broad implications of "justice" as it intersects with the human condition. Many students have a very amorphous view of ethics in the realm of biomedicine and biotechnology that amounts to a view something like this: "Well, of course we want to help people and avoid suffering..." Yes, "of course" indeed. But my students have generally never thought about key issues, such as, To which human beings are duties owed? Which human beings possess rights? Should we justify technologies applied to humans using utilitarian calculations or via other criteria?

Nick Wolterstorff's piece raises some key issues that should inform how Christians might engage in the marketplace of ideas regarding these topics. Nick favors an Ulpian, rights-based view of justice. Whether we adopt that view or we adopt a deontological (duty-based ethics, which leads to derivative rights) view, Nick raises a key point: what grounds rights? If we want to move beyond vague borrowings from the Enlightenment, as Nick points out we must provide a locus of rights in the sense of "the worth (excellence, dignity) of the rights-bearer".

For me, Nick's piece raises some key issues related to bioethics, one of those areas in which "considerations of justice belong within the subject matter under consideration" and in which "[t]his seems obvious", yet in which, as sociologist John Evans has shown has devolved into, as Nick says well, "utilitarian considerations of power, efficiency, etc. ". I found myself asking several profound questions as a result:

1. How is "value" or "worth" defined? Is it defined as a set of characters encapsulating "excellence"? Christian thinkers have more often than not been uncomfortable with this approach. If, instead, value is intrinsic, how can biblical conceptions be applied in way and using language that "secular" bioethicists and society at-large will be drawn towards?
2. How does "value" or "worth" apply to embryos?
3. How do our answers to (1) and (2) influence our policies towards technological manipulation of human embryos or embryo-like beings at the genetic and cellular levels?

Ian Hutchinson, Plasma Physics, MIT

In science and engineering/technology education these days there is a renewed emphasis on Ethics. But most universities have little idea how to address the need in a way that relates the topic to the major interests of science and engineering students. There are experimental programs growing in different institutions; but it's quite a puzzle within the context of a strong trend towards professional preparation and away from intellectual development and the formation of educated citizens, as being expected from a college education.

I'm not sure whether Justice is a subset of Ethics, or vice versa. But obviously they are closely related to one another. In Ethics, the options for foundational principles are generally considered to be considerably wider than the two ways of thinking of Justice that Wolterstorff cites. I would want Nicholas in his full brief to address more thoroughly what the full range of Justice principles is, and how they relate to the range of Ethical principles.

Perhaps this is just a matter of there being a hierarchical classification that can be applied to this question, and he's just addressing the top level of the hierarchy. But for an interested non-specialist, a Christian perspective on the whole hierarchy would be valuable, not just a choice of one particular view that justice must be based on right or due, and not on distribution of benefits. (Which I agree with, but seems a bit simplified.)

Ross McKenzie, Physics, U of Queensland, Australia

I agree with the paper. On just relations being "pervasively violated" in the university:

1. I find it quite disturbing the way universities (and some of my colleagues) exploit international students, postdocs, and visiting scholars. Some labs are like "sweat shops". Adjunct faculty is another issue...
2. Research priorities are skewed. Here is a good example of medical research. From the abstract: "Most studies on global health inequality consider unequal health care and socio-economic conditions but neglect inequality in the production of health knowledge relevant to addressing disease burden. . . . Accordingly, conditions common to

developed countries garnered more clinical research than those common to less developed countries. Many of the health needs in less developed countries do not attract attention among developed country researchers who produce the vast majority of global health knowledge—including clinical trials—in response to their own local needs.”

Citation: Evans JA, Shim J-M, Ioannidis JPA (2014) Attention to Local Health Burden and the Global Disparity of Health Research. PLoS ONE 9(4): e90147.doi:10.1371/journal.pone.0090147

Thomas Chacko, Earth and Atmospheric Sciences, University of Alberta

Justice: What follows are some stream of consciousness thoughts on Professor Wolterstorff's brief:

- I like the idea of subdividing justice into first- and second-order types. It strikes me that our fundamental calling as Christians is to establish, in a very bottom-up rather than top-down way, God's Kingdom here on earth as it is in heaven. Intrinsic to establishing the Kingdom is establishing first-order justice, i.e., treating all persons and indeed all Creation in such a way as to promote their/its best flourishing. If first-order justice is established, as it ultimately will be, there will be no need for second-order justice.
- I'm not sure I agree with Dr. Wolterstorff that the call to treat our students justly is 'pervasively' violated in academia. I suppose the veracity of that statement depends on the university and department that is being referred to and what exactly is meant by pervasive and justly. I was for 10 years the Associate Chair - Graduate in our department, which had/has approximately 150 graduate students. Although there certainly were some problem cases, my experience was that the large majority of supervisors treat their students justly or at least in a reasonable way. Having said that, I suspect all of us could do better. Christians in particular have a higher calling to envision graduate students and senior undergraduate students whom they supervise as their academic children rather than as a means to achieving their research goals. I have found that I need to be continually reminded of this ideal to strive for in my supervision, particularly when the pressures of research tempt me to view my students in a utilitarian way.

MEDICINE, PUBLIC HEALTH

John Peteet, Psychiatry, Harvard Medical School

- If being just in the first order is a virtue, it would seem relevant in mental health care – as a treatment goal for

some individuals, perhaps as an ingredient in the process of therapy, and as a characteristic of a good therapist.

- Welcoming input from those to whom one is rightly accountable seems (a) to involve an assessment of the just basis of the relationship, and (b) to be an expression of justice, i.e. of giving what is due.

Lydia Dugdale, Medicine, Columbia University

I am struck that the modern practice of medicine often challenges Wolterstorff's treatment of justice ("rendering to each what is his or her right, or due") in two key ways. First, the regnant principle in medicine is respect for autonomy, which means that treatment for patients often becomes mere wish fulfillment (which may in fact be unjust). And second, inherent to the practice of medicine is a sort of mercy that overlooks culpability on the patient's part. The smoker thus receives treatment for his lung cancer, and the intravenous drug user treatment for her hepatitis C, despite their own complicity in becoming sick—again, a matter of mercy, not justice.

Tyler VanderWeele, Public Health, Harvard University

- To what extent should forgiveness be considered a matter of public health and public policy? (VanderWeele, T.J. (2018). [Is forgiveness a public health issue?](#) *American Journal of Public Health*, 108:189-190.)
- How do we structure policies and priorities in the face of multiple incommensurate goods and ends? (VanderWeele, T.J. (2017a). [On the promotion of human flourishing](#). *Proceedings of the National Academy of Sciences of the United States of America*, 31:8148-8156).
- What is the role of religious communities in contributing to human flourishing and how should societies and governments acknowledge and promote their role? (VanderWeele, T.J. (2017b). [Religious communities and human flourishing](#). *Current Directions in Psychological Science*, 26:476-481.)
- Further comment on Justice Preview: It may be of interest that Aquinas argues (e.g the Summa Theologica II.II.Question 58, Article 1) for a certain equivalence of the two "first-order" definitions of justice from antiquity discussed by Wolterstorff.

ARCHITECTURE, FINE AND PERFORMING ARTS

Daniel Chua, Music, U of Hong Kong

- Beethoven and the question of human freedom is not (as is often thought) about will and power (heroic and Promethean) but also about relations and therefore 'first order' justice. We could consider Beethoven's humanism as an expression of 'first order' justice, even in something as seemingly simple as the expression mark in his Opus 110 sonata: *con amabilità*.
- What does it mean for NASA to 'come in peace'? Does sending music on the Voyager space probes say something about this peace which surely resonates with the question of 'first order' justice (but now extended beyond our species)!

Kyle Dugdale, Architecture, Yale

- The word *justice* has grown more popular in schools of architecture within the last few years. It is normally paired with the word *social*; and while there is much within that movement that the Christian can celebrate, it strikes me that the foundations underlying the construct of *social justice* are often quite shallow, and sometimes lean in exactly the opposite direction to those of a justice that finds its origins in God.
- On a related note: to what extent is the language of "rights" a strictly human-to-human concept? Or do we have "rights" before God? How should we reconcile the language of rights with the text of Romans 9?

Philip Bess, Architecture, U of Notre Dame

I liked this a lot – its tone is generous and nuanced, and spot on in its recognition that concerns for justice are not "value added" but rather intrinsic to human being in the world – but for some reason I liked it much more the second time I read it (when on my first reading perhaps I was feeling crabby and contentious). Not a philosopher myself, I was nevertheless surprised to find Aristotle associated with the view that justice is "equity or fairness in the distribution of benefits and burdens" (this is perhaps what upset me), and the notion of justice as *rendering to another his or her due* attributed to Ulpian; for I had imagined (apparently mistakenly) the latter view as Aristotle's – probably because Alasdair MacIntyre, an Aristotelian, writes in *After Virtue* of justice as rendering to another his or her due. I might quibble with the centrality of justice to architecture (no quibble at all with respect to justice and urbanism), but I suspect NW and I could arrive at some accord.

I do hope it is evident that justice in Ulpian's and Wolterstorff's sense (as well as environmental stewardship, which seems to me related to justice but also distinguishable) is central to my interest in the laws that govern land use and how we

make contemporary human settlements.

And I wonder, no doubt naively, whether there is some clarity to be gained by associating justice with *goodness* as the telos of practical reason, corresponding in the transcendental triad with *beauty* as the telos of productive reason, and *truth* as the telos of theoretical reason?

But these are random late night thoughts, for an overdue assessment of a work that (in justice) deserves more careful attention than I have given it. I look forward to how NW's preview fleshes out.

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