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Disciplinary Brief

ATROCITIES, ACCOUNTABILITY AND RECONCILIATION: THE PURSUIT OF JUSTICE IN INTERNATIONAL RELATIONS

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I found the theology brief *Justice and Rights* very stimulating, in particular the attention paid to the relationship between justice and love, righteousness, and rights as action oriented. Each of these aspects provide a strong justification for orienting Christian scholarship towards research that engage deeply with questions of justice that are present in all scholarly fields, identifiable when we commit to *thinking* Christianly [1] as we approach our chosen subject matter. In doing so, Wolterstorff positions scholars as agents of justice; scholarly practices - including the choices of research topics and approaches, are modes of interaction with the world through effecting change in intellectual structures, knowledge production, and praxis.

I approach this response to the brief through lens of my own research focus, namely the governance of human protection at the global level, and in particular current policy-oriented research on atrocity prevention and hate speech and incitement to violence. In the area of global governance of human protection in situations of conflict and atrocities, current power structures in key institutions, such as the United Nations Security Council, and in the foreign policy practices of states, have perpetuated deep structural injustices between the wealthy and powerful states, with those most vulnerable in international society. The ongoing repression of Uighur populations in China, democracy protesters in Myanmar, or Tigrayans in Ethiopia fail to garner meaningful international protection responses because the decision-making processes and structure at the global level subordinate these crises to political and material interest.

The conviction that the international community has certain obligations and a responsibility to *respond to* atrocities committed by states or other organized militia groups against civilian populations (‘first-order’ injustices) operates as a mode of ‘second-order’ justice, as defined by Wolterstorff (p7). Efforts to attain justice at the international level have progressed through the creation of comprehensive international legal standards, normative doctrine and institutions to protect the world’s most vulnerable from systematic abuse. Yet the inconsistent and inadequate application of these standards leads to the fundamental

research problem that I address here, which relates to injustice expressed through ineffective protection outcomes for the vulnerable.

Accountability

The **first** thematic area that I am addressing in my current research [2] related to this theology brief is *accountability* as an avenue for the pursuit of justice in international relations. There has been an 'accountability turn' [3] in the global governance of human protection through the proliferation of judicial and institutional accountability mechanisms in recent years. These mechanisms have the objective to prevent, protect and prosecute mass violations of human rights, serving both a normative goal of enhancing global justice, and a practical purpose of deterring and providing remedy for major human rights violations and atrocities. In the current context, actors have sought to enhance justice through accountability mechanisms as a way to navigate the unique contingencies of the current global political impasse that has manifested in global political decision-making on many human protection issues.

Trends in Human Protection

From empirical research that I have conducted over the past few years, I have become increasingly interested in trends that I have seen emerging in the field of human protection (including laws and norms to protect civilians in situations of armed conflict and mass atrocities), namely:

- **The geopolitical context has become much more volatile** due to heightened competition between rising powers and with the West; the relative power of the US is in decline, as is that of Europe and the UK in the wake of the global financial crisis, Brexit, and now the crippling impact of the Covid-19 pandemic
- Heightened geopolitical tensions have emboldened many state actors to **push back on fundamental liberal values** within multilateral institutions and other forms of global interactions, **human rights in particular** have been undermined in many quarters by these rising powers. [4]
- The global backlash on human rights in global governance institutions has had **direct implications for the protection of populations facing systematic human rights abuse and atrocities.** As my research shows, efforts by powerful governments to break the link between human rights protection and conflict prevention during recent processes of restructuring and reform within the United Nations peace and security architecture have undermined the capacity of that international organisation to prevent and protect populations in local context where they operate, [5] impeding the international community from attaining second-order justice.
- Numerous governments in the international community committed to human rights have sought to overcome the impasse in global decision-making on major crises that has resulted from the overarching global tensions described above. One of the key channels through which actors have done this is through the pursuit of judicial and human rights accountability mechanisms for perpetrators of mass violence, conceptually linking the ability to **hold perpetrators to account**

with more ‘just’ outcomes for those populations. Examples include North Korea, Syria, and Myanmar.

Mechanisms for Pursuing Accountability

Examples of mechanisms for pursuing accountability at the international level are the Special Procedures and Commissions of Inquiry in the United Nations Human Rights Council to investigate and provide recommendations on allegations of systematic human rights violations. Judicial prosecution of perpetrators takes place at the international level through international criminal tribunals and courts such as the International Criminal Court or International Court of Justice, and within the domestic court system of third-party states through the application of universal jurisdiction. Prosecutions (or the threat of) are warranted to apply pressure to high-level decision-makers responsible for instigating and abetting major atrocities. However, **problems that remain** include:

- Actors pursuing this accountability turn have yet to demonstrate that the pursuit of accountability through prosecutions is associated with a reduction of violence and injustices for populations being protected (based on my own interviews and current literature in this field), or that it serves as an effective deterrent to prevent future cycles of atrocity violence.
- This model also perpetuates a **retributive/punitive understanding** of accountability that holds offenders to account without adequate attention or resourcing provided for restorative modes of justice aimed at repairing harms at the societal level. To this end, the current accountability turn represents a **thin justice** for those most affected by the human rights violations.
- The lack of priority and resources for reparations and **local-level justice mechanisms** have meant that the few prosecutions that do take place have done little to intercept cycles of impunity, repression and systematic violence.

I find, therefore, that an emergent consequence of the accountability turn has been a tendency for international actors to employ the language and framework of accountability as an *alternative* to other modes of human protection given the ease with which political consensus can be attained on setting up such mechanisms. This serves as a pragmatic solution for mobilising international responses to major crises and gives the semblance of a response. However, this also permits the international community to default on its wider obligations to mitigate or halt violence and provide tangible protection for populations on the ground in situations where major states (the decision-makers) are unable to cooperate.

Problematizing the Accountability Turn

I conclude, then, that there is a need to problematize the accountability turn in the governance of human protection crises to push beyond prosecutions, ‘naming and shaming’ and other forms of sanctioning/retribution of perpetrators to promote meaningful protection outcomes for vulnerable populations in the pursuit of ‘second-order’ justice. I do not question the importance of bringing powerful actors to account for the atrocities they have orchestrated; however, I question whether the tendency to substitute (rather than complement) human protection practices with accountability through judicial

solutions actually leads towards ‘just’ outcomes for vulnerable populations.

Accountability is fundamental to justice, assigning blame for injustices committed in the past to pave the way for reparations and reconciliation, deterring recurrence of the violations looking into the future and reinforcing the legitimacy of relevant systems/institutions of responsibility. The United Nations Office on the Prevention of Genocide and the Responsibility to Protect claims that: “Alongside other transitional justice mechanisms, prosecutions give recognition to the suffering of the victims and their families and contribute to the restoration of some of the dignity or integrity that they lost or was severely damaged.” [6] Such reasoning illustrates the growing significance of the accountability paradigm for global policy making, practice and conceptualisation of global justice. The relationship between accountability and justice is a theme that merits further thinking from a Christian perspective given the centrality of reconciliation and restoration in the Gospel message. This theme was not directly addressed in the theology brief, however, the framework of justice as shalom – a broader framework of being at peace with God, in a state of reconciliation and completeness – is one avenue opened up in the theology brief (p.2) through which to further reflect on these questions.

Reconciliation and Restorative Justice

The second dimension of justice that flows from this critique of retributive-oriented practices of accountability as the primary model for international responses to global injustices is ***reconciliation.*** Reconciliation refers to the restoration to a right relationship both with God, and across human relationships. [7] Wolterstorff raises restorative justice as an alternative to retributive justice, albeit very briefly (p7). Within the peacebuilding literature, the act of reconciliation between conflicting parties is fundamental to achieving restorative justice outcomes. To this end, reconciliation is a process of making peace between parties in conflict, and to be reconciled is to be in a state of right relationship. In other words, the reconciled relationship is a just relationship, if we are to employ Wolterstorff’s understanding of first order justice.

The definition of justice as ‘rendering to each their due’ or their ‘right’ (p8) is employed as the foundation for first order justice, that is then extended to more complex modes of social and institutional injustices. My own research themes necessitates a stronger emphasis on understanding how to promote reconciliation, which is more than just giving (individuals) their due based on their inherent worth/dignity but to ensure that conflicted relationships are reconciled to prevent the continuation of injustices for future generations. *The emphasis I think needs to shift from meeting individual rights/dues to promoting a relational understanding of justice, justice as being in a state of right relationship*. I believe this is consistent with Wolterstorff’s definition of first order justice, it just moves the emphasis from individual rights over to the quality/substance of the relationship between the conflicted parties when the injustice occurred. A relational ontology of justice does not negate a rights-oriented account of justice, but situates those rights and the context for their fulfilment within the broader social context that individuals occupy.

Christian Scholarly Practice and Mass Violations of Human Rights

There are practical implications for pursuing both accountability and reconciliation when responding to the injustices of mass violations of human rights that is evident in my own more policy-oriented research.

How to Prevent Mass Atrocity Crimes

I am co-chairing the Asia-Pacific Study Group of the global network Global Action Against Mass Atrocity Crimes (GAAMAC). GAAMAC is the largest global network of government, academia and civil society members that works towards the prevention of mass atrocities. Our report ‘Mitigating Hate Speech and Incitement to Violence’ has been commissioned and funded through this state-led initiative, supported by the Swiss Ministry of Foreign Affairs, it will be launched at the GAAMAC global meeting in November 2021 that will feature hate-speech as the conference theme. The meeting is sponsored by the GAAMAC steering committee and the United Nations Joint Office on the Prevention of Genocide and the Responsibility to Protect.

The report covers six countries in the Asia-Pacific region and points to systematic patterns that foster hate-speech and incitement to violence in these countries:

a. legacies of mass violence that remain unaddressed with cultures of impunity persisting at the highest levels of authority;
b. the absence of meaningful processes of local justice or reconciliation between ethno-nationalist or religious minorities in these societies;
c. language/speech that draws on historical narratives of injustice and stereotyping that is used to dehumanise populations (denying population groups recognition of their inherent worthiness/dignity) as a process that legitimises the incitement of, and acts of violence against these population groups.

The theme of justice is integral to every case study and recommendations produced by this report for steering policy actors, civil society and faith communities towards just outcomes. This project illustrates the potential for Christian scholars (within a secular institution and disciplinary field or research) to interact with academic, civil society and government actors in an area of fundamental injustice in international relations that align with a biblical understanding of justice. The report draws on scholarly research with the problem of hate-speech and mass atrocities, identifies sources of first and second order injustices that produce the social context for hate speech and atrocities to thrive. These are grounded in historical grievances between ethnic and/or religious communities, often compounded by other historical injustices (such as colonialism, civil conflict, and majority-rule) for which there has been absence of meaningful accountability and reconciliation.

Promising Sites for Prevention of Mass Violence and Injustice

Findings from this study point to numerous sites through which the pursuit justice is instrumental to

prevent future cycles of violence, and injustice. Examples include inter-community reconciliation processes (acknowledgement of past atrocities and meaningful efforts to provide apology, reparation and peacebuilding), legal reform (such as repealing discriminatory laws, introducing new legislation to provide for greater protection of targeted groups), reforms in governance, judiciary, and security institutions that have institutionalised and perpetuated discriminatory practices and impunity for perpetrators. We also identify a significant role for religious leaders, civil society groups and the media for transforming relationships between communities that can pave the way for healing of past grievances and reconciliation.

In sum, this case study demonstrates the crucial importance of both first-order and second-order justice (often hard to separate in the area of human rights violations and atrocities that have both a direct interpersonal and structural dimension to their persistence) in Christian orientations towards social injustice writ large. The pursuit of justice not only informs/motivates this research, but processes/mechanisms of justice and accountability are the substantive empirical focus of the research. By way of conclusion here, attention to themes of justice is not just a normative choice informed by Christian values, important in its own right, but engaging with justice is a crucial entry point into research topics that are being extensively developed in the secular literature and have significant bearing on the ‘subjects’ of our research that are subjected to gross acts of injustice.

Further Reading

Daniel Philpott, Just and Unjust Peace: An Ethic of Political Reconciliation, (New York: Oxford University Press, 2012). Develops a model for political reconciliation in societies torn apart by mass violence that draws on Christianity, Judaism and Islamic understandings of justice, mercy and peace as a corrective to top-down, secular models of peacebuilding.

Cecilia Jacob, Institutionalising Prevention at the UN: International organisation reform as a site of norm contestation, *Global Governance,* 27(2) 179-201*.* Demonstrates how efforts by states in the international system that are hostile towards human rights have undercut efforts to enhance justice through reform negotiations on conflict prevention and civilian protection mechanisms.

Cecilia Jacob, Regulatory Contestation: Steering toward Consistency in International Norm Implementation, *International Studies Review*, (Online Advance 2021). Gives an account of international efforts to improve accountability for perpetrators of mass violence in the UN Human Rights Council, seeking alternatives to the pursuit of justice when global cooperation mechanisms fail, and identifies potential shortcomings in existing approaches to defining accountability in these settings.

Cecilia Jacob, A Christian Response to Global Conflict: Realism and Reconciliation. *International Journal of Public Theology* 14, no. 4 (2020): 438-455. Draws on two theologically oriented contributions to IR, Christian realism and political reconciliation, to probe the question of how we conceptualise justice as a pursuit in international relations from a Christian worldview.

End Notes

[1] Harry Blamires, *The Christian Mind: How Should a Christian Think?* Regent College Publishing, 2005 [first published 1963]

[2] Cecilia Jacob, Regulatory Contestation: Steering toward Consistency in International Norm Implementation, *International Studies Review*, 2021.

[3] Federica D'Alessandra, 2017. The Accountability Turn in Third Wave Human Rights Fact-Finding. *Utrecht Journal of International and European Law*, 33(84), pp.59–76.

[4] Philip Alston, The Populist Challenge to Human Rights. *Journal of Human Rights Practice.* 9(1) 2017.

[5] Cecilia Jacob, The Status of Human Protection in International Law and Institutions: The United Nations Prevention and Protection Architecture, *The Australian Year Book of International Law Online*,*38*(1) 2021, 110-133; Cecilia Jacob, Institutionalising Prevention at the UN: International organisation reform as a site of norm contestation, *Global Governance,* 27(2) *Forthcoming.*

[6] https://www.un.org/en/genocideprevention/accountability.shtml

[7] Daniel Philpott, Just and Unjust Peace: An Ethic of Political Reconciliation, (New York: Oxford University Press, 2012).

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