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Disciplinary Brief

THE JUSTICE OF GOD

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Nicholas Wolterstorff's theology brief on "[Justice and Rights](#)" offers a characteristically lucid distillation of some key themes from his wide-ranging work on justice as (in Ulpian's classic definition), "rendering to each his right (or due)." [2] In particular, Wolterstorff argues convincingly, both in his brief and at greater length in his books, that God's concern for justice as equitable or impartial treatment is evident throughout the Old and New Testaments. In this brief, I want to consider a related question, which arises from Wolterstorff's reflections on justice in the Scripture, but which he does not address directly: does God abide by the principles of justice to which he holds his creatures? Does he "render to each according to his right"? As we'll see, the Old and New Testament each offer *prima facie* challenges to this idea, first in Exodus's insistence that God "visits the iniquity of the fathers upon the sons" (Exod. 20:5), and then in Paul's insistence that "no human being is justified through works of the Law" (Rom. 3:20). The former might suggest that God treats us unjustly; the latter, that he treats us, not with justice (which could only condemn us), but instead with mercy and grace.

"Correct Justice" in the Old Testament

Let's begin with a brief overview of Wolterstorff's conception of justice, which, on his view, is centrally concerned with equitable treatment: the virtue of justice disposes its possessors to recognize one's duty to respect others' legitimate claims to non-interference (permission rights) or to the active provision of some good (claim rights). Wolterstorff emphasizes the prominence within the Old Testament of injunctions to do "justice (*mishpat*)," a term which "is often paired with '*tsedaqah*,' standardly translated as righteousness"; [3] the conjunction of the two might be translated, following David Novak's suggestion, as "correct justice." [4] Throughout the Old Testament, *tsedaqah* and *mishpat* are repeatedly related to attitudes, practices, and institutions shaped above all by fairness and impartiality.

In the Torah, as still today, both attributes are depicted as embodied first and foremost in law-courts: "You shall not render an unjust judgment (*mishpat*); you shall not be partial to the poor or defer to the great: with justice (*tsedeq*) you shall judge your neighbor" (Lev. 19:15, cf. also Exod. 23:2 and Deut. 1:16-17). [5] This requirement of impartiality was married to a concern for proportionality in sentencing: not only should each person be treated equally to others who are like him in the relevant respects, but each person should be treated in a manner commensurate with his own actions: "You shall give life for life, eye for eye, tooth for tooth, hand for hand, foot for foot" (Exod. 21:23-24). [6] And in Deuteronomy, this requirement of proportionality is used to rule out any notion of inherited or transferrable guilt: "The fathers shall not be put

to death for the children, neither shall the children be put to death for the fathers: every man shall be put to death for his own sin" (Deut. 24:16).

Mishpat, Wolterstorff shows, consists not only in the judicial remedies meted out to those who have been wronged (rectifying justice), but also in the objectively right state of affairs which the remedies are designed to restore (primary justice). [7] One biblical passage in which "*mishpat*" unambiguously refers to primary justice is the famous injunction in Micah: "He has showed you, O man, what is good; and what does the Lord require of you but to do justice, and to love kindness, and to walk humbly with your God?" (6:8) Here, the addressee is a universal "man," not a judge, and so it seems unlikely that the "justice" in view is the rectifying justice dispensed by the courts. [8]

Does God Render to Each according to His Right?

We're now in a position to consider our presenting question: does God abide by this standard of "correct justice" to which he holds us? Does he render to each according to his due? The early Judahite exiles to Babylon had real doubts about this, at least as they were depicted by the prophets Jeremiah and his younger contemporary, the priest Ezekiel. Ezekiel 18 in particular consists of an oracle addressed to Israel by God himself, and opens with God's own complaint about a proverb – "The fathers ate sour grapes and the children's teeth are set on edge" – then current among the exiles (18:2-3, cf. Jer. 31:28-30). The proverb's meaning is clear: "Our fathers sinned, but only we are punished."

The exiles, it must be said, had some grounds for this complaint: at Sinai, after all, God had promised to "visit the iniquity of the fathers upon the sons, even to the third and fourth generations" (Exod. 20:5). Indeed, the author of the Kings-cycle brings this apparent incongruity to the surface of his narrative. "Before [Josiah] there was no king like him," he observes, "who turned to the LORD with all his heart and with all his soul and with all his might, according to all the law of Moses." Nonetheless, "the LORD did not turn from the fierceness of his great wrath, by which his anger was kindled against Judah, because of all the provocations with which Manasseh had provoked him" (2 Kings 23:25-26).

In Ezekiel 18, however, the LORD emphatically repudiates this visitation of one man's sins upon another: "As I live, says the Lord GOD, this proverb," about the sour grapes, "shall no more be used by you in Israel" (18:3). He insists instead, "Behold, all souls are mine; the soul of the father as well as the soul of the son is mine: the soul that sins shall die" (18:4). God too respects the judicial principle set out in Deuteronomy 24:16: if the son of such a just man works evil, then that son will die (18:10-13). But if that son has a son who turns away from his father's evils and does what is right, then he shall live (18:14-17). In short, "The son shall not bear the iniquity of the father, neither shall the father bear the iniquity of the son: the righteousness of the righteous shall be upon him, and the wickedness of the wicked shall be upon him" (18:20). This non-transference of evil and righteousness, applies even within the life of an individual: past righteousness will not ensure a favorable judgment for the one who turns to wickedness, and by the same token, past wickedness is no bar to a favorable judgment in the one who repents and does what is right (18:21, 24).

After delivering his threefold declaration that each righteous and wicked person will receive his fitting return, the LORD summarizes his warning to Israel: "Therefore I will judge you, O house of Israel, every one according to his ways, saith the Lord GOD. Repent, and turn yourselves from all your transgressions; so iniquity shall not be your ruin" (18:30). This, of course, is simply the general principle underlying the earlier teachings: the righteous son will not be judged according to

the father's wickedness, nor the wicked son according to the father's righteousness; each will be judged according to his own conduct. God, in other words, is in fact committed to the principle of impartial and equitable judgment by which he commanded Israel's judges to abide (cf. Deut. 24:16).

God's commitment to judge according to an individual's works is not unique to Ezekiel; indeed, while it does not appear explicitly in the Torah, it is scattered liberally through the Psalms and Proverbs, particularly in Psalm 62, which concludes with a "comfortable word": "To thee, O Lord, belongs steadfast love. For thou dost requite a man according to his work" (62:12). Psalm 62 comes the closest any Old Testament text to Ulpian's definition of justice as rights-rendering. Indeed, the LXX rendering so closely aligns with Plato's formulation of that principle that it seems possible that the translator specifically sought to evoke that philosophical tradition:

"With you, Lord, is mercy (*éleos*), for you will render to each (*apodōseis hekástō*) according to his works" (Ps. 62:12, LXX).

"It is just (*dikaion*) to render to each (*hekástō apodidónai*) his dues." [9]

If justice is rendering to each according to his due, then the LORD is just; like the judges he raises up for Israel, he is impartial, treating each according to the same standard, namely what is owed to them (*ta opheilómena*) as a result of their works. [10] But this justice is equally merciful, an expression of God's love. "A man's work is his character," as George Macdonald observes, "and God in his mercy is not indifferent, but treats him according to his work." [11]

A Pauline Dilemma regarding Judgment according to Works

Ezekiel and the Psalmist insist that God does in fact abide by correct justice in his dealings with us; he renders to each according to his works. Nonetheless, might not this Old Testament insistence on the justice of God be less a promise than a threat of the Law, whose fearsome commands cannot be borne, and which must be superseded by the gracious and forgiving Gospel? Doesn't the New Testament teach that God treats us not with justice, but rather with mercy and grace? After all, if God rendered to each according to his works, who could be saved?

Paul did, of course, write that "no human being will be justified in his sight by works of the law" (Rom. 3:20), which Martin Luther famously read as teaching that "a Christian has all he needs in faith and needs no works to justify him," [12] and about which he wrote, "if that article stands, the Church stands; if it falls, the Church falls." [13] But then, Paul wrote this injunction just one chapter after quoting Psalm 62's declaration that God "will render to each according to his works" (Rom. 2:6), and then insisting, "It is not the hearers of the law who are just before God, but the doers of the law who will be justified" (2:13), a statement which might seem to be more at home in the Epistle of James (cf. 1:22, 2:24) than in Romans. In short, the juxtaposition of Romans 2:13 with Romans 3:20 seems to present us with a dilemma: in the divine law-court, is my case dismissed on the basis of my faith, apart from "works of the Law," or am I instead acquitted as a "doer of the Law"? [14]

In his *Justice in Love*, Wolterstorff acknowledges the apparent tension between these passages, and seeks to interpret Paul's talk of the reward given "those who do good" (Rom. 2:11) so as to make it consistent with Rom. 3:20:

Who are these people who patiently do good and who are, on that account, given eternal life, glory, honor, and peace? [cf. Rom. 2:11] They cannot be those who, in the words of 3:20, do all the 'deeds (*ergōn*) prescribed by the law,' since there are none such, Christ excepted...I think the conclusion is irresistible that the people Paul has in mind when he speaks of those who patiently do good are those that he will shortly speak of as people who have faith in God; they are the ones who see fit to acknowledge God. [15]

But this re-reading of Romans 2:11-13 runs into the difficulty that Paul immediately goes on, perhaps in Romans 2:14-15, but certainly in Romans 2:26-29, to describe a class of Gentiles who "keep the ordinances of the Law" (2:26) and who possess the Spirit (2:29), i.e., who are Gentile Christians like those in his own congregation.

Wolterstorff, here standing well within the mainstream of Pauline interpreters, thus has Paul 1) maintaining that "doers of the Law will be justified" (Rom. 2:13); and 2) immediately describing a group of people who are "in the Spirit" (Rom. 2:29) and in fact "keep the Law's ordinances" (Rom. 2:26); but 3) nonetheless insisting that they are not justified insofar as they are doers of the Law (Rom. 3:20), but only insofar as they are believers in Christ (Rom. 3:24). In view of points one and two, why is three necessary? The Paul who emerges from this interpretation seems conflicted, perhaps even confused. [16]

Justification is Not through "What the Law Does"

It seems to me, however, that there is a more excellent way of resolving the apparent contradiction between Rom. 2:13 and 3:20. Recall that, in Romans 2, Paul describes the Gentiles who "keep the just requirements of the Law" (Rom. 2:26) as possessing "the circumcision of the heart, in the Spirit, not the letter." [17] Here the contrast is not between "faith" and "works of the Law," but rather between circumcision "in the Spirit" and "in the letter." Paul alludes here to a distinction he states more clearly in 2 Corinthians 3:6: in itself, as a mere external letter, the Law kills (*grámma apokténei*, 2 Cor. 3:6), but as written on one's heart by the Spirit (2 Cor. 3:3), it gives life (*pneûma zōopoiei*) (2 Cor. 3:6).

As Lloyd Gaston and now more recently Paul Owen and Peter Leithart have proposed, we should allow Paul's claims that "the letter kills" (2 Cor. 3:6), or that "the Law works (*kat'ergázetai*) wrath" (Rom. 4:15) to interpret his statements elsewhere about "the works of the Law." After all, it is not only possible but even natural, from a grammatical standpoint, to interpret Paul's "works of the Law," not as an attributive genitive ("works in accord with the Law"), but instead as a *subjective* genitive, "the Law's works," or even "what the Law does." [18] And, as Gaston rightly emphasizes, Paul has a great deal to say just in Romans about what the Law does: it "closes every mouth and makes the whole world stand guilty (3:19)...brings knowledge of sin (3:20)...charges sin (5:13)...increases Adam's fault (5:20)...has authority over a human being (7:1)...provides an occasion for sin (7:8, 9)...deceives (7:11)...[and] kills (7:11)." [19] Small wonder that the Law's works do not justify humanity!

The problem of the Law's inflaming sin is arguably in view in the context of Romans 3:20, which maintains that "by works of the Law no flesh will be justified." Paul here discusses a particular activity of the Law, which is to address its subjects so as to shut every mouth (3:19) and to usher in the knowledge of sin (3:20). Indeed, it seems reasonable to view the

chain of Old Testament passages on human sinfulness Paul assembles in Romans 3:10-18 as supplying the content of “what the Law says” (3:19). [20] But in that context, a sudden comment on “[human] works according to the Law” would imply a change of subject twice in the span of two verses. By contrast, interpreting “*érge nomou*” as “the Law’s works” yields a single, seamless line of thought in Romans 3:19-20: the Law silences humanity in their sin and makes them liable before God (3:19), and so we aren’t justified through what the Law does (3:20a), since the Law brings only the knowledge of sin (3:20b).

So, there is no ultimate contradiction: none are justified by what the Law does (Rom. 3:20), despite the fact that it is the doers of the Law who will be justified, when God renders to each according to his works (Rom. 2:6, 13). If space allowed, I would go on – as I do in *The Accountable Animal* – to describe what it means that “the just requirement of the law is fulfilled in those who walk...according to the Spirit” (Rom. 8:4), and how that relates to Paul’s account of faith in Christ and to the proleptic death-and-resurrection of baptism. But I hope that even this brief discussion has rendered plausible the view that, for Paul as much as Ezekiel, God himself conforms to the standard of justice to which Wolterstorff has rightly indicated that he holds humanity, and this not in spite but precisely because of his mercy.

End Notes

- [1] The following is adapted, with permission, from my book, *The Accountable Animal: Justice, Justification, and Judgment* (T&T Clark, 2021).
- [2] Cf. his *Justice: Rights and Wrongs* (Princeton University Press, 2009) and *Justice in Love* (Eerdmans, 2011). Ulpian's definition is found in the *Corpus iuris civilis* 1.1.10. The definition was perhaps first entertained (and rejected) by Plato (*Republic* 331e), but it was endorsed by Cicero, who seems to have made it normative for the Latin-speaking philosophical tradition (*De Finibus* 5.65, *De Natura Deorum* 3.38).
- [3] *Justice*, 69.
- [4] *Natural Law in Judaism*, quoted in Wolterstorff, *Justice*, 69.
- [5] Wolterstorff, *Justice*, 77.
- [6] Cf. Bruce Birch's comment: "The talion formula is an effort to introduce the principle of proportionality into Israel's law" (*Let Justice Roll Down*, 164).
- [7] *Justice*, 69-75.
- [8] *Ibid.*, 75.
- [9] *Republic* I, 331e.
- [10] As Barnabas Lindars observed, Ezekiel "insists that the justice of God in dealing with the nation cannot be less than the justice that is recognized in matters of the individual" ("Ezekiel and Individual Responsibility," VT 15 (1965): 464, quoted in Lapsley, *Can These Bones Live?*, 22).
- [11] "Justice," in *Unspoken Sermons* (Start Publishing, 2012) Series 3, p. 450.
- [12] Martin Luther, *The Freedom of a Christian*, in Hans Hillerbrand (ed.), *The Protestant Reformation* (New York: Harper, 2009 [1968]), 39.
- [13] "*isto articulo stante stat Ecclesia, ruente ruit*" (*Luthers Werke*, Weimar Ausgabe 40/3.352.3, quoted in Alister McGrath, *Iustitia Dei: A History of the Christian Doctrine of Justification* (New York: Cambridge University Press, 2005), 189)..
- [14] For the forensic background to δικαιο- roots, cf. Douglas Campbell, *The Deliverance of God*, 659, and Liddell, Scott, and Jones, *A Greek Lexicon*, *ad loc.* A. III.
- [15] *Justice in Love*, 274.
- [16] Heikki Räisänen in particular spent his career urging this reading of Paul. Cf., e.g., *Paul and the Law* (WUNT 29; Eugene, OR: Wipf & Stock, 2010 [1983]), 94-127.
- [17] On the "circumcision of the heart" as baptism, cf. Col. 2:11-12.
- [18] "The phrase would therefore denote the effects of the Law's activity among humankind...Paul is prone to use this expression when the agency of the Law in effecting justification is the issue at stake. The emphasis in this turn of phrase would then lie not so much on human failure fully to obey the Law (though that is implied) as on the Law's own inability (owing to the gripping power of sin) to produce in people a righteousness that can survive before the bar of God's judgment" (Owen, "The 'Works of the Law' in Romans and Galatians," 554). Cf. also *Paul and the Torah* (Eugene, OR: Wipf & Stock, 2006), 104-106, and Peter Leithart, *Delivered from the Elements: Justification, Atonement, Mission* (IVP, 2016).
- [19] Gaston, *Paul and the Torah*, 104.

[20] We should think as well of the “curse” which Paul warns is pronounced on those who “rely on works of the Law (*ex érgōn nóμου*)” (Gal. 3:10), and the catena of curses pronounced against covenant-breakers in Deuteronomy 27:15-26, 28:15-68.

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