Resurrecting Justice

A Christian Ethics and Politics

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Prolegomenon

Who is this book for? Frequently and pointedly, colleagues have posed to me this standard question for authors: Who is your audience? Yet I suspect that if I were writing in the vein of John Rawls, Immanuel Kant, John Stuart Mill, John Locke, Michel Foucault, Hannah Arendt, or Judith Butler, my colleagues would pose their question far less frequently and pointedly. I suspect that they ask me the audience question on account of an implicit, feebly voiced concern about my argument: It is a Christian one.

What follows in these pages is a Christian account of justice. What is the meaning of justice from the standpoint of a moral order that is created and redeemed by God? What promise does this justice hold for public life in political orders today? My colleagues seem to want to warn me that only Christians will read the book and not political philosophers or educated readers of a secular outlook.

I question the audience question. As a graduate student in political science at Harvard University in the early 1990s, I attended lectures and took a graduate seminar taught by the renowned political philosopher, John Rawls. My fellow scholars revered Rawls and often lauded him for reviving political philosophy with *A Theory of Justice* in 1971.[1] Rawls purports there to retrieve and defend contract theory as a basis for a liberalism of rights against what he saw as the two reigning political theories, utilitarianism and intuitionism. His enthusiasts were in good part right. Utilitarianism

[1] Similarly, political philosopher Will Kymlicka wrote in 1990 that "it is generally accepted that the recent rebirth of normative political philosophy began with the publication of John Rawls's *A Theory of Justice* in 1971," in *Contemporary Political Philosophy: An Introduction* (Oxford: Clarendon Press, 1990), 11.

and intuitionism had become exhausted, and Rawls spawned innumerable works, some following his lead and others taking his thought as a foil. Rawls remains regularly read.[2]

Yet to my ears these encomiums omitted certain schools of political philosophy, particularly Christian ones. In the three decades previous to *A Theory of Justice,* Reinhold Niebuhr, Jacques Maritain, Paul Ramsey, several popes, Yves Simon, John Courtney Murray, Karl Barth, Emil Brunner, Dietrich Bonhoeffer, and Elizabeth Anscombe had all penned important works of political thought. In the decades since, Christian thought about politics has continued through the works of Luke Bretherton, Lisa Sowle Cahill, William Cavanaugh, Jonathan Chaplin, James Cone, Gary Dorrien, Jean Bethke Elshtain, John Finnis, Robert George, Mary Ann Glendon, Eric Gregory, Gustavo Gutierrez, James Gustafson, Stanley Hauerwas, Richard Hays, David Hollenbach, S.J., Timothy P. Jackson, Willie James Jennings, Pope John Paul II, Peter Lawler, Robin Lovin, Charles Mathewes, John Milbank, Oliver O'Donovan, Jean Porter, Paul Ramsey, Alexander Schmemann, William Schweiker, Jon Sobrino, Max Stackhouse, David Vandrunen, Miroslav Volf, John Witte, Nicholas Wolterstorff, John Howard Yoder, and many others. Do they not exist?[3]

Then and today, mainstream political philosophers mostly do not speak with Christian political thinkers. I do not mean the parties are not on speaking terms. Mainstream political philosophers do not ignore Christianity or other religions altogether. They write about Christianity's place in the history of political thought and

[2] At my university, the University of Notre Dame, the 50th anniversary of Rawls' *A Theory of Justice* was celebrated in 2021 with a major conference and volume, Paul Weithman, ed., *Rawls's A Theory of Justice at 50* (Cambridge University Press, 2023).

[3] The list is not meant to be exhaustive and surely omits important thinkers. I have included a diversity of perspectives and placed the names in alphabetical order. Other political philosophers whom the encomiums miss, also prominent prior to Rawls' *A Theory of Justice* in 1971, include Leo Strauss, Sheldon Wolin, Hannah Arendt and Eric Voeglin.

have written on the place of religion and public life. If the scope is expanded to political scientists, an outbreak of empirical scholarship on religion and politics in the 2000s may be noted.[4] And, Christian scholars hold chairs in major universities and publish books with top university presses.

What I mean more precisely is that political philosophers in major research universities do not engage arguments about the purpose of the political order and about reasons for action in politics – precisely their subject matter – that are based on Christian warrants, the arguments of scholars such as the ones I name two paragraphs above. (The same is true for arguments in other religious traditions; my focus here and in the book that follows is Christianity.) Such engagement is what I mean by "speak with." Its absence is found in books and academic journals of political philosophy. In a brief study I conducted of five of the most prominent journals of political philosophy in the past 30 years, I looked for references to five prominent books in Christian political philosophy that were written during the same period and found that these journals contained only one review of one of these books and otherwise no references to them.[5]

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[4] See Daniel Philpott, "Has The Study of Global Politics Found Religion?" *The Annual Review of Political Science*, Vol. 12, 2009, pp. 183-202.

[5] As evidence for secularism, I conducted a survey of mentions of five prominent monographs of Christian political thought in five of the most prominent journals of political philosophy. The monographs have been published in the past 30 years by leading university presses. I selected them for the prominence of their thought and for their variety of perspectives. Mentions includes citations in text or notes and book reviews. The books include Nicholas Wolterstoff, *Justice: Rights and Wrongs* (Princeton University Press, 2010); William James Jennings, *The Christian Imagination: Theology and the Origins of Race* (Yale University Press, 2010); Oliver O'Donovan, *The Desire of the Nations: Rediscovering the Roots of Political Theology* (Cambridge University Press, 1996); Richard Hays, *The Moral Vision of the New Testament: A Contemporary Introduction to New Testament Ethics* (HarperCollins, 1996); and Lisa Sowle Cahill, *Global Justice, Christology and Christian Ethics* (Cambridge University Press, 2013). The journals include *Political Theory*, the flagship journal of the field of political theory within political science (five-year impact factor, 1.7); *The Journal of Political Philosophy* (which ceased publication in 2023 and had a five-year impact factor of 2.1); *The American Political Science Review*, the flagship journal of the discipline of political science, which had a five-year impact factor of 8.5; *Ethics,* which had an factor in 2023 of 4.6; and *Philosophy and Public Affairs*, which had a five-year impact factor of 2.1; the latter two are prominent journals in the field of philosophy. I conducted the searches on JSTOR with the exception of the Journal of Political Philosophy, which I searched in Wiley Online. I searched from the

This absence of engagement is found also in the teaching of political philosophy, colloquia, and the unscientific data of my experience: "That is a theology lecture, not a political science one." "I have not looked at that natural law theory on my topic because it is based on Christian premises." "Her dissertation belongs in a theology department." "What is the point of bringing Christianity into your talk?" "Now we are in church."

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date of the monograph's publication up through December 2021, 2023, November 2019, October 2019, and Fall 2019, respectively

The results? *Political Theory*, *The Journal of Political Philosophy*, *The American Political Science Review*, and *Philosophy and Public Affairs* contained zero references to these books. *Ethics* contained a review of Wolterstorff's *Justice*, but no other references to these books.

I then added in a sixth book, John Finnis's *Natural Law and Natural Rights* (Oxford University Press). This one fared better. *Political Theory* contained six references in separate articles or reviews, including one review of the book; the *Journal of Political Philosophy*, seven references; *American Political Science Review*, eight references; *Ethics*, sixteen references, including one review of the book; and *Philosophy and Public Affairs*, two references. This result is to be expected according to the logic of my claim. While Finnis is a Catholic, draws heavily on the work of Catholic philosopher, Germain Grisez, and is intentionally consistent with the moral teachings of the Catholic Church, his argument is a natural law and jurisprudential one, contains little theology or analysis of revealed knowledge, and does not discuss the relationship of natural law to God until the final chapter. Most of the engagement of Finnis in these journals treats his natural law and legal arguments, not his views of God. In a response to a review of the book that Finnis published in 2015, he makes clear that his intended readers were ones with secular views. See John Finnis, "Grounding Human Rights in Natural Law (2015, Response to Fortin)," in *A Liberalism Safe for Catholicism? Perspectives From the Review of Politics*, eds. Daniel Philpott and Ryan T. Anderson (University of Notre Dame Press, 2017), 195. Thus, it is unsurprising that his classic work is far more widely cited than the other five.

I then added a sixth journal, *The Review of Politics*, which has an impact factor based on Scopus data of 0.4. This journal has a history of more robust engagement with Christian thought, as displayed in the collection of essays from the journal in *A Liberalism Safe for Catholicism*? Of the five initial books, only O'Donovan's *Desire of the Nations* is referenced and was reviewed. Finnis's *Natural Law and Natural Rights* is referenced about thirty times. The pattern holds: contemporary mainstream political philosophers rarely engage Christian political thought and do so almost only when it is expressed in the coin of natural and public law. True, the *Review of Politics* contains pieces written from a Christian standpoint, but this does not mean that secular authors engage them.

The inclusion in my survey of other works on political thought by Christian authors might well yield more references to Christian political thought in these journals. But there is no reason to think that the results would be any different than the results based on my samples.

Political scientists Kenneth D. Wald and Clyde Wilcox demonstrate similar results in their study of religion in political science that they published in 2006. Basing their study on the *American Political Science Review*, they found only twenty-one articles strongly concerned with religion over a hundred year period. While 80% of these were in the subfield of political philosophy and public law, the number remains tiny as a percentage of articles published between 1906 and 2006. See Kenneth D. Wald and Clyde Wilcox, "Getting Religion: Has Political Science Rediscovered the Faith Factor?" *American Political Science Review* 100, 4 (2006), 523-525.

Exceptions exist but their rarity accentuates the norm and few among them evince openness to arguments with Christian, or religious, warrants.[6] Scholarship on religion and public life asks whether Christian, or any religious, arguments ought to be permitted in the public realm; and secular scholars now largely agree that religious freedom merits no right of its own.[7] Christian scholars of political thought largely reside in divinity schools, religion or theology departments, seminaries, and religious universities or hold chairs still reserved for Christian scholars.[8]

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[6] Among scholars who have engaged Christian theological arguments about politics, a major example is Jürgen Habermas, *Dialectics of Secularization: On Reason and Religion* (Ignatius Press, 2006), a dialogue with Cardinal Joseph Ratzinger (who became Pope Benedict XVI) and a model of what I am calling for. A work that engages Islamic doctrine is Andrew F. March, *Islam and Liberal Citizenship: The Search for an Overlapping Consensus* (Oxford University Press, 2011). In the past couple of decades, certain volumes have contained dialogues between secular and religious scholars on controversial cultural issues and are certainly admirable examples of open engagement. Even here, though, the religious authors present their perspectives in terms of natural law with little reference to God, underlining my claim in the previous note. See, for instance, Robert P. George and Christopher Wolfe, eds., *Natural Law and Public Reason* (Georgetown University Press, 2000), which contains debates on abortion. Some instance of secular scholars acclaiming the work of Christian scholars are deceivingly claims of engagement. Hans J. Morgenthau, for instance, highly lauded the work of theologian Reinhold Niebuhr in 1962 but in the same essay doubted the relevance of Christian ethics for politics. Morgenthau admired Niebuhr instead for his recognition of the role of power and limitations to the pursuit of ideals in politics. See the discussion of Morgenthau in Chapter Fifteen.

What, though, of Rawls's own citations of Christian scholars? They are scant in *A Theory of Justice* but more prevalent in *Political Liberalism*, first published in 1993, in which he is far more concerned with religion. In the 2005 (Columbia University Press) version, he cites John Courtney Murray (lv, 477), John Finnis (452, 458), Jacques Maritain (452), David Hollenbach, S.J. (444), Paul Sigmund (477), and the Second Council declaration, *Dignitatis Humanae* (477). However, he engages the doctrines of these authors very little and rather associates them with what he regards as the Second Vatican Council's departure from "the persecuting zeal . . . of the Christian religion." These works show, he reasons, that Christians may join the overlapping consensus and the reconciliation for which he calls, and his citation of them does not take away from the skepticism towards Christianity that he expresses in *Political Liberalism*. See my discussion of Rawls in Chapter Thirteen.

[7] Indeed, much of the scholarship on religion in the leading academic journals of political philosophy is addressed to the question of public justification. For an account of this debate and list of works, see Kevin Vallier, "Public Justification," *The Stanford Encyclopedia of Philosophy* (Winter 2022 Edition), Edward N. Zalta & Uri Nodelman (eds.), find at https://plato.stanford.edu/archives/win2022/entries/justification-public/. For a list of scholars who argue that religious freedom does not merit a right of its own, see Daniel Philpott, "Why Religious Freedom is a Universal Human Right," The American Journal of Jurisprudence, 68, no. 3, (2023), 179. The point is that much of the engagement of religion, to the extent that it occurs, is taken up with whether and how much it ought to be restricted is thus framed by secularism.

[8] Almost all of the scholars listed above fall into these categories and none of them except for Robert George has held a position in a political science or politics department. My point again is not that Christian scholars have been absent from the academy but rather that secular political philosophers have not engaged their thinking.

Why this state of affairs? In 2003, sociologist Christian Smith edited a book, *The Secular Revolution*, arguing that between 1870 and 1930, elite sectors of public life in the United States became secularized rapidly and thoroughly, including in the leading research universities. The revolution was intentional and strategic, Smith argues, not the inevitable outworking of impersonal historical forces.[9] Political thought in leading research universities became secular accordingly. Although secular can mean many things, here it connotes the study of political orders – their norms and purposes, the forces that animate them – that omits religion or treats it as an atavism. Again, Christian political thought has existed, but mainstream political philosophers by and large have not engaged it.

Motivating secularism is the conviction that religion is irrational. When the philosopher Richard Rorty held that religion is a "conversation-stopper," he expressed the widely-held view that religious claims and beliefs are not intelligible, knowable, and evaluable and so cannot be discussed among people who do not share them.[10] These same qualities allegedly make religion divisive and violent. If religion is to be allowed it ought to be private and not public.[11] This view of religion surged during the Enlightenment. Thomas Jefferson conveyed it most memorably when he edited out

[9] Christian Smith, "Introduction," in *The Secular Revolution: Power, Interest, and Conflict in the Secularization of American Public Life*, ed. Christian Smith (University of California Press, 2003), 1-96; See also the similar argument of George M. Marsden, *The Soul of the American University: From Protestant Establishment to Established Nonbelief* (Oxford University Press, 1994).
[10] See Richard Rorty, "Religion as a Conversation-stopper," *Common Knowledge* 3, no. 1 (1994).
[11] Philosopher Christopher Eberle catalogues contemporary expressions of the thesis that religious belief, language and commitment is not amenable to public debate and is thus prone to violence and debilitating division in *Religious Conviction in Liberal Politics* (Cambridge University Press, 2002), 154-155 and n. 370-371.

supernatural events from the Bible and left only wisdom teachings.[12] Religion fares little better in the theories of post-modern scholars, who argue in the tradition of Marx, Nietzsche, Freud, Foucault, and Butler, who doubt Enlightenment rationality, yet look upon religion as a mask for power relations.[13]

But is secularism rational? An unbroken tradition of Christian thinkers, though not a unanimous consensus, has held that the realities to which they attest are intelligible, knowable, shareable, and evaluable. Old and alive is the argument that a person through reason can know God's existence and several of his qualities – that God is creator of the universe, that God created the universe as good, that God upholds the structure of creation, that God is rightfully worshipped, and so on.[14] Long have Christians (and many others) thought that God created a moral order that consists of principles that humans can know through their rational capacities. God's communications to humanity, culminating in his communication of himself, is not knowable through *a priori* reason alone but is intelligible and amenable to corroboration. The events recounted in the four Gospels are known through the testimony of eyewitnesses and can be attested in the same way as any historical knowledge.[15] Christian philosophers in the past half-century have made the case that

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[12] Jefferson, to be sure, was a strong proponent of the right of religious freedom; affirmed a belief in God; thought that the moral order and natural rights were established by God; and expressed the conviction that the liberties of people were a gift from God and that God would exact justice upon a nation that practices slavery. See Kody W. Cooper & Justin Buckley Dyer, *The Classical and Christian Origins of American Politics: Political Theology, Law, and the American Founding* (Cambridge University Press, 2022), 75-78.

[13] An exception is the work of William Connolly, *Why Am Not A Secularist* (University of Minnesota Press, 1999). Drawing from post-modern and post-structuralism, Connolly questions secularism's exclusion of religion from politics, argues against the binaries private/public and religious/secular, and calls for a politics of open contestation.

[14] For an account of the persistence of the argument that reason can know God's existence and basic qualities, see Matthew Levering, *Proofs of God: Classical Arguments from Tertullian to Barth* (Baker Academic, 2016).

[15] Dismissals of the possibility of historical inquiry into the events of the Gospel are typically animated by Humean skeptical assumptions, that is, they assume the irrationality of the events prior to the inquiry. I

religious faith is rationally warranted knowledge and have generated an entire field of philosophy of religion.[16]

Most political philosophers today will not agree with what these claims assert or with their rationality. But is a lack of agreement grounds for restraint from speaking with, from engaging, thinkers who ground their arguments in Christian or other religious warrants? If agreement upon rationality is a ticket for entry into scholarly journals, colloquia, and hiring pools, it is difficult to see how a utilitarian could gain entry. Many, including myself, find the criterion of maximizing utility to be incoherent. Many, again including myself, are skeptical of postmoderns' skepticism of universals and their assertions of the universality of power. Many, I among them, do not accept the burdens of judgment that Rawls believes narrows the acceptability of public arguments. Philosophers widely doubt the free will that lies at the center of Kant's moral philosophy. And so on. Philosophers disagree not only about politics but also about rationality. This should not be surprising in light of philosopher Alasdair MacIntyre's argument in his book of 1988, *Whose Justice, Which Rationality?*, that philosophers think within traditions, that different traditions hold different notions of rationality, that no single tradition can readily or easily assess the claims of another, but that philosophers can grasp the claims of traditions other than one's own.[17] Why, then, should religion stop conversation? Christianity's tradition of rationality is populated by

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question the defensibility of this assumption. On knowledge acquired through trust, see C.A.J. Coady, *Testimony: A Philosophical Study* (Oxford University Press, 1995).

[16] See Alvin Plantinga, *Warranted Christian Belief* (Oxford, 2000); and the essays in Robert Audi and William J. Wainright, *Rationality, Religious Belief, and Moral Commitment* (Cornell University Press, 1986). See also Carson Holloway and Paul R. DeHart, "Introduction," in *Reason, Revelation, and the Civil Order: Political Philosophy and the Claims of Faith*, eds. Paul R. DeHart & Carson Holloway (Northern Illinois University Press, 2014), 3-13.

[17] Alasdair MacIntyre, *Whose Justice, Which Rationality?* (Duckworth, 1988). See also Alasdair MacIntyre, "Intractable Moral Disagreements," in *Intractable Disputes About the Natural Law: Alasdair MacIntyre and Critics*, ed. Lawrence S. Cunningham (University of Notre Dame Press, 2009), 1-52.

twenty centuries of intellectuals and is far older than that launched by Kant, Mill, or Nietzsche. If we can reason across traditions, then why ought not it to be included? If we cannot, then whose tradition, which rationality, is the one welcome?

So, who is my audience? Everyone, and I theirs. I take inspiration from Pope John XXIII, who addressed his encyclical of 1963, *Pacem in Terris*, to all people of good will rather than only to fellow Catholics. Reciprocally, my argument is not that political philosophers are now at church but rather that St. Paul should be let back into the Areopagus. The public square is a two-way street, even a five-way intersection.

Why should a secular reader engage Christian political philosophy? I can think of six reasons. First, it may be a source of fresh and constructive ideas. In the introductory chapter that follows I explain that my thinking about justice was inspired by Christian leaders who brought the idea of reconciliation into countries' debates about their pasts of injustice – and offer five other vignettes of Christian contributions to politics. Second, such engagement might contribute to an overlapping consensus on principles and proposals that can serve the common good.[18] Ideas grounded in the Christian tradition might be endorsed wholly or partially by members of other traditions, thus widening the consensus on these ideas. Historical coalitions in the U.S. Civil Rights movement and contemporary environmentalism evince the possibility. Third, this expanded realm of agreement might contribute to stability and unity in democracies at a time in which "polarization" is decried daily. Sidelining religious arguments only prevents such agreement. Fourth, engagement would widen a cropped picture of the historical roots of

[18] The idea of overlapping consensus is Rawls's in *Political Liberalism*, 133-172. For a defense of overlapping consensus absent the restriction of public reason, an idea to which I am sympathetic, see Charles Taylor, "Modes of Secularism," in *Secularism and Its Critics*, ed. Rajeev Bhargava (Oxford University Press, 1998), 31-53.

contemporary political forms and of the panoply of commitments that shape politics around the world – a world in which 84% of the world is religious according to the Pew Forum.[19] Fifth, such engagement would be just. It would remediate the arbitrary exclusion of a band of political thought. Sixth, secular readers might engage Christian political philosophy in order to raise questions about it, refute it, or expose historical injustices associated with it. Then, Christian philosophers, much like utilitarians, Kantians, and postmoderns, would respond, and true, not truncated, dialogue would ensue. Such is the way of the agora.

Political philosopher Glenn Tinder, at the close of the preface to *The Political Meaning of Christianity,* writes:

> I write, therefore, with the hope of finding non-Christian, as well as Christian, readers. Is this not reasonable? It is taken for granted that non-Marxists should read and learn from Marxist writings; people who reject the atheism and materialism of Freud readily consult the writings of Freud and his followers. It seems arbitrary and hazardous to be less open-minded towards Christianity.[20]

Tinder's hope is reasonable and also mine.

[19] Pew Research Center, "The Global Religious Landscape," December 18, 2012, https://www.pewforum.org/2012/12/18/global- religious-landscape-exec/
[20] Glenn Tinder, *The Political Meaning of Christianity: An Interpretation* (LSU Press, 1989), 5.

Chapter One: Introducing Justice

"Justice is the first virtue of social institutions," wrote the eminent American philosopher, John Rawls, at the outset of his classic of 1971, *A Theory of Justice*.[1] Much the same idea inhabits the writings of Plato, Aristotle, Cicero, Seneca, St. Augustine, St. Thomas Aquinas, Averroes, Maimonides, John Locke, James Madison, Immanuel Kant, Mary Wollstonecraft, Frederick Douglass, and John Stuart Mill. For astonishingly many thinkers, justice is the first virtue or principle that governs political and social institutions.

And what is justice? Over the course of many centuries, the concept of justice that has attained the world's widest endorsement is the will to render each person his due. Originating in Greek and Roman thought, formulated most fully and enduringly by the Roman jurist Ulpian in the third century, the concept was voiced by Augustine in *The City of God*, enshrined in the *Summa Theologica* of Thomas Aquinas, articulated explicitly by modern thinkers such as Immanuel Kant, and is recognizable far more widely in due's synonymous guise, rights.[2] Rights have an elephantine presence in Western political thought and discourse, in constitutions, which nearly every sovereign state in the world possesses, and in international law. Rights provide definition to other mammoth concepts such as equality and liberty: equal rights and the right to freedoms.

This concept of justice as rendering due, or fulfilling rights, is so pervasive and enveloping that seeing justice differently requires climbing to an overlook where a wider landscape is observable. What we can see from there is that the justice streaming from the Greek and Roman traditions has overswept the justice that streams through and

[1] John Rawls, *A Theory of Justice* (Harvard University Press, 1971), 3.
[2] Citations and references are offered in the more extensive historical discussion in Chapter Two.

from another source, the Bible. This justice, the scriptures attest, God has established as the moral order of the universe, communicated progressively through prophets, manifested climactically in the Cross and Resurrection of Jesus Christ, and given to humanity as commandments by which they may remain in friendship with God and attain happiness.

And what is the meaning of this justice? Nowhere does the Bible teach that justice is the will to render another his due.[3] Rather, I argue, justice in the Bible is the totality of actions that bring about comprehensive right relationship – between God and humanity, between human beings, and within the human person. This justice is denoted most prominently by the Hebrew word, *tsedeq* (or its feminine variant, *tsedeqah*), in the Old Testament, and the Greek word, *dikaiosune*, in the New Testament. The hundreds of appearances of these words in the Bible, their centrality to its message of salvation, and their potential expression of justice are obscured in English Bibles, most of whose translators splay these words as righteousness and justice. Translations also exist, though, that render close to all of these words as justice. The Latin Vulgate, history's most influential Bible, renders them as *justitia,* the direct root of the English word, justice. In these translations, which I follow, justice carries the meaning, comprehensive right relationship.

How does the justice of right relationship differ from the justice of due? The justice of right relationship encompasses, and does not reject, obligations that render another her due, or fulfill her rights. It differs, though, in its inclusion of obligations that

[3] My argument is not that the term due is absent in the Bible, for it appears in some English translations, but rather that the Bible does not define justice as the will to render another his due. Due may be found, for instance, in Rom 1:27; Rom 4:4; Rom 13:7-8; Col 3:24; and Heb 10:29 in the New American Bible.

exceed what is due to others – for instance, mercy, gift, generosity, hospitality, and forgiveness. This synthesis of obligations that both render and exceed what is due makes the justice of right relationship holistic and distinct.[4]

The synthesis is evident in the Bible's account of both divine justice, that which God enacts, and human justice, the deeds that humans are obligated to enact. God's justice establishes right relationship, sustains it, restores it, and will eventually bring it to completion. These acts are gifts, which, by definition, are not due to their recipients. God's creation of human beings for right relationship with himself, which the scriptures describe as justice, is a gift, as is his redemptive act in his Cross and Resurrection, which the Apostle Paul describes as *dikaiosune*, or justice, and as a "gracious gift." Note this well: God's climactic and decisive act of salvation is a form of justice that is not due. Yet, in certain other senses, God's justice renders due. Both the Old and New Testament aver that God repays deeds, good and evil. Jesus paid the debt of humanity's sin on the Cross. Due does not vanish from God's justice.

The justice that God instructs humans to practice is also a synthesis of what renders and exceeds due. This justice, the entire set of commandments that God enjoins, includes duties that correspond to rights. The commandments not to murder, steal, lie, and commit adultery, and the principle of retribution, for instance, correspond to rights to life, to one's possessions, and so on. Other commandments, though, exceed what is due, including ones that prescribe mercy, generosity, gift, care, hospitality, love for enemies, peacemaking, restorative punishment, reconciliation, and forgiveness. Most divergently, forgiveness means foregoing what is due while also willing restoration. The

[4] In Chapter Five, I define more precisely the distinction between obligations that render due and those that exceed, or extend beyond, due.

justice of right relationship, then, combines and integrates these two sorts of obligations. Human justice, which God commands, is patterned and propelled by divine justice, which God enacts. The beyond-due obligations reflect Jesus's Cross and Resurrection especially brightly.

The commandments that make up human justice also vary in how we apprehend them. All of them, we know through our reason. This is not to say that we know them apart from God but rather that God created us with the capacity to grasp their intelligibility – that they are obligatory, why they are obligatory, how they fulfill us and bring about our happiness. Some of the commandments are the natural law, meaning that we know them through reason alone.[5] Other commandments are ones whose binding quality is known through divine teaching. This does not make them unintelligible. Rather, as Thomas Aquinas taught, they are what may be called determinations – deepenings and specifications of commandments that we may know through reason alone. Forgiveness, for instance, is a commandment taught by Jesus that deepens the limit on retaliation that the retribution principle entails. Here again, the justice of right relationship involves a synthesis, one of natural and supernatural obligations.

The justice of right relationship, consisting of obligations that both render and exceed due and are known both naturally and supernaturally, engenders a politics. The Bible joins the company of claimants that justice is the first virtue of political institutions: "O God, give your judgment to the king; your justice to the son of kings; that he may govern your people with justice, your oppressed with right judgment,"

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[5] Thomas Aquinas, *Summa Theologica*, I-II, q. 90, a. 1, ad 1.

recites Psalm 72 (where judgment means making decisions according to justice, or exercising prudence). If justice governs politics, then its meaning is maximally important. The justice of rendering due makes rights public and political and relegates beyond-due principles to the realm of the private and the personal. The justice of right relationship, by contrast, makes its synthesis of principles public and political. This synthesis of principles then becomes the criterion of politics, its safeguarding is the reason for politics, and it directs the pursuit of politics in a multitude of matters, including the protection of life, immigration, criminal law, racial equality, war and violence, health care, family law, protecting the environment, caring for the poor, and healing a country of its historical wounds.

The two sorts of principles perform different roles in bringing about justice in politics. Broadly, rights, or what is due, secure human dignity and the goods that constitute it. The natural rights, or human rights, of persons, families, and nations are integral to the justice of right relationship. The beyond-due principles, for their part – again, broadly – serve to heal and restore. In them, justice converges with mercy, which aims to alleviate wounds to persons and communities, and with reconciliation, the holistic restoration of right relationship within and between political orders. The justice of right relationship blends and integrates the two kinds of principles.

This book, then, is about resurrecting justice. It aims to retrieve and revive a way of thinking about justice that has been overswept. It develops and defends a justice that the resurrection of Jesus Christ defines, vindicates, and authorizes. It retrieves and develops this justice in hopes that it may make a difference in today's politics.

How I Discovered the Justice of Right Relationship

I came to this view of justice through several years of study of and involvement in the efforts of countries to confront past violence and injustice in building peace and democracy. The past half-century has seen a wave of such efforts and of emergent political practices: over forty truth commissions, the International Criminal Court (ICC), a spike in political apologies, reparations settlements, the building of monuments and memorials, new constitutions, civil society forums, and forgiveness. Best known is South Africa's transition from *apartheid* to multiracial democracy in the 1990s, featuring its Truth and Reconciliation Commission, but noteworthy and instructive also have been efforts in Rwanda, Chile, Timor-Leste, Germany, Canada, Australia, Colombia, and many other countries.

What is the meaning of justice in the wake of massive injustice? I discovered two broad answers. One is that of the international community, the web of international lawyers, human rights activists, western diplomats, public officials, and scholars whose response to past injustice centers upon rights and law, calling for the construction of constitutions, democracy, free markets, and, above all, courts that try arch-human rights violators. Its highest aspiration is the International Criminal Court (ICC), which began in 2002. Were this view of justice a theology, the twin towers of the ICC in the Hague would be its cathedral.

Another answer came from religious leaders. Both their answer and their involvement have surprised westerners who think of politics as suits and speeches unmingled with miters and prayers. Most of the leaders are Christian, mirroring the populations where the injustices and the political responses to them took place: Archbishop Desmond Tutu, Chair of South Africa's Truth and Reconciliation Commission; the pastors in Rwanda who prepared villagers to participate in *gacaca*

courts after the country's genocide of 1994; Joachim Gauck, the Lutheran pastor who led Germany's investigation into East Germany's past after the Berlin Wall fell in 1989; the Corrymeela Community, which, sought reconciliation between Catholics and Protestants in Northern Ireland; and many others around the world. Their answer to injustice is healing, apologies, reparations, forgiveness, acknowledging the truth about suffering, and restoring communities, in summary, reconciliation.

What I concluded is that reconciliation was these leaders' answer to the question of justice. The response to wounds of injustice that they advocated for their countries followed what they believe to be God's response to injustice in the Cross and Resurrection, which, I have noted, the Bible calls justice. It is the justice of restoring right relationship and is equivalent to the Apostle Paul's concept of reconciliation in his descriptions of God's saving action. Reconciliation pervaded the public speech of these religious leaders and influenced their countries' actions – for instance, their Truth and *Reconciliation* Commissions. To them, this was justice.

These two broad answers to the question of justice parallel the justice of rendering due and the justice of right relationship. The broadly legal approach is the justice of due, centered around rights. The Christian leaders espoused the justice of right relationship, or reconciliation. In my book of 2012, *Just and Unjust Peace*, I sought to develop this justice conceptually, arguing that it could synthesize rights into a wider set of practices in a holistic ethic of reconciliation.[6]

[6] Daniel Philpott, *Just and Unjust Peace: An Ethic of Political Reconciliation* (Oxford University Press, 2012). The book was based on my study of the debates over justice in these many countries and on my involvement in the work of reconciliation in Kashmir and the Great Lakes Region of Africa.

In this book, I aspire to develop further the justice of right relationship, ground it in Christian theology and philosophy, and expand its application to politics in general. The Christian leaders in the tumultuous politics of confronting the past exemplify what I theorize. Faithful to their distinctive justice, they brought it to bear upon the repair of their societies and the building of peace and democracy, doing so in debate and collaboration with secular and other religious citizens. Now I want to conceptualize this justice for wider settings.

Political Portraits

Five portraits of political action vivify the justice of right relationship. They are diverse in time, place, and personnel, involving heads of state and people at the grassroots, prelates and politicians, all in some manner acting for the common good of a constitutional liberal democracy. All of them manifest the blend of principles that render and exceed due and that are known naturally and supernaturally, and illustrate the creativity that this blend can involve.

The first of these portraits involves a builder of peace. It depicts Northern Uganda, the site of civil war from 1987 to about 2008, and involves a religious leader who espouses the reconciliation paradigm, the Catholic Archbishop of Gulu, John Baptist Odama. The war was fought between the rebel Lord's Resistance Army (LRA)

and the Government of Uganda and took the lives of some 100,000 civilians, displaced 1.9 million people, and involved more than 20,000 abductions of children into the LRA.[7]

Odama, with other religious leaders in the region, including Catholics, Protestants, an Orthodox leader, and a Muslim sheik, founded the Acholi Religious Leaders Peace Initiative (ARLPI) in 1999. The initiative promoted the Amnesty Act of 2000, which allowed thousands of abducted child soldiers to be reintegrated into their communities, and vigorously opposed the ICC's indictments of five LRA leaders in 2005 on the grounds that they obstructed a peace agreement. In July 2002, Odama and a delegation of religious leaders traipsed through the bush over several days to meet with Joseph Kony, the warlord leader of the LRA, at his hideout and to pave the way for peace negotiations. They also slept on the ground for three nights next to the "night commuters," thousands of children in the region who slept nightly in the parking lot of a bus station in Gulu in order to escape abduction. Odama is known for his public advocacy of forgiveness for perpetrators of crimes in the war. He commended *Mato Oput* rituals of reconciliation, embedded in the Acholi tradition, as a means of reintegrating LRA soldiers into their communities.

Rights describe a portion of the justice that Odama and his colleagues pursued. The LRA in its rebellion violated the Ugandan government's right to exercise authority

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[7] I met with Odama several times between 2012 and 2014. "Q and A on Joseph Kony and the Lord's Resistance Army," *Human Rights Watch*, March 21, 2012, find at https://www.hrw.org/news/2012/03/21/qa-joseph-kony-and-lords-resistance-army#5; "Kony's LRA Has Killed More than 100,000: UN," *Denver Post*, April 29, 2016, find at https://www.denverpost.com/2013/05/20/konys-lra-has-killed-more-than-100000-un/. For figures on abduction, see Pham, Phuong N., Patrick Vinck, and Eric Stover. "The Lord's Resistance Army and Forced Conscription in Northern Uganda." *Human Rights Quarterly* 30, no. 2 (2008): 404–11, find at http://www.jstor.org/stable/20072848. Todd David Whitmore's interview with Odama conveys his views well; see "'My Tribe is Humanity': An Interview with Archbishop John Baptist Odama," the *Journal of Peace and Justice Studies*, 20, No. 2 (2010), 61-75; see also the video, "Uganda: The Challenge of Forgiveness," find at https://www.youtube.com/watch?v=4BOeQyKcbVo.

over the country. While the government had committed serious injustices against the Acholis, the LRA and its cultish leader did not promise remotely a more just alternative. It violated the human rights of Ugandans to life, bodily integrity, free movement, and property, as did the government's army in many instances.

Yet several of the principles that Odama and his fellow religious leaders practiced are ones that do not correspond to a right, that is, are not due to anyone. They did not owe anyone their forays for peace negotiations but practiced peacemaking. Their support for amnesty and opposition to the ICC relinquished the right of retribution in favor of peace, stability, and reconciliation. They did not owe visits to the night commuters but practiced mercy, care, and solidarity in making them. Forgiveness foregoes rights, and reconciliation aims to restore the unity of a community through multiple measures that heal wounds.

Odama looked to the Cross as the pattern for his actions. He spent an entire day every week in the chapel of his residence in Gulu praying before the Eucharist, which Catholics hold to be the bodily presence of Jesus Christ in his act of sacrifice. In the argument at hand, what Odama was gazing upon is justice.

A second portrait is also one of peacebuilding but in a very different time, the period just after World War Two, in a very different setting, Europe, at a different level of politics, among heads of state, and involves a well-known institution but a not-well-known dimension of its founding. In 1951, a coalition of six states, Germany, France, Italy, Belgium, the Netherlands, and Luxembourg, signed the Treaty of Paris, placing their coal and steel industries under a common supranational authority, the European

Coal and Steel Community (ECSC), a federation that grew into the European Community in 1957 and the European Union in 1991 and now consists of 27 states.[8]

Indispensable for founding the federation were four statesmen, Konrad Adenauer, the Federal Republic of Germany's first chancellor, Alcide De Gasperi, Prime Minister of Italy, Jean Monnet, a French civil servant, and Robert Schuman, the Foreign Minister of France. Of these, Schuman's influence was strongest.[9] What drove them?

Interests, political scientists argue. Countering the Soviet Union's expansion, containing Germany, and pursuing economic and commercial growth were the real aims of these officials. Doubtless these interests motivated the founders, but they do not explain the formation of an institution that forfeited the modern state's most precious possession, sovereignty, or the choice to amalgamate coal and steel.[10]

What spurred the founders of the European federation appears vividly in relief against the massive reparations through which France and its allies punished Germany

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[8] The concept of supranational authority, connoting an authority that circumscribes the authority of sovereign states yet does not possess sovereignty itself, is given expression by Robert O. Keohane and Stanley Hoffmann in "Institutional Change in Europe in the 1980s," in *The New European Community: Decisionmaking and Institutional Change*, eds. Robert O. Keohane and Stanley Hoffmann (Westview Press, 1991), 1-39. The authors adopt Robert Schuman's phrase, "pooling" to describe the amalgamation of authority into a federal entity in his seminal statement, the "Schuman Declaration," of May 9, 1950, find at https://european-union.europa.eu/principles-countries-history/history-eu/1945-59/schuman-declaration-may-1950_en.

[9] Margriet Krijtenberg argues that these were the Big Four, the most influential architects, and that Schuman was the most influential among them. See Krijtenburg, *Schuman's Europe: His Frame of Reference* (Leiden University Press, 2012), 134-145.

[10] Countering the Soviets and containing Germany explain the formation of NATO in 1949 but not why these six states placed two industries under a new authority or why they amalgamated economic governance but could not ultimately agree to combine their military forces in the European Defense Community. The six countries signed a treaty on May 27, 1952 to establish a unified defense force, but the French National Assembly voted against ratifying it on August 30, 1954. For major explanations of the origins of the European federation by political scientists, see Craig Parsons, *A Certain Idea of Europe* (Cornell University Press, 2018); Sebastian Rosato, *Europe United: Power Politics and the Making of the European Community*. 1st ed. (Cornell University Press, 2010); Alan S. Milward, *Politics and Economics in the History of the European Union* (Routledge, 2005); and Ernst B. Haas, *Uniting Of Europe: Political, Social, and Economic Forces, 1950-1957* (University of Notre Dame Press, 2020). Andrew Moravcsik, *The Choice for Europe: Social Purpose and State Power from Messina to Maastricht* (Cornell University Press, 1998), is a major theory of European integration but begins its argument in 1955, after the founding had taken place.

at the end of World War One, ignoring Pope Benedict XV's call in 1920 for forgiveness. Five decades after the founding of the ECSC, in June 2004, Cardinal Joseph Ratzinger spoke of the Christian vision of reconciliation that animated the founders. Ratzinger would soon become Pope Benedict XVI and would choose his name partly to honor Pope Benedict XV's witness for peace and reconciliation among European states.[11]

Schuman, Adenauer, and De Gasperi were Catholics steeped in the social doctrine of the Church, especially Schuman.[12] Accordingly, they espoused democracy, human rights, freedom, including religious freedom, the free market, and the independence of sovereign states. These principles did not flout but rather promoted security and economic interests, ends that conformed to the natural law and corresponded to rights. Influential at the time was the Catholic political philosopher, Jacques Maritain, who drew upon natural law to defend these principles and to support European federalism.[13]

The founders' Christian commitments involved more, though: reconciliation, forgiveness, solidarity, and building peace. These principles reflected biblical teachings and did not correspond to rights but rather were open-ended. Animating the founders'

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[11] Benedict XV, *Pacem, Dei Munus Pulcherrimum,* encyclical letter, The Holy See, May 23, 1920, find at https://www.vatican.va/content/benedict-xv/en/encyclicals/documents/hf_ben-xv_enc_23051920_pacem-dei-munus-pulcherrimum.html. Cardinal Joseph Ratzinger delivered his speech of 2004 at a German cemetery near Caen, France which is reprinted as "Acting in the Strength that Comes From Remembrance: The Grace of Reconciliation," in Joseph Cardinal Ratzinger, *Values in a Time of Upheaval*, trans. Brian McNeil (Ignatius Press, 2006), 123-128. On Pope Benedict XVI's choice of his name, see Catholic News Agency, "Pope Tells Why He Chose the Name of Benedict XVI," find at https://www.catholicnewsagency.com/resource/55492/pope-tells-why-he-chose-the-name-of-benedict-xvi.

[12] On Schuman's favor of reconciliation and forgiveness, see Brent F. Nelsen and James L. Guth, *Religion and the Struggle for European Union: Confessional Culture and the Limits of Integration* (Georgetown University Press, 2015), 195-197. Schuman would speak of a cadre of "apostles of reconciliation" working for change in the political realm. The phrase is from 2 Cor 5:20.

[13] See Jacques Maritain, *Man and the State* (The Catholic University of America Press, 1950). Maritain strongly criticized the doctrine of sovereignty in Chapter Two.

idea of pooling sovereignty was their conviction that World War II was the nadir of the sovereign state's dislodgement from Europe's moral unity, which the Peace of Westphalia had consolidated in 1648. Linking the circumscription of sovereignty to peace was the founders' selection of coal and steel: these were the critical industries for making war. Reconciliation and forgiveness, then, would reunite Europe in a peace based on democracy and human rights.[14]

Schuman explicitly "invoked Christian themes of forgiveness and love of enemies," political scientists Brent Nelsen and James Guth attest, quoting Schuman, "[w]e are now holding out our hand to our former enemies, not only to forgive them, but to build tomorrow's Europe together," and noting his desire for a cadre of "apostles of reconciliation." Schuman and Adenauer participated in behind-the-scenes meetings that built personal ties around these ideas among French and German leaders just after World War II. During the same period, Christian Democracy, founded on Catholic principles, established itself as a transnational network of parties and became the strongest supporter of European integration among the elite and the electorate, both in the founding years and over the coming decades.[15]

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[14] When Maritain decried the idolatry of the sovereign state in a lecture in 1949, he repeated Pope Innocent's denunciation of the Peace of Westphalia three centuries earlier in 1648. See Philpott, *Revolutions in Sovereignty,* 87. In the "Schuman Declaration," Schuman sets forth peace as the reason for the ECSC, beginning with the words, "[w]orld peace cannot be safeguarded without the making of creative efforts proportionate to the dangers which threaten it" and goes on to explain, "[t]he pooling of coal and steel production… will change the destinies of those regions which have long been devoted to the manufacture of munitions of war, of which they have been the most constant victims," find at https://european-union.europa.eu/principles-countries-history/history-eu/1945-59/schuman-declaration-may-1950_en.

[15] The phrase "apostles of reconciliation' is from 2 Cor 5:20. Meetings at Caux, Switzerland were sponsored by Moral Re-Armament and ones at Geneva by the Geneva Circle. Pope Pius XII favored integration strongly, viewing it as a reversal of Westphalia, boosting favor for it among European Catholics while refraining from direct political involvement. See Brent F. Nelsen and James L. Guth, *Religion and the Struggle for European Union: Confessional Culture and the Limits of Integration* (Georgetown University Press, 2015), 149-207, and, more specifically, 151-152, 162-163, 195-97.

A third portrait: Numerous churches and Christian organizations work to assist immigrants to the United States, helping them to resettle and to find legal support, medical care, shelter, and other needed goods. They describe their work as following the command of Jesus to welcome the stranger (Matt 25:35). This is the principle of hospitality, which derives from the principle of mercy and is closely related to the duty to care for the poor.

The duty of hospitality is shared by governments and societies, I will argue. Is it a duty that corresponds to the rights of others? In some cases, yes. People who are persecuted in their home countries have a right to asylum, as international law prescribes. Towards the far larger group of economic migrants, seeking relief for their poverty, states' duty of hospitality is what may be called an imperfect duty, meaning that it is open-ended in its discharge, unspecified as to how many and to what extent it is directed. Limiting states' duties to allow immigrants to enter are their duties to control crime, to manage the flow of entry so that it is orderly and humane for their citizens and for their immigrants, and to mitigate demonstrable economic harms to their citizens. Because the magnitude of these factors does not admit of precise judgment, the duty to hospitality is open-ended. Beyond people who have a right to asylum, no strict number of immigrants eligible to enter a country exists. Yet, a society's duty to welcome the stranger persists. It ought to admit as many immigrants as possible consonant with its other duties.

A fourth portrait fixes on humanitarian duties. When people somewhere in the world suffer mass starvation, massacres, or genocide, outside states and organizations ought to come to their assistance. Many Christians view humanitarianism as a duty of mercy, the political enactment of the Good Samaritan's succor. Both military

intervention and the delivery of relief to distressed populations expanded after the end of the Cold War in 1989 though sometimes failed to take place or to be executed successfully. In response to both the expansion and the failure, the United Nations declared the "responsibility to protect" in 2005 and received the support of many Christian leaders, including Pope Benedict XVI, who supported the recovery of moral unity in international relations, that which was lost at Westphalia.[16] As with European federation, sovereignty would be sacrosanct no longer and the authority of the state would be conditional.

To some extent, rights define the justice of humanitarian intervention. Upholding human rights is a prime condition of the state's authority and its failure to uphold them arguably bequeaths other states the right – in the form of the authority – to intervene. Do endangered people carry a right, though, to the intervention of outside states on their behalf? Such a right would mean that anyone who is in grave distress would be entitled to the help of an outside state and that states wrong them by failing to intervene. Intervention is not, in fact, a duty that corresponds to rights. Rights imply that another party has the capacity to fulfill them, not only the resources but also the ability to deploy these resources effectively for an end. The amount of distress in the world, though, is greater than any state or coalition of states can alleviate. Means are limited, especially taking into account obstacles to effect delivery. For instance, the U.N.-approved intervention in Libya in 2011, often considered a test case for the

[16] See "Resolution Adopted by the General Assembly: 2005 World Summit Outcome 60/1," September 16, 2005, paras. 138-139; Benedict XVI, "Address to the United Nations General Assembly," New York, April 18, 2008, https://www.vatican.va/content/benedict-xvi/en/speeches/2008/april/documents/hf_ben-xvi_spe_20080418_un-general-assembly.html; Matt Gobush, "Calling All Christians: The Responsibility to Protect," *Providence Magazine*, April 28, 2016, https://providencemag.com/2016/04/calling-christians-responsibility-to-protect-r2p/.

Responsibility to Protect, overthrew a dictator but gave rise to a civil war and an Islamist militia.

A humanitarian duty of mercy, a responsibility to protect, exists. It is not a duty that corresponds to rights, though, but is open-ended, subject to discretionary judgments about where and how it will take place. States and relief organizations have a duty to develop further their capacities for protection and relief, and one day may do so to the point where receiving such assistance can be a right. As of today, though, the duty is real, but not due.

A final portrait. Western scholars in recent decades have taken up the principle of care, a distinctive expression of mercy that involves an ongoing relationship of dependency. Children, the elderly, the ill, and the disabled are familiar but not the only recipients of care. These scholars view care as a principle that Enlightenment justice sidelined, and thus offer a critique that parallels mine of the justice of due. Leading the call for care have been feminist scholars, who argue that care, nurture, and relationship are distinctively feminine qualities, critical for the common good, and muffled by the (masculine) justice of rights. Christian scholars have joined this critique, rooting care in the Bible and in Christian thought and urging the incorporation of care into reasoning about justice. Upshots for policy include child-care and family leave benefits and reforms to the workplace that allow men and women better to care for their children – ideas that have received support from the left and the right.

These portraits are brief, illustrative, and await moral defense in the chapters that follow. They display the book's aspiration to set forth a concept of justice, one grounded in the Bible and other sources, explain it as a blend of principles that render due and

exceed due and are known naturally and supernaturally, and to develop the implications of these principles for modern political institutions.

The Justice of Right Relationship and Pluralism

What objections is the justice of right relationship, situated in the Bible, prone to encounter? What forms of sympathy? Much depends on the setting in which it is considered. The political setting in which I situate the justice of right relationship is the modern sovereign state, the first form of polity ever to cover the entire land surface of the globe.[17] Sovereign states are diverse, though, in the moral, political, and religious convictions of their people, convictions that combine in what the philosopher Charles Taylor calls the "social imaginary" in his book, *The Secular Age*:

> What I'm trying to get at with this term is something much broader and deeper than the intellectual schemes people may entertain when they think about social reality in a disengaged mode. I am thinking rather of the ways in which they imagine their social existence, how they fit together with others, how things go on between them and their fellows, the expectations which are normally met, and the deeper normative notions and images which underlie these expectations.[18]

The social imaginary of a people will determine how it regards the justice of right relationship. What is the social imaginary within a given sovereign state? Do competing social imaginaries exist within a state? Across states?

Important to a people's social imaginary is its religious makeup. Is it Christian? Muslim? Hindu? What portion of the population is each religion? Are there minorities? Who are they? Still more important for the justice of right relationship are a people's

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[17] Philpott, *Revolutions in Sovereignty*, 28-45.

[18] Charles Taylor, *A Secular Age* (Harvard University Press, 2007), 171. He draws from his previous *Modern Social Imaginaries* (Duke University Press, 2004), 23.

convictions about "the theologico-political problem," to adopt the expression that philosopher Leo Strauss borrowed from philosopher Benedict Spinoza.[19] How ought religious people to engage in political activity and practice political authority? Are the people like the citizens of Uganda whom I interviewed, who readily draw upon their Christian and Muslim faiths to forgive people who committed crimes against them in a civil war?[20] Or are they like the citizens of the United States, who forgive public crimes mainly if they belong to small religious communities such as the Amish? Or are they aggressively secularist, such as the partisans of France's Third Republic or Kemal Ataturk's Turkey? What authority over religion do they ask the state to exercise or to refrain from exercising?

The social imaginary with which the justice of right relationship will most have to contend is the secular. Taylor defines three meanings of the secular in his book of 2007, *A Secular Age*. The first is the decline of religion's influence in political, economic, and cultural spheres. The second is a decline of religious belief and practice in general. Intellectuals in the West in the 1950s and 1960s almost unanimously espoused the secularization thesis, believing that religion was receding in its social influence and was destined to exit the world's stage. *Time Magazine* printed, "Is God Dead?" on its cover in 1966, and sociologist Peter Berger opined in *The New York Times* in 1968 that by "the 21st century, religious believers are likely to be found only in small sects, huddled together to resist a worldwide secular culture." Taylor thinks that neither of these meanings of the secular describe the world well today, although he allows that they fit

[19] Leo Strauss, *Spinoza's Critique of Religion* (University of Chicago Press, 1997), 1.
[20] See *Forgiveness: Unveiling an Asset for Peacebuilding*, Refugee Law Project, 2015, https://www.refugeelawproject.org/files/others/Forgiveness_research_report.pdf.

locales such as Western Europe and "many milieux" in the United States. He echoes the view of scholars who began to observe in the 1990s that religion had not disappeared, including Berger, who humbly concluded in 1998, "the assumption that we live in a secularized world is false. The world today . . . is as furiously religious as it ever was."[21]

Taylor sets forth a third form of the secular that he thinks developed societies today have realized widely. It is a social imaginary in which people do not cease to be religious but rather come to articulate and practice their religion in a distinctly modern way – as if it is "one option among others, and frequently not the easiest to embrace." Because people understand their religion to be only one of many, they disengage from it when they enter the spheres of politics, business, and other endeavors. Let us call this imaginary the secularity of many options. After Berger retracted his prediction of religion's demise in 1998, he, too, proposed that a pluralism much like the secularity of many options described the world better. This imaginary contrasts with, say, archetypical medieval Europe, in which people share a set of unquestioned assumptions that one religion is the underpinning of society, indeed of the universe, and that it pervades every sphere and activity. Taylor describes the pre-modern imaginary as having a "transcendent" frame, a perspective in which God exists and pervades social

[21] Taylor, *A Secular Age*, 1-3; Peter L. Berger, "A Bleak Outlook Is Seen For Religion," *New York Times*, February 25, 1968; Peter L. Berger, "The Desecularization of the World: A Global Overview" in *The Desecularization of the World: Resurgent Religion and World Politics* (Eerdmans, 1999), 2. Monica Duffy Toft, Timothy Samuel Shah and I argued in our 2011 book, *God's Century; Resurgent Religion in Global Politics* (W.W. Norton, 2011), that by the late 1960s, religion's influence on politics had receded far, giving way to secular forms of nationalism, socialism, and democracy, but that religion then began to resurge in every religion and region, a trend that continues through this day. Even so, in more recent times, evidence exists that the decline of religion, at least of organized religion, has resurged in the United States. See, for instance, David E. Campbell, Geoffrey C. Layman and John C. Green, *Secular Surge: A New Fault Line in American Politics* (Cambridge University Press, 2021).

life, and distinguishes it from the modern imaginary, which he terms the "immanent" frame, in which the meaning of life is to be found within the world and not beyond it.[22]

While Taylor argues as a social theorist, putting forth social imaginaries as a description of the world, other thinkers argue for such a secularity in an unabashedly normative sense: It is how they want the world to be. Political philosopher, Mark Lilla, argues starkly in his book of 2007, *The Stillborn God*, that modern liberal democracy, with its separation of church and state, religious toleration, and freedom of conscience, only became possible when politics was separated from "political theology," or divinely grounded political authority. Lilla credits Thomas Hobbes with envisioning this possibility and warns that in the scope of world history, it is rare, fragile, and reversible.[23] Today, the threat to the separation is primarily Islamism, though in the past century, and in some latter-day instantiations, the threat has come from messianic Christianity.

The secularity of many options is also a desideratum, not just a description, in the writings of John Rawls, the most influential political philosopher of the past half-century. In the opening portion of Rawls' book of 1993, *Political Liberalism*, he offers a historical narrative much like that of Lilla. Liberal democracy and its foundational commitment to religious tolerance became possible only in the wake of the religious wars of early modern Europe, when philosophers began to envision a politics not founded on Christian religion. Over the course of his life, Rawls, like many thinkers of the Enlightenment, viewed religion in general, and Christianity in particular, as making

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[22] Taylor, *A Secular Age*, 3, 14-16; Peter L. Berger, *The Many Altars of Modernity: Toward a Paradigm for Religion in a Pluralist Age* (Walter de Gruyter, 2014), 1-17. Berger's pluralist thesis echoes his earlier argument in *The Sacred Canopy: Elements of a Sociological Theory of Religion (*Anchor Books, 1967).
[23] Mark Lilla, *The Stillborn God: Religion, Politics, and the Modern West* (Alfred A. Knopf, 2007).

universal claims that are irresolvable through reason, that depend upon the protection of religious authority, and that require to be spread by their adherents, and thus, when made the basis for politics, bring about violence, tyranny, and intolerance: the Inquisition.[24] Holding that a plurality of religions and of other "comprehensive" conceptions was a permanent feature of modern social life, Rawls adopted as the framing question of *Political Liberalism*, "[h]ow is it possible that there may exist over time a stable and just society of free and equal citizens profoundly divided by reasonable though incompatible religious, philosophical, and moral doctrines?" His answer: When liberal democracy is based on political, not metaphysical, including theological, grounds.[25]

As a depiction of contemporary societies, the secularity of many options holds promise, but as a normative vision it is incompatible with the justice of right relationship. This justice is inescapably universal. It is established and sustained by God, who created and upholds the entire universe. In "taking the form of a slave" (Phil 2:7), dying as a criminal, and rising from the dead, God manifests a new justice that reconfigures the universe. God's eventual restoration of the heavens and earth is justice (2 Pet 3:13). All things in heaven and earth were created and reconciled through Christ, Paul writes in the Book of Colossians (1:16-20). The moral order that God has established is a justice that places a claim upon every person, that every person can

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[24] Christopher J. Eberle compiles quotes from numerous contemporary political philosophers in *Religious Conviction in Liberal Politics* (Cambridge University Press, 2002), 154-155; See also William T. Cavanaugh, *The Myth of Religious Violence: Secular Ideology and the Roots of Modern Conflict* (Oxford University Press, 2009), 15-56.

[25] The quote appears on p. xviii of the "Introduction" of John Rawls, *Political Liberalism: Expanded Edition* (Columbia University Press, 2005), a book first published in 1993. His historical narrative of religion's place in the formation of modern Western politics appears on pp. xxii-xxviii. See also his *Law of Peoples* (Harvard University Press, 1999), 11-23.

apprehend and forms the contours of every person's happiness and flourishing. "The truth is that only in the mystery of the incarnate Word does the mystery of man take on light," states the Second Vatican Council, continuing, "Christ . . . fully reveals man to man himself."[26] Every political order is purposed to uphold and derives the legitimacy of its laws from the same universal justice. This invocation of universality is no more and no less than the doctrine of mainstream and historical Christianity, that of any church that subscribes to the Nicene Creed, and is indispensable to the justice of right relationship.[27]

To secularists of many options, this universalism and its accompanying qualities make Christianity prone to intolerance, illiberalism, and authoritarianism: the Inquisition. The justice of right relationship, and its Christian font, though, offer strong rationales for fundamental features of constitutional liberal democracy. A law-governed universe is the source of the rule of law in the political order. A transcendent moral order underpins limited government and accountability. The person created in the image of God, endowed with free will, intelligence, and a capacity for relationship, is the basis of human dignity and human rights. The free will of every person and the responsibility of each person to find his God-given vocation, undergirds a wide remit of freedom. The internal unity and independent hierarchy of the Christian Church grounds the independence of Church and state in their governance. The truth that Christianity shares with people of other religious faiths makes possible dialogue, cooperation, and

[26] Second Vatican Council, *Gaudium et Spes*, Pastoral Constitution on the Church in the Modern World, The Holy See, December 7, 1965, sec. 22, https://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_const_19651207_gaudium-et-spes_en.html

[27] The Nicene Creed, finalized in 381, is used widely among Christian churches, Catholic, Protestant, and Orthodox, as a statement of belief.

mutual learning. Shared reason and dignity demand the equal citizenship of people of plural religions and ethical convictions.

All of these assertions require elaboration and none are meant to ignore questions about the compatibility of historical antagonism between religion and liberal democracy. They are meant only to broach reasons why Christianity's universalism does not negate freedom, tolerance, and equality, and why religion need not be sidelined, sequestered, truncated, or parsed to be made safe for liberal democratic politics. Christianity, of course, is far from the only doctrine to assert universality. Philosophers from Plato, Aristotle, and Cicero through Kant, Marx, and Mill proposed truths about human beings as such. Even deniers of universality, post-modern thinkers such as Michel Foucault, for instance, cannot escape asserting universals, in Foucault's case, the ubiquity of power-knowledge. The question for a doctrine about justice is not whether it is universal, but rather what it holds to be universal and what this means for principles and politics.

Interlocutors and Sources

Where is the justice of right relationship situated in the landscape of other concepts of justice and their attendant theologies, philosophies, and ideologies? Whom does it agree with, contrast with, borrow from, and build upon? It contrasts most starkly with what I call separation rationales. Consider fundamental tenets of the justice of right relationship: God established, redeemed, and will restore justice; principles of justice are intelligible; and the political order derives from this justice. Rationales for justice that depart from these claims, placing justice and politics on a different foundation, are separation rationales.

Lilla terms Hobbes' break with political theology the Great Separation.[28] Lilla's Hobbes is the quintessential separation rationale both in substance and in the arc of history. Whether Lilla's Hobbes is the true Hobbes is enduringly debatable, though it is scarcely disputable that Hobbes rooted justice and the political order in factors separate from God's moral order, most importantly in a contract by which the members of a collectivity will agree upon a political authority out of their desire for physical security. What is important here is an illustration of a separation rationale.[29]

Rationales for justice have widened in their separation from the tenets of the justice of right relationship since Hobbes, especially in the West. Karl Marx's argument that ideas of justice are superstructures emanating from the reality of material interests and class structure is such a rationale. Power-knowledge in the thought of Foucault is such a rationale. Self-expressive individualism, holding that justice is a matter of protecting each person's space for defining himself and his ends according to his desires, apart from principles known by reason, is another such rationale.[30]

The book is not structured as a debate with separation rationales, but rather focuses on developing the rationale for the justice of right relationship. It rather alludes to, and sometimes considers in greater depth, such rationales in places where their relevance and variance is sharp. These rationales contrast with the justice of right relationship with respect to both of its component obligations, those that correspond

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[28] Lilla, *The Stillborn God*, 58.

[29] An excellent account of separation rationales in modernity can be found in Rémi Brague, *The Kingdom of Man: Genesis and the Failure of the Modern Project* (University of Notre Dame Press, 2018), where Brague argues that mastery over nature and an emancipation by which humans seek to invent the world by their own wills apart from God are each themes that characterize modern humanity.

[30] For a description of expressive individualism, see O. Carter Snead, *What It Means to Be Human: The Case for the Body in Public Bioethics* (Harvard University Press, 2020), 73-86; Carl R. Trueman, *The Rise and Triumph of the Modern Self* (Crossway, 2020).

with what is due and those that exceed due. Some hold on to rights but defend them on grounds separate from the principles that make up natural law, God's moral order. Wide in modern political thought is the sequestration of beyond-due principles such as mercy, hospitality, care, gift, forgiveness, and reconciliation from justice and from public life.[31] One of the book's main goals is to reincorporate these principles into justice and public life.

Political thought since Hobbes is neither unidirectional nor total in its widening separation. Christian thinkers have continued to reason about justice consistently with traditional Christian tenets. The justice of right relationship draws from, departs from, and builds upon schools of Christian political thought prominent in the past century. My argument is indebted to the revival of the natural law ethics of Thomas Aquinas that took place after World War II and continues through this day.[32] From natural law, these thinkers derive natural rights, which I affirm and whose rejection by many Christian theorists I contest.[33] Yet, following Aquinas's dictum that grace builds upon nature, I embrace the supernatural turn in Catholic political thought following the Second

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[31] On mercy, see Alex Tuckness and John M. Parrish, *The Decline of Mercy in Public Life* (Cambridge, 2014); on hospitality, see Christine Pohl, *Making Room: Rediscovering Hospitality as a Christian Tradition* (Eerdmans, 1999); on care, see Joan Tronto, *Moral Boundaries: A Political Argument for an Ethic of Care* (Routledge, 1993); on gift, see John M.G. Barclay, *Paul & The Gift* (Eerdmans, 2015); on reconciliation, see John W. De Gruchy, *Reconciliation: Restoring Justice* (Fortress Press, 2002).

[32] After World War II, several scholars emerged to defend natural rights and constitutional liberal democracy on the basis of natural law, drawing on the thought of Thomas Aquinas. These include Jacques Maritain, Heinrich Rommen, Yves Simon, and John Courtney Murray. In the past generation, other scholars have taken up this approach, including John Finnis, Robert George, Russell Hittinger, Jean Porter, Thomas J. Bushlack, Martin Rhonheimer, and J. Brian Benestad. These commitments find a strong place in the social encyclicals of popes since Pius XII (1939-1958). They also play a strong role in the thought of certain Protestant political thinkers such as David van Drunen; Paul Ramsey; Bryan McGraw, Jesse Couenhoven, and Micah Watson; and scholars in the Dutch Reformed tradition of political thought following in the work of Abraham Kuyper, who speak more readily of "common grace," which is resonant with natural law, for instance, the work of Jonathan Chaplin and Matthew Kaemingk.

[33] Christian thinkers who express strong skepticism of natural rights include Nigel Biggar, Ernest Fortin, Stanley Hauerwas, Richard Hays, Alasdair MacIntyre, John Milbank, Oliver O'Donovan, Joan Lockwood O'Donovan, Michel Villey, and Simone Weil, most of whom regard rights as assertions of the will, possessive, and individualistic in contradiction to the divine moral order and natural law.

Vatican Council, which called for a greater incorporation of the Bible and of Jesus Christ into moral theology. I turn to Pope St. John Paul II as an exemplar of this turn in his incorporation of mercy, gift, forgiveness, and Cross and Resurrection into the political realm, and profit from Protestant thought on these concepts.[34]

Yet, I demur from political theology that prescinds from natural law as it turns to the Cross, Christian community, and the Bible.[35] I also dissent from schools of thought that pose a disjuncture between the full Christian Gospel and political action. One of these is Christian radicalism, which regards politics (and economics) as largely incompatible with the Christian gospel and calls Christians to look askance upon politics.[36] The other is Christian Realism, which posits a similar incompatibility but calls Christians to opt for politics.[37] The justice of right relationship is a synthesis, one that characteristically commends the whole set of principles that make up human justice, derived from divine justice, as criteria and ends of action in the political realm.

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[34] The writing of John Paul II that I take to be his strongest expression of the supernatural turn in Christian ethics is John Paul II, *Dives in Misericordia*, encyclical letter, The Holy See, November 30, 1980, https://www.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf_jp-ii_enc_30111980_dives-in-misericordia.html; see Alessandro Rovati, "Mercy is a Person: Pope Francis and the Christological Turn in Moral Theology," *Journal of Moral Theology* 6, no. 2 (2017): 48-69. The Catholic Church called for a greater role for the Bible in moral theology in Pope Paul VI, *Optatum Totius*, Decree on Priestly Training, The Holy See, October 28, 1965, sec. 16, https://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_decree_19651028_optatam-totius_en.html; see also Pontifical Bible Commission, *The Bible and Morality: Biblical Roots of Christian Conduct*, March 11, 2008, https://www.vatican.va/roman_curia/congregations/cfaith/pcb_documents/rc_con_cfaith_doc_20080511_bibbia-e-morale_en.html. The Bible is commonly a source of ethics in Protestant thought, see for instance, that of Nicholas Wolterstorff; Oliver O'Donovan; N.T. Wright; Michael F. Bird; Miroslav Volf; and Luke Bretherton; Abraham Kuyper and the Dutch Reformed tradition.

[35] Christian ethicists who draw from the Bible while abjuring natural law as a source of ethics include John Howard Yoder, Richard Hays, and Stanley Hauerwas.

[36] These are covered in Chapter Sixteen and include John Howard Yoder, Richard Hays, Stanley Hauerwas, and William Cavanaugh.

[37] This view is covered in Chapter Fifteen and its paterfamilias is Reinhold Niebuhr.

The book's chief source is the Bible, understood as God's communication of his message of salvation to humanity. The book resists, though, placing the Bible on the side of revelation in a dichotomy with reason. Reason and its exercise through philosophy describe the intelligibility of much that the Bible communicates, including principles of human action – the Ten Commandments, for instance. God's revelation and the reason that God implanted in humans, in fact, stand prior to the Bible as sources. The Bible is God's communication of them.[38] The book also turns to thinkers who have helped us understand reason and revelation, more than any other, Thomas Aquinas. The argument, though, does not purport to be Thomist; it does not aspire to be an interpretation of his thought or to adopt his thought as its criterion. Nor does it revolve around any other single thinker. Its search for justice relies upon the wisdom of many.

Whose Christianity, though? In several places, I adopt interpretations of issues that Christians have disputed for centuries, but whose definitive resolution is not in the book's scope. For instance, I interpret the Apostle Paul's concept of justification as involving an actual restoration of relationship and not solely the cancelation of sin, and thus to be equivalent to the justice that restores right relationship. On this and other matters, I turn to the magisterial teaching of the Catholic Church as source and umpire.[39] Still, I seek to explain my choices and cast my arguments as widely as possible, relying also on Protestant and Orthodox sources and hoping to contribute to unity among Christians.

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[38] On the Bible's inspiration and authority, I follow Pope Paul VI, *Dei Verbum,* Dogmatic Constitution on Divine Revelation, November 18, 1965, https://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_const_19651118_dei-verbum_en.html.

[39] The best summary of magisterial teaching is John Paul II, *The Catechism of the Catholic Church*, 2nd ed., (United States Catholic Conference, 1994). The question of justification and the potential for common ground among Catholics and Protestants is explored in Chapter Three.

But why Christianity? The argument assumes several Christian tenets and doctrines even beyond its positions on intra-Christian disputes. Like many a mountaineer, I begin my ascent from a base camp perched part way up the mountain. That is, I presuppose that the agent and actions of divine justice are realities – that God exists, that God possesses the qualities and attributes that the Bible depicts and that historic Christianity affirms, that God created the universe and established its moral order, became man, died, and rose from death, and eventually will restore right relationship in the universe, and that the Bible is God's communication to humanity. From this base camp, I reason upwards about justice and politics.

With respect to other doctrines in my argument, though, especially the principles of human justice, the commandments that humans are asked to perform, I descend from base camp and make the case for the principles from the ground up, that is, beginning with undeniable or axiomatic truths. While I ever maintain that human justice is established by divine justice, human justice can also be known by unaided reason. I outline a ground-up account of the principles of human justice in Chapter Eight.

To my strategy of ascent, readers will respond differently. Ones who accept the claims of divine justice may take up the book unreservedly as a Christian account of justice. Readers who do not accept these claims, though, also have reasons to be interested in the book's argument. In the preceding prolegomenon, I offer six such reasons and invite a conversation.

Roadmap

Part One, “Rethinking Justice,” is devoted to the meaning of justice. It only alludes to politics. Chapter Two argues that justice in the Bible means comprehensive right relationship and identifies four kinds of this justice arrayed by a distinction between divine justice, that which God performs, and human justice, that which persons are commanded to perform, and by a distinction between primary justice, which prescribes right action, and rectifying justice, which responds to past wrongs. It offers a brief historical account of how the Bible’s justice has been overswept. Chapter Three maps divine justice in the Bible, that which God performs. Chapter Four is on human justice in the Bible, that which humans are commanded to perform. Chapter Five proposes and probes the distinction between obligations that correspond to what is due and obligations that do not so correspond. Chapter Six returns to the Bible and argues that its divine justice blends both sorts of obligations. Chapter Seven does the same for human justice in the Bible. Chapter Eight outlines an account of how human justice is justified, showing that some obligations, those of the natural law, are grasped by reason alone, and that other obligations are known by reason yet are binding because God decrees them, authorizing them supernaturally. They are determinations, or specifications, of more general principles.

Part Two turns to politics. Chapter Nine argues that political institutions, laws, and policies are a subset of, and find their purpose and justification in, the justice of right relationship. Chapters Ten through Twelve focus on the beyond-due and supernaturally authorized obligations – mercy, care, generosity, hospitality, friendship, war, non-violence, restorative punishment, love for enemies, forgiveness, and reconciliation – which have received far less attention than rights in thought about justice. I explore their meaning, their relationship to rights, and how they extend

beyond rights, and exemplify how they might be enacted. Chapter Ten explores these obligations in the form of primary justice, and Chapters Eleven and Twelve follow in the form of rectifying justice.

The chapters in Part Three are a series of dialogues with schools of thought. Each chapter responds to a form of skepticism of the justice of right relationship, and, through this response, elaborates an aspect of this justice and its meaning for politics. Chapter Thirteen takes up liberalism, many of whose contemporary voices question the compatibility of religion with free institutions and civil discourse. I will argue that the justice of right relationship can support rights, freedoms, and limited government, as I adumbrated above; that this justice can be advocated respectfully to people of diverse religious and philosophical views; and that government legitimately promotes virtue in its citizens, though within limits. Chapters Fourteen and Fifteen defend the justice of right relationship against the two "disjuncture" views that I mention above, Christian Realism and Christian Radicalism, and take up what each view rightfully calls for, namely the proper role of prudence and a recognition of the potential costliness of the pursuit of justice in politics. Chapter Sixteen considers views that may be loosely bundled as liberation theologies, which stress the magnitude of structures of injustice and call for liberation from them. The justice of right relationship accepts that injustice takes the form of structures while appealing to its principles, goods, and virtues in identifying and responding to the injustices.

What politics does the book yield? Not one of policies, proposals, or party platforms, but rather of principles that, when gathered, etch the contours of the fulfillment and renewal of a just political order.

Part One Retrieving Justice

Chapter Two: Defining and Translating Justice

The wideness in God's justice may well elude readers of the Bible, especially of most English translations, which partially conceal justice. Biblical justice is wide in two senses. First, justice is frequent and important – and thus prominent – in the Bible's message of salvation. Second, this justice is wide in its definition. It means comprehensive right relationship and comprises divine action and the totality of principles that govern human actions. It is wider than the justice of rendering due, and this wideness tenders medicine for life and politics.

Launching Part One, this chapter begins with a definition of the justice of right relationship, which anchors the rest of the book. It proceeds by locating justice in the Bible, arguing that certain pervasive terms denote comprehensive right relationship and that the English word justice is warranted in translating them. It then aims to show that the justice of rendering due has overswept biblical justice over many centuries. The justice of right relationship, then, is a concept to be uncovered, retrieved, renewed, and, all told, resurrected.

The Justice of Right Relationship

The justice of right relationship comprises the totality of actions that aim to bring about well-ordered relationship in conformity to true principles. It consists of divine justice, the actions by which God brings about right relationship with humans, and of human justice, the acts by which humans realize right relationship along three dimensions: with God, with other human persons, and within the human person. The

justice of right relationship is comprehensive in the actions and the dimensions of right relationship that it encompasses.[1]

This definition launches the argument. Two aspects merit treatment here at the outset, action and right relationship. Central is action; it is the entity that makes up justice. Action is an exercise of free will, oriented towards an end, involving a reason, and adopting a means. The scriptures describe actions of God as justice. It is through action that human persons realize – promote, refrain from violating – right relationship in all three of its dimensions. It is also through action that God draws people into right relationship with himself, that people grow closer to or separated from God and from one another, and that people order their selves.

The actions that make up the justice of right relationship are ones that conform to principles, rules that prescribe and prohibit actions. We will see in the next section that justice in the Bible is the totality of principles, which also take the name of ways, commandments, ordinances, precepts, and other terms. We will see in the chapters ahead that justice includes a remarkably wide array of actions, indeed all actions that conform to principles.[2] While principles familiarly govern human action, the Bible also

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[1] Three notes on usage. First, the justice that I defend is the justice of comprehensive right relationship, but I use the phrase justice of right relationship for short. Second, throughout this book, I variously use the terms humans, human beings, persons, people, we, us, and ours. They are interchangeable, referring to human beings *per se* and all human beings. I make no distinction between a human being and a human person. All human beings have personal qualities, most importantly, reason and will, even if these capacities are undeveloped or impaired. Not all persons are human beings, though. God and angels are persons. Third, I use the terms action and act interchangeably and synonymously throughout the text. I vary them according to linguistic context – what sounds right, what avoids awkwardness. There is a case for distinguishing act, which involves deliberate choice and is what I have in mind here, from action, which can imply movement but not a deliberate choice, as in the blinking of an eye or digestion. In this book, though, I use both words to mean a deliberate choice.

[2] In the Bible, this becomes clear when we realize that justice is the equivalent of love insofar as love means willing the good of another or oneself. When Jesus teaches that the greatest commandment is to love the Lord and to love one's neighbor as oneself, he is teaching a principle that enfolds all right action. See the discussion in Chapter Four.

describes God's actions as taking the form of principles such as mercy, love, anger, punishment, forgiveness, and care, and, in a general sense, as amounting to justice. To say that justice consists of principles is none other than to say that justice consists of actions.

Philosophers have proposed other entities as the core quality of justice – a virtue, a state of affairs, or the character of a person, organization, or society. All of these entities in their own way describe justice but all presuppose action governed by principles. Virtue is a disposition, and dispositions make up character. But dispositions towards what? Right action. A person with the virtue of courage, for instance, is one who is prepared to act rightly despite obstacles. Rightly is crucial. A mafia hit man takes a risk but is not courageous because his action is wrong, and its wrongness makes it unjust. Rosa Parks, the civil rights activist, by contrast, was courageous when she refused to vacate her seat on segregated bus. Virtue presupposes principled action.[3] Likewise, a just person, a person with a just character, is one who habitually acts justly. The Gospel of Luke (1:6) describes Zechariah and Elizabeth as *dikaioi*, or just, because they "[observed] all the commandments and ordinances of the Lord blamelessly." Similarly, a just society is one patterned by its citizens' and officials' right behavior. A just distribution of wealth is one that consists of people distributing wealth rightly and so on. In the concept of justice, principled action is the axis around which other entities are arrayed.

[3] Aristotle and Thomas Aquinas each argue clearly that courage is a virtue disposed to right action. See Aristotle, *Nichomachean Ethics*, trans. Robert C. Bartlett and Susan D. Collins (University of Chicago Press, 2011), 56; Aquinas, ST II-II, q. 123, a. 1.

What is right relationship? Relationship involves action and always involves more than one entity. It is any mutual action for a common purpose between human persons or human persons and God, or action that aims to integrate the parts of the self. Relationship between persons may be as short-lived as the purchase of groceries at a check-out counter, or as enduring and intensive as friendship and marriage. In the political realm, relationship is enacted in a town hall meeting, an officer's order to a soldier, an organized protest movement, or an official's embezzlement of funds with the help of his subordinates. Relationship can be networked widely among the members of a political society, as in a national election, the levying and payment of taxes, or mobilization for fighting World War II. Relationship between human persons and God also involves mutual activity: prayer, worship, repentance, and directing deeds to God on the part of humans; imparting grace, bestowing blessings, answering prayer, forgiving, and punishing on the part of God.[4] Relationship within the parts of the self, the third dimension, involves more particularly the relationship between reasons and inclinations and between judgments and actions – are they integrated or disintegrated? Relationship becomes right relationship when a right ordering between human persons and God, between humans, and in the parts of the self is brought about by actions in conformity to true principles. The customer at the checkout counter pays the correct amount for her groceries, she receives them properly bagged, and she and the cashier exchange pleasantries; the government official handles funds honestly and fairly; and so on, for every kind of interaction. Right relationship is the object of just action.

[4] I explore the good of religion, arguing that it is a form of right relationship constituted by actions, that it is an intrinsic good, and that it begets other goods in Daniel Philpott, "Why Religious Freedom Is A Human Right," *American Journal of Jurisprudence* 68, no. 3 (2023): 177-194.

Why is right relationship good? Both because it is intrinsically good and because it brings about other goods. To preview Chapter Eight, people pursue some goods as instruments to other goods and others as forms of intrinsic fulfillment, or basic goods. Among the basic goods are life, health, knowledge, aesthetic appreciation, play, work, and certain forms of harmony: harmony within the self; harmony between persons; and, harmony between a human being and a superhuman power, or religion. The last three of these basic goods, the harmonies, are forms of right relationship that correspond to the three dimensions of right relationship that I have identified – between human persons and God, between human persons, and within the parts of the self. All are intrinsically valuable. Friendship with God, realized fully in eternal union, is the chief goal of the Christian life. Between persons, intrinsic goodness is found in any kind of rightly ordered mutual activity, even the purchase of groceries, but is more familiar and apparent in friendship, an enduring commitment to will the good of one another, often through cooperative activity, that is more than the sum of each individual's activities even while each person experiences it as a good. Relationship is likewise intrinsically valuable in groups – families, businesses, neighborhoods, religious communities, and many other organizations, including political communities, whose collaboration may be called civic friendship. Intrinsically valuable, too, is a rightly ordered self, in which reason is integrated with emotions and judgment with actions.[5]

[5] These ideas receive elaboration in Chapters Eight. Goods are found in many theories of moral and political philosophy, including the openings words and paragraphs of Aristotle's *Nichomachean Ethics*. As I will explain, I rely especially strongly on the "New Natural Law" theory, originating in the thought of Germain Grisez. The list of basic goods here, along with the distinction between the goods that involve harmonies, which he calls "reflexive" goods, and the other goods, which he calls "existential" goods, are drawn from Grisez. See Germain Grisez, *The Way of the Lord Jesus, Vol 1: Christian Moral Principles* (Franciscan Herald Press, 1983),115-140.

Right relationship is not only intrinsically valuable but also begets other goods. The first dimension, right relationship with God, yields peace, comfort in suffering, friendship and community with other persons, and the many goods that God bestows in answer to prayer. Right relationship between persons, the second dimension, yields goods as well. Two friends play tennis, an activity through which they experience the intrinsic goods of friendship and play and the resulting fruit of health. My acquisition of the good of knowledge as a student and eventually a professor has depended upon my parents, teachers, the people who built, administer, and clean my schools, the authors and producers of books, and myriad other people and networks of people. Cooperation in the political realm is not only a form of friendship in itself but also yields a vast array of goods, ones that are both basic and instrumental to other goods, including security, prosperity, health, parks to experience natural beauty, and the traffic system. No man is an island in his realization of goods. The third dimension, a rightly ordered self, is an intrinsic good and also yields peace, health, and all the benefits of virtue.[6]

This definition and these distinctions help to situate the justice of right relationship in long controversies among philosophers and theologians over person and relationality. To hold that relationship in its three dimensions is an intrinsic good is to hold that persons realize their fulfillment through interaction with others and integration of the self. Other goods, which persons experience as individuals and are not constituted by relationship, nevertheless result from interaction with others. Even so, this justice recognizes the irreducible dignity and proper freedom of individual persons,

[6] On the relationship between goods that are harmonies and other goods, see Germain Grisez, *The Way of the Lord Jesus, Vol 1: Christian Moral Principles*.

who are not swallowed up, dissolved, or smothered in friendship with others, participation in the common good, and union with God.[7]

Does such a rendering of right relationship omit any important dimension of relationship? The natural environment? Non-human animals? Human actions towards a separate entity that does not possess free will and intelligence are not, in the core sense of the term, right relationship. Humane treatment of animals and care for the natural environment (which Chapter Ten discusses), while both morally important, may be integrated into the three dimensions of right relationship. Preserving the natural environment, for instance, is a matter of persons being faithful to the God who created the earth, endowed it with goodness and beauty, and bequeathed human beings stewardship over it; and of human beings mutually sustaining a gift on which they depend for their welfare; and of humans attaining virtue in exercising this care.[8]

Equipped with these concepts, action and right relationship, the argument for the justice of right relationship may begin. It is the justice of the Bible, which depicts the principles that govern and promote it, the goods that it yields, the contours of its three dimensions, and its participants, God and human persons. Where is justice found in the Bible? The argument begins with translation.

Not Just Any Word

[7] The literature on personalism stresses this balance, namely that persons are fulfilled in their involvement in the common good but that their personal identity is not swallowed up and retains its integrity. For an excellent introduction to personalism, see Thomas D. Williams, *Who is My Neighbor? Personalism and the Foundation of Human Rights* (Catholic University of America Press, 2005).

[8] With respect to the natural environment, I do not deny that human beings are part of an ecosystem in which they stand in relationship as a part to a whole. As I use the term relationship here, though, its constituent entities are acting persons.

Justice is one of many words in the Bible but not just any word. I shall argue that this English word rightly translates certain Hebrew and Greek words in the Bible that occur many times and that carry a grand meaning, comprehensive right relationship.

The argument involves two steps of translation. The first is fixing the meaning of Hebrew and Greek words in the Bible that stand as candidates for being translated as justice. The second is demonstrating that justice soundly translates these words into English. The origin language and the destination language correspond to separate tasks in the craft of translation.

Certain words in the Bible mean comprehensive right relationship. The most important of these in the Old Testament are the Hebrew terms, *tsedeq*, and its feminine form, *tsedeqah*. These words pervade the Bible. Words with the root *sdq*- occur 523 times, *tsedeq* 119 times, and *tsedeqah* 157 times, with more than two-thirds of all *sdq*-words concentrated in Psalms, Proverbs, Isaiah, and Ezekiel.[9]

Across all of these occurrences, can it really be said that *tsedeq(ah)* carries a single, unified meaning? True, a multitude of senses exist. Bible scholar J.J. Scullion summarizes the meanings that scholars have espied in *tsedeq(ah)*: health of soul, community loyalty, order in the community, world order, cosmic order, God's acts, God's loyalty to his covenant, justice, God's judgment, God's saving action, God's rescue of individuals in distress, and God's saving action towards the poor, as well as others.[10] Yet, neither these many senses, nor the fact that scholars dispute whether some of them accurately describe *tsedeq(ah)*, preclude a more general unifying meaning.

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[9] K. Koch, "*sdq*," in *Theological Lexicon of the Old Testament*, vol. 2, eds. Ernst Jenni and Claus Westermann, trans. Mark E. Biddle (Hendrickson Publishers, 1997), 1048-1049. Herein, *tsedeq(ah)* means either *tsedeq* or *tsedeqah*.

[10] J.J. Scullion, "Righteousness (OT)," in *The Anchor Bible Dictionary*, ed. David Noel Freedman, vol. 5 (Doubleday, 1992), 726.

Comprehensive right relationship is such a general meaning, I argue, of which virtually every appearance of *tsedeq(ah)* in the scriptures is an instance.

Consider the following verses from the New American Bible, all of which contain a translation of *tsedeq(ah)*.[11]

1) Deuteronomy 6:24-25: Therefore, the Lord commanded us to observe all these statutes in fear of the Lord, our God, that we may always have as prosperous and happy a life as we have today; and our justice (*tsedeqah*) before the Lord, our God, is to consist in carefully observing all these commandments he has enjoined on us.

2) Deuteronomy 16:20: Justice (*tsedeq*) and justice (*tsedeq*) alone shall be your aim, that you may have life and may possess the land which the Lord, your God, is giving you.

3) 1 Kings 10:9: In his enduring love for Israel, the Lord has made you king to carry out judgment and justice (*tsedeqah*).

4) Psalm 7:18: I praise the justice (*tsedeq*) of the Lord; I celebrate the name of the Lord Most High.

5) Psalm 18:25: So the Lord rewarded my righteousness (*tsedeq)*, the cleanness of my hands in his sight.

6) Psalm 71:2: In your justice (*tsedeqah*) rescue and deliver me; listen to me and save me!

7) Proverbs 11:6: The virtue (*tsedeqah*) of the upright saves them, but the faithless are caught in their own intrigue.

8) Isaiah 32:16-17: Right will dwell in the desert and justice (*tsedeqah*) abide in the orchard. Justice (*tsedeqah*) will bring about peace; right (*tsedeqah*) will produce calm and security.

9) Isaiah 45:8: Let justice (*tsedeq*) descend, O heavens, like dew from above, like gentle rain let the skies drop it down. Let the earth open and salvation bud forth; let justice (*tsedeqah*) also spring up! I, the Lord, have created this.

[11] Quotations from the Bible in this book are taken from the New American Bible translation, specifically, *The Catholic Study Bible* (Oxford University Press, 1990), unless otherwise noted. At times, I adopt other translations of verses in order to emphasize a point about their meaning.

In a couple of these verses, *tsedeq(ah)* is rendered as righteousness (5) and virtue (7), showing the choices that translators sometimes make. The important point about all these verses is what *tsedeq(ah)* means in them. In each of these verses, it means the totality of good acts that God performs or that human beings are to perform. In six of them (1, 2, 3, 5, 7, and 8), it is the good acts of human beings – Israelites or simply followers of God – to which the verse refers. The surrounding text in the books from which these verses are drawn, Deuteronomy, 1 Kings, Psalms, Proverbs, and Isaiah, make clear that good acts are ones that conform to God's commandments or precepts – all of them, in their entirety. In the third verse, from 1 Kings, it is the king who would execute *tsedeq*, meaning the commandments of God. In the fourth verse, drawn from Psalms, *tsedeq(ah)* refers to acts of God in their general sense, ones that conform to God's character. In the sixth and ninth verses, drawn from Psalms and Isaiah, *tsedeq(ah)* refers to the acts through which God saves his people after they have fallen into distress – a comprehensive restoration of right relationship. Action varies across these verses in certain respects, sometimes performed by God, sometimes by humans, sometimes involving right behavior in general, other times performing repair after wrong behavior. In all cases, and in virtually every instance of *tsedeq(ah)* in the Old Testament, the term refers to the right acts that God or humans perform in a general, comprehensive, sense.[12]

Testifying to the generality of *tsedeq(ah)* and to its pivotal importance in the Old Testament, is the renowned Old Testament scholar Gerhard von Rad:

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[12] To be sure, in certain instances *tsedeq(ah)* means something far more specific such as acts towards the poor, religious rituals, or a king's military commands. These usages are not different from the more general concept but rather instances of it. To say that Emily performed justice in paying back Susan refers to an instance of the general concept of justice, one that gives more specific meaning to that concept, but that does not negate the concept's generality. The same is true with usages of *tsedeq(ah)* in the Bible.

> There is absolutely no concept in the Old Testament with so central a significance for all the relationships of human life as that of [*tsedeq*]. It is the standard not only for man's relationship to God, but also for his relationships to his fellows, reaching right down to the most petty wranglings – indeed, it is even the standard for man's relationship to the animals and to his natural environment. [*Tsedeq*] can be described without more ado as the highest value in life, that upon which all life rests when it is properly ordered.[13]

Bible scholar Elizabeth Achtemeier argues similarly, employing the English word righteousness to refer to *tsedeq(ah)* in the scriptures:

> [R]ighteousness is in the OT the fulfillment of the demands of a relationship, whether that relationship be with men or with God. Each man is set within a multitude of relationships: king with people, judge with complainants, priests with worshipers, common man with family, tribesman with community, community with resident alien and poor, all with God. And each of these relationships brings with it specific demands, the fulfillment of which constitutes righteousness . . .. When God or man fulfils the conditions imposed upon him by a relationship, he is, in OT terms, righteous.[14]

Old Testament scholar Rolf Knierim thinks much the same, employing the English word justice:

> The concern for justice pervades the entire Old Testament. It is found in the historical, legal, prophetic, and wisdom literature, and in the psalms as well. It is found throughout the entire history of the Old Testament literature . . .. The evidence shows that the concern for justice was one, if not the central, factor by which ancient Israel's multifaceted societal life was united throughout its historical changes. This unity was decisively reinforced as well as molded by Israel's Yahwistic formation of monotheism in which concern for justice was even more fundamental . . .. [No] sphere of Israel's life was exempt from the concern for justice, and Yahweh was known to be at work in all its spheres . . .. [T]he all-pervasive

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[13] Gerhard von Rad, *Old Testament Theology,* vol.1, trans. D.M.G. Stalker (Harper and Row, 1962) 370. The terms in brackets substitute the transliterated form of terms that von Rad writes in Hebrew script.
[14] Elizabeth Achtemeier, "Righteousness in the OT," in *The Interpreter's Dictionary of the Bible*, ed. G.A. Buttrick, vol. 4 (Abingdon, 1962), 80.

> concern for justice indicates that the Old Testament has laid down a basic criterion against which everything it says must be evaluated.[15]

Tsedeq(ah) is pervasive in the Bible and comprehensive in its meaning.

Is there a word in the New Testament that means what *tsedeq(ah)* means in the Old Testament? Yes, and the evidence for this meaning is fortified by the Septuagint, a translation of the Hebrew Bible into Greek and the oldest translation of the Bible into any language. The story goes that in the third century BCE, an Egyptian King, Ptolemy Philadelphius, commissioned seventy-two translators from Jerusalem, six drawn from each of the twelve tribes of Israel, to translate the Pentateuch, or the first five books of the Bible, into Greek. Over the next century or so, scholars translated the rest of the Hebrew Bible into Greek, resulting in the Septuagint, a word meaning "seventy" (a rounding down of the original seventy-two translators). The Septuagint was a prime source for the authors of the New Testament, all of whose books are composed in Greek. In drawing terms from the Septuagint for their writings, these authors established a profound continuity of meaning from the Old Testament to the teachings of Jesus and Paul and the life of the early Church.

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[15] Rolf Knierim, *The Task of Old Testament Theology: Method and Cases* (Eerdmans, 1995), 88. Similar statements on the sweeping importance of *tsedeqah*, understanding it to be related to justice, can be found in; John R. Donahue, "Biblical Perspectives on Justice," in *The Faith That Does Justice: Examining the Christian Sources for Social Change*, ed. John C. Haughey (Paulist Press, 1977), 68; and Scott McKnight, *A Community Called Atonement* (Abingdon Press, 2007), 127; Walter Brueggemann, *Old Testament: Testimony, Dispute, Advocacy* (1997), 421-425; and Christopher J.H. Wright, *Old Testament Ethics for the People of God (Inter*Varsity Press, 2004), 253-280. See also Bible scholar Carroll Stuhlmueller's introduction to Isaiah in the Catholic Study Bible, where he writes, "[b]iblical justice is much more than giving individuals their due, whether it be wages for work, punishment for evil doing, or respect for human rights. Because biblical people felt strongly bonded in blood and treaty, justice primarily safeguarded relationships in the extended family, tribe and nation." See *The Catholic Study Bible* (Oxford University Press, 1990), RG 299.

In composing the Septuagint, scholars turned to the family of Greek words beginning with the *dik-* stem to translate 90% of instances of *tsedeq(ah)*.[16] Several words with the *dik-* stem appear often in the New Testament, most commonly *dikaiosune*, which shows up 92 times.[17] As is true for *tsedeq(ah)* in the Old Testament, *dikaiosune* is central in importance and comprehensive in meaning, denoting both divine agency, that is, God's saving acts, as well as human agency, the entire range of acts that Jesus teaches humans to perform. It occurs thickly in the Sermon on the Mount in the Gospel of Matthew, which the tradition, including Augustine and Thomas Aquinas, has looked upon as a summation of the New Law, promulgated from a mountain by the New Moses.[18] Theologian Servais Pinckaers calls the Sermon on the Mount "the new justice," using justice to mean the entirety of the Sermon's precepts. Bible scholar Jonathan Pennington writes that in the Sermon on the Mount, *dik-* words are "an umbrella concept that envisages what Jesus expects of his disciples so that they may enter the kingdom of heaven" and identifies *dikaiosune* as one of the two main ideas in the sermon (along with the Kingdom of God), meaning "whole-person behavior

[16] Christopher D. Marshall, *Beyond Retribution: A New Testament Vision For Justice, Crime and Punishment* (Eerdmans, 2001), 47.
[17] John Reumann, "Righteousness (NT)," in *Anchor Bible Dictionary*, Vol. 5, ed. David Noel Freeman (Doubleday, 1992), 747; see also Benno Przybylski, *Righteousness in Matthew and his World of Thought* (Cambridge University Press, 1980), 77-104.
[18] Servais Pinckaers, *The Sources of Christian Ethics*, trans. Sr. Mary Thomas Noble, O.P. (Catholic University of America, 1995), 143; Thomas Weinandy, *Jesus Becoming Jesus: A Theological Interpretation of the Synoptic Gospels* (The Catholic University of America Press, 2018), 146. On the Sermon on the Mount as a summation of the New Law, see also *The Catechism of the Catholic Church*, no. 1965.

that accords with God's nature, will, and coming kingdom."[19] An even larger concentration of *dikaiosune* is found in the Letter to the Romans, where Paul sometimes uses the term to mean right human acts but also writes of *dikaiosune theou*, by which he means the acts through which God restores right relationship with and among humans. *Dikaiosune* carries forth and develops the meaning of *tsedeq(ah)*.

While *tsedeq(ah)* and *dikaiosune* are the most important terms that mean comprehensive right relationship in the Bible, other terms are significant, too. These terms' corresponding adjectives, *tsaddiq* and *dikaios*, refer to the character, or virtue, of one who acts consistently with right relationship. The Old Testament contains 206 instances of *tsaddiq*, far more of them found in Psalms and Proverbs than in any other book, while the New Testament includes 79 instances of *dikaios*, concentrated mostly in the Gospels of Matthew and Luke.[20] In some cases, these words refer to God, as they do in Acts 3:14, where Jesus is called "the Holy and Righteous *(dikaios*) One"; in other cases, they refer to a human person, as in Genesis 6:9, which refers to Noah as *tsaddiq*; or Matthew 1:19, in which Joseph, the guardian of Jesus, is *dikaios*; or Luke 1:6, where Zechariah and Elizabeth are *dikaios*; or Acts 10:22, in which a centurion is *dikaois*.[21]

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[19] Jonathan Pennington, *The Sermon on the Mount and Human Flourishing: A Theological Commentary (Baker Academic, 2017),* 88, 91. Pennington cites other scholars who share in his judgment about the importance and meaning of *dikaiosune* in the Sermon, including Ulrich Luz, *Matthew 1-7: A Commentary*, rev. ed., trans. James F. Crouch (Fortress, 2007), 177; Johan C. Thom, "Justice in the Sermon on the Mount: An Aristotelean Reading," *Novum Testamentum* 51 (2009), 315; and W.S. Davies and Dale C. Allison, Jr., *A Critical and Exegetical Commentary on The Gospel According to Saint Matthew*, vol. 1 (T&T Clark, 2004), 499. Sharing in this judgment are also Frank J. Matera, *The Sermon on the Mount: The Perfect Measure of the Christian Life* (Liturgical Press, 2013), 31; and William C. Mattison III, *The Sermon on the Mount and Moral Theology: A Virtue Perspective* (Cambridge University Press, 2017), 32, 49-50.

[20] Koch, "*sdq*,"1049; Reumann, "Righteousness (NT)," 747.

[21] See Hemchand Gossai, *Justice, Righteousness and the Social Critique of the Eighth-Century Prophets* (Peter Lang, 1993), 55-56.

One other term in the Bible cannot be ignored for its relevance to justice, a Hebrew term that is often translated as justice, yet is different from *tsedeq(ah)* in its central meaning: *mishpat*. Like *tsedeq(ah)*, *mishpat* pervades the Old Testament, appearing 422 times, and, like *tsedeq(ah)*, manifests a range of meanings but also carries a common and focal meaning, which is judgment, usually of a legal kind, often associated with a courtroom. Judgment involves an authority – God, a judge, or a king – determining that a state of affairs is right or wrong, that a defendant is guilty or innocent, or that the rights of the poor must be vindicated or that their belongings must be restored. *Mishpat* often connotes fairness, equity, or right procedure.[22]

It might be God who exercises *mishpat*, as in Jeremiah 1:16, "I will pronounce my sentence (*mishpat*) against them for all their wickedness in forsaking me, And in burning incense to strange gods and adoring their own handiwork." Or, it might be a judge or a king who exercises, or fails to exercise, *mishpat*, as in Isaiah 10:1-2: "Woe to those who enact unjust statutes and who write oppressive decrees, Depriving the needy of judgement and robbing my people's poor of their rights (*mishpat*), Making widows their plunder, and orphans their prey!" *Mishpat* is often closely associated with *tsedeq(ah)*, which serves as the moral standard by which the authority makes judgments, as in Psalm 94:15: "Judgment (*mishpat*) shall again be just (*tsedeq*), and all the upright of heart will follow it." Sometimes, *mishpat* is virtually synonymous with *tsedeq*, as in Ecclesiastes 3:16, "[a]nd still under the sun in the judgment (*mishpat*)

[22] Barbara Johnson, "Mispat," in *Theological Dictionary of the Old Testament*, ed. G. Johannes Botterweck, Helmer Ringgren, and Heinz-Josef Fabry, trans. David E. Green, IX (Eerdmans, 1998), 86-98, at 89.

place I saw wickedness, and in the seat of justice (*tsedeq*), iniquity." Most generally, judgment enacts norms of justice in particular situations.[23]

Mishpat also appears often with *tsedeq(ah)* in a configuration known as a hendiadys, a pairing of words that compose a distinct phrase in which they reinforce each other. "Rest and relaxation," for instance, expresses the aspiration of weekends and vacations better than either word alone does.[24] The English translation of the *tsedeq(ah)-mishpat* pairing is familiar to Catholics who recite "it is right and just" in the Roman Rite Mass. When *mishpat* and *tsedeq(ah)* form a hendiadys in the Old Testament, they usually connote the social and political sphere – the right acts of a king, a judge, or of God acting as a ruler. Psalm 89:15 contains this hendiadys where God is the king: "Justice (*tsedeq*) and judgement (*mishpat*) are the foundation of your throne; love and loyalty march before you." Jeremiah 22:15 uses a hendiadys to describe the behavior of an earthly king: "Do you think you are a king because you compete in cedar? Did not your father eat and drink and do justice (*mishpat*) and righteousness (*tsedeq*)? Then it was well with him."

Justice in English

The second task in translation is finding a fitting word in English with which to render the terms that connote comprehensive right relationship in Hebrew and Greek. I

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[23] In this sense, *mishpat* is closely related to the classic virtue of prudence, the capacity to judge the appropriate course of action in any given set of circumstances. See Chapter Fifteen.

[24] A good explanation of the hendiadys and its role in the Bible is found in Bethany Hanke Hoang and Kristen Deede Johnson, *The Justice Calling* (Brazos Press, 2016), 19-22. On this hendiadys and its social connotations, see Moshe Weinfeld, *Social Justice in Ancient Israel and in the Ancient Near East* (Fortress Press, 1995), 7-56; and Koch, "*sdq*,"1049. For examples of this hendiadys in the Old Testament, see Gen 18:19; Deut 33:21; Josh 9:25; Sam 8:15; 1 Kgs 10:9; 1 Chr 18:14; 2 Chr 9:8; Neh 9:13; Job 37:23; Ps 33:5; Ps 72:2; Ps 89:15; Ps 97:2; Ps 99:4; Ps 103: 6; Ps 119:121; Prov 1:3; Prov 2:9; Prov 21:3; Isa 1:27; Isa 5:16; Isa 9:6; Isa 33:5; Isa 56:1; Jer 9:24; Jer 22:3; Jer 22:15; Jer 23:5; Jer 33:15; Ezek 18:5; Ezek 18:19; Ezek 18:21; Ezek 18:27; Ezek 33:14; Ezek 33:16; Ezek 33:19; Ezek 45:9; Hos 2:21.

nominate justice. If this proposal grates in the ears of readers of English, it is because they do not read justice in their Bibles nearly as often as the words *tsedeq* and *dikaiosune*, *tsaddiq* and *dikaios*, and other *sdq-* or *dik-* words appear in the original Hebrew and Greek text. What they often read instead is righteousness, the word which translators frequently select. So, it would grate in their ears to hear, "seek first the kingdom of God and his justice," or "blessed are those who hunger and thirst for justice," to take two well-known sayings of Jesus that they hear customarily in the language of righteousness.[25]

Translators of the Bible draw on both words, justice and righteousness, and, more generally, on both of the families of words with the root just (justice, justify, justification) and with the root right-(righteous, righteousness) in order to translate *sdq-* and *dik-* words. This possibility is available to them because English contains both of these families, the just- family carrying a Latin lineage and the right- family carrying an Anglo-Saxon one.[26]

Both English terms and their siblings, though, have their drawbacks. In contemporary parlance, righteousness connotes personal probity, piety, and often priggishness, whereby righteousness differs little from self-righteousness. For its part, justice evokes public and legal affairs: law, governments, courtrooms, and commerce. Bible scholar John Donahue illustrates these contrasting connotations by asking his readers to "[i]magine . . . people's reaction if we had a national 'department of

[25] The saying are found in Matt 5:6 and Matt 6:33.
[26] John Reumann, "Justification and Justice in the New Testament," *Horizons in Biblical Theology* 21, no.1 (1999), 28-29.

righteousness' or we talked about 'social righteousness.'"[27] Some translators of the Bible into English, including some of the first of these translators in the sixteenth and seventeenth centuries, drew upon these connotations, turning to righteousness (or other right- words) to refer to personal piety or God's acts of salvation, and to justice (or other just- words) to refer to the affairs of kings, judges, courts, and merchants, as well as to the justification of sinners, which they understood in terms of a courtroom acquittal.[28] Yet, while this dichotomy between righteousness and justice (and their sibling terms) is found often in English translations of the Bible, and indeed has ensconced itself into the English language more generally, it is not found in the Hebrew and Greek terms that connote comprehensive right relationship. These terms and this relationship include personal and religious matters as well as public, juridical, and legal ones.

I want to challenge the semantic division of labor between righteousness and justice and argue that there exists warrant for using justice (and related just- words) to translate *tsedeq(ah)* and *dikaiosune* (and related *sdq-* and *dik-* words) into English. If that is true, then the Bible's justice would mean comprehensive right relationship and would not be limited to that portion of right relationships that are public, legal, and, as I shall be arguing, that render what is due.

This proposal is not novel, notional, or hypothetical. It finds formidable precedent in the most influential Bible in the history of western Christendom, the Latin Vulgate. In 382 CE, Pope Damasus I, dissatisfied with the discordant Latin versions of the Bible of his day, commissioned Jerome of Stridon to translate a version on which the

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[27] John R. Donahue, "The Bible and Catholic Social Teaching," *Modern Catholic Social Teaching: Commentaries and Interpretations,* ed. Kenneth R Himes, O.F.M. (Georgetown University Press, 2005), 14.

[28] Reumann, "Righteousness (NT)," 746; Michael J. Gorman, *Becoming The Gospel: Paul, Participation and Mission* (Eerdmans, 2015), 222-223; Donahue, "The Bible and Catholic Social Teaching," 14.

Church could rely, one that later came to be known as the Vulgate (derived from *versio vulgatio*, "the version commonly used"). For a thousand years, the Vulgate was the dominant Bible in western Christendom, influencing art, culture, scholarship, and liturgy, and remains today the authoritative Latin Bible in the Catholic Church. By contrast, let us remember that English language translations of the Bible have existed only from the sixteenth century – the last quarter of Christianity's history – and manifest one language out of many into which the Bible has been translated, a language that is spoken by about 20% of the world's population.[29]

How does the Vulgate translate *tsedeq(ah)* and *dikaiosune*? It almost always uses the Latin *justitia* (or a related grammatical case such as *justitiam* or *justitiae*), the word that translates directly readily into the English word, justice. For the adjectives *tsaddiq* and *dikaios*, the Vulgate turns to *justus* (and grammatical variants). Other *dik-* words are rendered into other *just-* words as well. *Dikaioo* translates to *justificare*, which translates to justify in English, while *dikaiosis* is rendered into the Latin *justificatio*, which becomes justification in English. The use of Latin *just-* words in scores of instances in which English Bibles employ right- words, then, does not grate in the ears of readers of the Vulgate.

Accordingly, authors of classic theological works in Latin adopt the Vulgate's *just-* words when they quote from or comment upon the Bible. Readers of English translations of St. Gregory of Nyssa's *Sermons on the Beatitudes*, for example, will encounter, "blessed are they who hunger and thirst after *justice*"; and of Aquinas's *Commentary on the Gospel of Matthew,* "seek first the kingdom of God and his *justice*";

[29] See "What are the Top 200 Most Spoken Languages?," *Ethnologue*, https://www.ethnologue.com/insights/ethnologue200/.

and of Aquinas's *Commentary on the Letter of Saint Paul to the Romans*, "the *justice* of God is made manifest." In Augustine's works, they will find instances of justice that embody the holistic meaning of *tsedeq* and *dikaiosune*, some of which mean the love of God and neighbor.[30]

Bibles translated into Romance languages based on Latin such as French, Spanish, and Italian turn to their own versions of *just-* words – *justice*, *justicia*, and *giustizia*, respectively. In English, the Douay-Rheims Bible, composed by exiled English Catholics in the late sixteenth century, is translated directly from the Vulgate and thus stands as the English language Bible with the largest concentration of *just-* terms. Consider these verses from the Douay-Rheims translation, which, in addition to the verses just quoted above, are ones that use justice where English readers are accustomed to reading righteousness (just- terms are italicized):

> Genesis 15:6: Abram believed God, and it was reputed to him unto *justice*.
>
> Psalm 34:17: The *just* cried, and the Lord heard them: and delivered them out of all their troubles.
>
> Psalm 85:10 Mercy and truth have met each other: *justice* and peace have kissed.[31]
>
> Amos 5:24: But judgment shall be revealed as water, and *justice* as a mighty torrent.

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[30] St. Gregory of Nyssa, *The Lord's Prayer. The Beatitudes*, trans. Hilda C. Graef (Newman Press, 1954), 117; Thomas Aquinas, *Commentary on the Gospel of Matthew Chapters 1-12*, trans. Jeremy Holmes and Beth Mortensen (Aquinas Institute, 2018), 230; Thomas Aquinas, *Commentary on the Letter of Saint Paul to the Romans*, trans. Fr. Fabian R. Larcher, O.P. (Aquinas Institute, 2018), 98. I add italics to justice in these quotes. On Augustine and justice, see Robert Dodaro, *Christ and the Just Society in the Thought of Augustine* (Cambridge University Press, 2004), 10-12, 72-114, and the discussion of Augustine below in this chapter. It might be objected that Latin contains the word *rectitudo*, which is similar to the German word *Recht* and its cognates, and that this word offers a Latin basis for employing the English word righteousness in translation. Yet, it is nevertheless the word *justitia* that the Vulgate adopts to translate *sedeq(ah)* and *dikaiosune*, which fortifies the case for translating these words as justice. I am indebted to Loren Reinoso for bringing this point to my attention.

[31] The numbering of Psalms is different in Douay-Rheims than in most other translations. These two verses in Psalms are, respectively, 33:18 and 84:11, in Douay-Rheims.

> Matthew 5:10: Blessed are they that suffer persecution for *justice'* sake: for theirs is the kingdom of heaven.
>
> Matthew 6:33: Seek ye therefore first the kingdom of God, and his *justice*, and all these things shall be added unto you.
>
> Romans 14:17: For the kingdom of God is not meat and drink; but *justice*, and peace, and joy in the Holy Ghost.
>
> Philippians 3:8-9: Furthermore I count all things to be but loss for the excellent knowledge of Jesus Christ my Lord; for whom I have suffered the loss of all things, and count them but as dung, that I may gain Christ: And may be found in him, not having my *justice*, which is of the law, but that which is of the faith of Christ Jesus, which is of God, *justice* in faith.

Readers of the Douay-Rheims Bible will read also of Noah as a "*just* and perfect man" (Gen 6:9), Jesus as the "*just* one" (Acts 7:52), and so on. What of the hendiadys that pairs *tsedeq(ah)* and *mishpat*? Douay-Rheims commonly renders it as "justice and judgment," which, Psalm 89:15 declares, "are the preparation of thy throne."[32]

Together, the Vulgate, along with French, Spanish, and Italian bibles, as well as the Douay-Rheims Bible, establish a strong tradition of translating the Hebrew and Greek words for comprehensive right relationship into just- terms, most importantly, justice. Other English translations of the Bible differ over these translations so that righteousness in one version will be justice in another, showing further that justice can include the range of meanings attributed to righteousness and vice-versa. A critical mass

[32] This verse is numbered Psalm 88:15 in the Douay-Rheims Bible.

of scholars either argue that justice translates *tsedeq(ah)* and *dikaiosune* equally well as, or even better than, righteousness, or simply use justice in their own translations.[33]

The selection of the English, justice, and its cousins for the starring role of translating *tsedeq(ah)*, *dikaiosune*, and their Hebrew and Greek cousins in the Bible has behind it a strong and living tradition, yet will ring dissonant to many contemporary speakers of English, not only because the most prominent translations of the Bible select righteousness far more frequently, but also because contemporary parlance expresses justice far more narrowly: courts, law, due. Yet, the dissonance is not complete, for even in today's English-speaking societies there exist usages of justice outside the Bible that resonate with right relationship.

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33 See, for instance, Pope Benedict XVI, "The Justice of God Has Been Manifested Through Faith in Jesus Christ: Pope's Lenten Message for 2010," February 4, 2010, http://www.vatican.va/content/benedict-xvi/en/messages/lent/documents/hf_ben-xvi_mes_20091030_lent-2010.html; Pope Francis, "Angelus," December 15, 2013, https://www.vatican.va/content/francesco/en/angelus/2013/documents/papa-francesco_angelus_20131215.pdf; Douglas Harink, *Resurrecting Justice*: Reading Romans For The Life of the World (InterVarsity Press, 2020), 1-18; James D.G. Dunn and Alan M. Suggate, *The Justice of God: A Fresh Look At The Old Doctrine of Justification By Faith* (Eerdmans, 1993), 32-37; Christopher D. Marshall, *Beyond Retribution: A New Testament Vision for Justice, Crime, and Punishment* (Eerdmans, 2001), 35-37; Enrique Nardoni, *Rise Up, O Judge: A Study of Justice in the Biblical World*, trans. Seán Charles Martin (Baker Academic, 2004), 217-218, 267; John C. Haughey, "Jesus as the Justice of God," in *The Faith That Does Justice: Examining the Christian Sources for Social Change*, ed. John C. Haughey (Wipf and Stock Publishers, 1977), 276-288; Michael J. Gorman, *Participating in Christ: Explorations in Paul's Theology and Spirituality* (Baker Academic, 2019), 138, 191-201; Mattison, *The Sermon on the Mount and Moral Theology: A Virtue Perspective*, 32, 49-50; Nicholas Wolterstorff, *Justice: Rights and Wrongs* (Princeton University Press, 2008), 110-113; Darrin W. Snyder Belousek, *Atonement, Justice, and Peace: The Message of the Cross and the Mission of the Church* (Eerdmans, 2012), 369-380. Donahue "Bible and Catholic Social Teaching," 14, 35 n. 32; James D.G. Dunn, "The Justice of God: A Renewed Perspective on Justification by Faith," *The Journal of Theological Studies* 43, No. 1 (1992), 21-22; McKnight, *A Community Called Atonement*, 127; John W. De Gruchy, *Reconciliation: Restoring Justice* (Fortress Press, 2002), 199-203; Joseph A. Fitzmeyer, S.J., "What Do Scriptures Say About Justice?" in *Jesuit Education 21: Conference Proceedings on the Future of Jesuit Higher Education*, ed. Martin R. Tripole, S.J. (Saint Joseph's University Press, 2000), 106; Grisez, *The Way of the Lord Jesus*, 1, 213; Stephen Charles Mott, *Biblical Ethics and Social Change* (Oxford University Press, 2011), 49-50; Christopher J.H. Wright, *Old Testament Ethics for the People of God* (IVP Academic, 2004), 253-280. Rowan Williams finds in Khaled Anatolios's *Deification of the Cross* (Eerdmans, 2020) a notion of justice that extends beyond rights in "Deification and the Divine Image," *International Journal of Systematic Theology* 25, no. 1 (2023): 3-4; see Anatolios, *Deification Through the Cross*, 289-296.

For instance, in the past generation, certain developed democracies have seen the rise of what is known as restorative justice, an approach to criminal justice that seeks to repair the broad range of harms to persons and relationships that crime inflicts. Advocates of restorative justice are often Christians, who find this justice in the Bible, and rightly so. Secular people, though, also promote it and do so in secular language, testifying to the presence of a relational definition of justice in the English language today that extends beyond the Bible.[34]

A second example, one discussed in the introductory chapter, can be found in the "care feminist" school of thought, which argues against a justice that is juridical, abstract, and focused solely on rights, advocating for a justice that includes care for people who are dependent. Here, too, we find justice expressed as a wide relationship in English discourse.[35]

A third deposit of justice as wide relationship in today's English lies in translations of classic works other than the Bible. Below, I shall argue that works of Plato, Aristotle, and Augustine, for instance, contain a blend of meanings of justice, some conforming to a narrow juridical meaning but others carrying a comprehensive meaning. In English translations of the writings of Plato and Aristotle, justice renders *dik-* terms such as *dike* and *dikaiosune* in cases where these Greek words mean holistic right relationship. Plato defines justice in *The Republic* as the happiness of the city as a whole, realized through each person performing the duties of his station, as well as a

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[34] A large literature exists on restorative justice, which receives discussion in Chapter Eleven. For good general statements, see John Braithwaite, *Crime, Shame, and Reintegration* (Cambridge University Press, 1989); Daniel W. Van Ness, Karen Heetderks Strong, and Jonathan Derby, *Restoring Justice: An Introduction to Restorative Justice*, 6th ed. (Routledge, 2022), and, arguing from a Christian standpoint, Howard Zehr, *Changing Lenses: A New Focus for Crime and Justice* (Herald Press, 1990).

[35] Care feminism is explored in greater detail in Chapter Ten.

soul that is rightly ordered such that each part performs properly.[36] Aristotle puts forth what he calls general justice in Book Five of Aristotle's *Nicomachean Ethics*, which governs a person's entire set of relationships to others.[37] Augustine adopts *justitia* in *The City of God* multiple times, sometimes defining it according to the Roman definition of rendering due but other times conveying the Bible's holistic sense.[38]

All of these usages demonstrate the availability in contemporary English of a justice that encompasses a wider scope of relationships than does the dominant juridical concept. If justice can carry this meaning in these contexts, then surely, *tsedeq(ah)* and *dikaiosune* can be rendered justice in English language bibles.

Why It Matters

There is no final and definitive case for interpreting *tsedeq(ah)* and *dikaiosune* as justice rather than righteousness. Translators must make difficult and imperfect choices in selecting from the stock of words in a language whose meanings change over time, differ regionally and among social sectors, and sometimes differ within a given sector. Single words themselves often have multiple meanings, as dictionaries attest.

It might be asked, could we not do also for righteousness what I am proposing for justice, namely seek out more expansive and holistic meanings of the term? Perhaps so. We might look to the Oxford English Dictionary, for instance, which defines righteousness as "[t]he state or quality of being righteous or just; conformity to the precepts of divine law or accepted standards of morality; uprightness, rectitude; virtue,

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[36] Plato, *The Republic of Plato*, trans. Allan Bloom (Basic Books, 1968), 420, 431-434, 443-444. Plato's definition is echoed in *Gorgias*, trans. Donald Zeyl (Hackett Publishing Company, 1987).
[37] Aristotle, *Nichomachean Ethics*, trans. Robert C. Bartlett and Susan D. Collins (University of Chicago Press, 2011), 90-114.
[38] Citations of Augustine on justice appear below in this chapter.

integrity," a definition that includes the word just and that could apply to behavior that is private or public, inward or outward, and practiced in any sphere.[39] A semantic expansion of both justice and righteousness is warranted and finds available linguistic deposits from which to develop. It is justice, though, whose candidacy for this development I wish to endorse.

Why? Because justice is the first virtue of social and political institutions. If that is true, then it matters a great deal what justice entails. Justice determines the meaning of the common good that defines politics; justice sets the criteria for whether, how, and why a political order should go to war, admit immigrants, assist the poor and the sick, punish criminals, educate its children, protect basic rights, address historical wounds, resist unjust regimes, and undertake scores of other actions; and justice animates and obligates the citizens and officials, dissidents and activists, who pay taxes, volunteer, serve in public office, fight and die for their country, and sometimes disobey or resist their government. If justice is the first virtue of political life, then the returns are handsome for retrieving, refurbishing, resurrecting, and spreading a dissident conception of justice. It might become more accepted and practiced in the public life of modern states. A justice that incorporates principles that exceed rights would earn a place for these principles in public life and resist their being sidelined as private, personal, and religious. I argue that the Bible contains a central and pivotal concept of comprehensive right relationship expressed in the terms, *tsedeq(ah)* and *dikaiosune*, and that strong warrant in linguistic practice exists for translating these terms as justice.

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[39] "Righteousness," *Oxford English Dictionary*, oed.com.

This labor of language lays the foundation for advocating this justice in the social and political order.

Variations on the Theme

Again, *tsedeq(ah)* and *dikaiosune*, translated as justice, share an overarching meaning while varying on this meaning in particular instances in the Bible. The variations are important. They structure the argument about justice and its application to the social and political realm that unfolds in the chapters ahead. The meaning of justice in the scriptures varies with respect to the phenomenon at the heart of right relationship, the personal act. The variation occurs along two dimensions, corresponding to who is acting and for what purpose. Table 2-1 arrays these two dimensions so as to generate four types of the justice of comprehensive right relationship, expressed by *tsedeqah* and *dikaiosune*. The first dimension pivots upon the agent, which can be divine or human, and is presented in the two rows. The second dimension, presented in the two columns, is based on the purpose of acts and turns on a distinction that philosopher Nicholas Wolterstorff has advanced between primary justice and rectifying justice.[40] Primary justice consists of actions that bring about right relationship – establish it, sustain it, and respect it. Rectifying justice encompasses those actions aimed at addressing past wrongs and repairing right relationship.

Table 2-1

Purpose of action → Agent ↓	Primary Justice	Rectifying Justice
God (divine justice)		

[40] Wolterstorff, *Justice: Rights and Wrongs*, ix-x. The ensuing definitions are my own adaptation of Wolterstorff's distinction.

	I: Divine Primary Justice God performs justice by establishing and sustaining right relationship in the world through his original creation and through his covenants with humanity, which set forth the norms that make up human justice. God orders the world out of his character, which is marked by justice.	*II: Divine Rectifying Justice* God enacts justice by responding to the sin of humanity through punishment, forgiveness, vindication of the cause of the poor, and other measures that bring about the restoration of right relationship in God's covenant. God's saving justice is manifested most fully in the death and resurrection of Jesus. It is equivalent to justification and reconciliation.
Human beings (human justice)	*III. Human Primary Justice* Humans enact right relationship towards one another, towards God, and by cultivating virtue in their selves. The norms that define right relationship include the moral, judicial, and ceremonial precepts of the Old Testament and the New Law that Jesus taught and manifested most fully in his death and resurrection.	*IV: Human Rectifying Justice* Humans respond to the wrongs of others, including in judicial contexts, according to norms set forth by God (examples include the *lex talionis* and Jesus's teaching against retaliation and in favor of forgiveness). This response involves the restoration of right relationship between humans.

The emergent fourfold typology begins in Quadrant One with divine primary justice, God's acts of establishing and sustaining the moral order that creates the contours of comprehensive right relationship. Quadrant Two is divine rectifying justice, God's restoration of right relationship in response to sin. Quadrant Three contains human primary justice, the acts through which humans enact right relationship with God, with one another, and in the parts of their selves. Quadrant Four is human rectifying justice,

the acts through which people restore right relationship after sin has sundered it. All of the Bible's instances of *tsedeq(ah)* and *dikaiosune*, I argue, fall into these four categories, and all share the meaning of comprehensive right relationship – sometimes enacted by God, sometimes by humans, sometimes aimed at establishing right relationship, sometimes at repairing right relationship.

Overswept

The Biblical concept of justice for which I argue, comprehensive right relationship, is not the one that has become dominant in the Western tradition of political thought or in the constitutions of the world's states and international law. The dominant concept is the will to render another his due.

The classic statement of this concept is that of Ulpian, a third-century Roman jurist and imperial official, and his statement came to be known widely through the *Digest* of the sixth-century Roman Emperor, Justinian. The statement in its original Latin runs: *Justitia est constans et perpetua voluntas ius suum cuique tribuendi*. In English, justice is the constant and perpetual will to render each person . . . what? How is *ius suum cuique* to be translated? The word *ius*, an important Latin word in moral, legal, and political matters, is best translated as "law" or "rights."[41] *Suum* is the common possessive pronoun that means "his" (or "a person's"). *Cuique* means "to each." What justice renders, then, is what rightfully belongs to each person. The classic translation is "to each what is his due." Valid also are "to each what is rightfully his"; "to each what he is owed"; and "to each his right, or rights." These translations are synonymous. In all of

[41] John Finnis, *Aquinas: Moral, Political, and Legal Theory* (Oxford University Press, 1980), 133-138. Law can be understood as principles or obligations, corresponding to what is "right." "Rights" can be understood as entitlements asserted by the beneficiary of enactors of principles. See Chapter Five for an in-depth treatment of rights.

them, justice involves rendering the recipient of actions that which she rightfully asserts as hers. The most well-known of the synonyms is rights.

Greek thought precedes Ulpian in defining justice as rendering due even while it also contains a wider, holistic concept that resembles the justice of right relationship. Plato, who treats justice as the paramount principle and virtue of politics, voiced both concepts of justice. While I noted above that *The Republic* contains the holistic concept, it also speaks of justice as rendering due. In Book One, Polemarchus quotes to Socrates a definition from the poet, Simonides, "[t]hat it is just (*dikaion*) to give to each what is owed." Socrates does not reject Polemarchus's definition but then offers an example of just action that departs from what is due, implying that rendering due is insufficient.[42] In Book Four, Socrates offers a somewhat different definition, "justice (*dikaion*) is the minding of one's own business and not being a busybody," meaning that each person performs the role assigned to him by his class – guardians, auxiliaries (or soldiers), and producers – and in so doing contributes to justice in the city. Socrates appears to combine these definitions in a nearby passage, "the having and doing of one's own and what belongs to one would be agreed to be justice (*dikaion*)." Later in the book, Socrates adds another concept of justice: harmony in the parts of the soul, reason, spirit, and appetite. Parallel to the three classes in the city, each of the parts of the soul ought to play their proper role and not meddle with the other. A person ought to rule himself by putting the parts of his soul in order, and his actions build up or detract from this order. In the *Gorgias*, Socrates means by justice right conduct in the city and the right

[42] The surrounding conversation concerns the issue of whether it is just to return a weapon one has borrowed from a person who has gone mad. What is of concern here is the definition of justice that emerges from the dialogue. See Plato, *The Republic of Plato*, 7-8.

ordering of the soul. All in all, Plato appears to adopt the concept of justice as rendering another her due and to combine it with wider concepts: each person performing her role in contributing to the city's good, and the right ordering of the parts of the self.[43]

Aristotle begins his discussion of justice in Book Five of the *Nicomachean Ethics* by arguing that justice is the greatest of virtues because it is the most complete of virtues, the one that sums up all that a person ought to do in relation to other people whether he is a ruler or an ordinary citizen. Justice is action that conforms to laws, respects the equality of others, and conduces to happiness. Aristotle differs from Plato in defining justice as being directed only towards others and not towards the parts of the soul. Aristotle proceeds to explain two forms of partial justice. The first is distributive justice, which involves a central actor apportioning an entity – honors and money, he names – to the members of a group. The other, he calls corrective justice – which would come to be called commutative justice – which involves transactions between persons, most familiarly buying, selling, and the making of contracts. All of Aristotle's partial justice consists of obligations that render due, that is, of distributing, paying, providing, or according respect to everyone according to what they merit, deserve, or are owed. Injustice is, correspondingly, failing to render what is due. Aristotle's thought, then, contains the justice of rendering due while it also refers to a justice of complete virtue that is not clearly confined to what is due.[44]

The justice of rendering due continued into Roman thought, from which Ulpian drew in formulating his definition. Cicero, writing in the first century BCE, taught in *De*

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[43] Plato, *The Republic of Plato*, 111-113, 123; Plato, *Gorgias*, trans. Donald Zyl (Hackett, 1987), 24-26, 87.
[44] Aristotle, *Nichomachean Ethics*,, 90-95. Translators Bartlett and Collins note on p. 90 that Aristotle uses two terms in Chapter Five to denote justice: *dikaiosune* and *dikaion*.

Officiis that justice is "the most illustrious of the virtues" and that it means "that no man should harm another unless he has been provoked by injustice" and that "one should treat common goods as common and private goods as one's own."[45] Cicero defines justice as "assigning each his own" in *De Finibus* and "giving to each person his dignity" in *De Inventione*.[46] All of his definitions equate to rendering due, rendering to others what they are owed or that to which they have a right. Cicero also distinguished justice from beneficence, which he equated with "kindness" and "liberality," and which corresponds to giving others what exceeds due. The justice of due is a Greco-Roman concept.

In the era in which Ulpian wrote about justice, so, too, did early Christian authors, most thoroughly, Augustine. Scholar of Augustine Robert Dodaro reports that Augustine used the term *justitia* or close cognates 5045 times in his corpus of writings. Many of his usages express justice as comprehensive right relationship. What Augustine often meant by justice is virtually interchangeable with love, Dodaro argues. Love is the supreme virtue of the Bible and most encompasses human action. In Book Nineteen of *The City of God*, where Augustine defines justice at length and argues for its centrality to the polis, he writes that justice is "the love by which a person loves God as God ought to

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45 Cicero, *De Officiis*, ed. M.T. Griffin and E.M. Atkins, trans. E.M. Atkins (Cambridge University Press, 1991), 9.

46 In *De Finibus*, Cicero writes, "[t]his sentiment, assigning each his own and maintaining with generosity and equity that human solidarity and alliance of which I speak, is termed Justice; connected with it are dutiful affection, kindness, liberality, good-will, courtesy and the other graces of the same kind." That Cicero includes "generosity" (*munifice* in Latin) in his definition points to a blend of "due" and "beyond due" in his concept of justice. Still, his listing of several other "graces" in addition to justice suggests that he regards these "beyond-due" principles as ones other than justice. In any case, he begins his definition with, "assigning each his own," evidencing the central place of rendering due in his concept of justice. See Cicero, *De Finibus Bonorum et Malorum*, trans. H. Rackham (William Heinemann, 1914), 469. In *De Inventione*, Cicero writes, "Justice is a habit of mind which gives every man his desert while preserving the common advantage." See Cicero, *De Inventione*, trans. H.M Hubbell (Harvard University Press, 1949) 329.

be loved, and his neighbor as himself." In identifying justice with love, Augustine followed several other early Christian thinkers, including Cyprian, Lactantius, and Ambrose, Dodaro observes.[47] Further, Augustine read from a Latin Bible, in which *justitia* translates *tsedeq(ah)* and *dikaiosune* and thus incorporates these terms' comprehensive meaning. In *The City of God*, he writes that justice involves the three dimensions of right relationship – to God, to others, and within the soul. "[T]rue justice is found," he writes,

> where the one supreme God rules an obedient city . . . and where, in consequence, the soul rules the body in all who belong to that city and obey God, and reason faithfully rules the vice in lawful order. Consequently, just as a single person lives by the faith that works through love, so does the whole company and people of the just.[48]

Like Plato and unlike Aristotle, Augustine holds that justice governs the soul and thinks that this justice spills over into the other dimensions of relationship: "For, when the soul does not serve God, it can by no means rule the body justly, nor can reason rule the vices justly. And, if there is no justice in such a person, it is beyond doubt that there is no justice in a human gathering that is made up of such persons." Augustine also writes in *The City of God* that justice entails living by faith and practicing forgiveness, the latter action involving "forgiving our debtors," the foregoing of what is due.[49] Justice is comprehensive right relationship in the writing of Augustine.

Augustine, though, also endorses the justice of rendering due. In *The City of God*, he refers to the concept in Cicero's *Republic* and writes separately that the function of

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[47] Augustine, *The City of God*, 385; Robert Dodaro, "Iustitia," in *Augustinus Lexicon*, ed. Cornelius Mayer (Schwabe AG, 2004-2010), 869; Robert Dodaro, *Christ and the Just Society in the Thought of Augustine* (Cambridge University Press, 2004), 76.

[48] Augustine, *The City of God*, 384-385, see also 356, 387.

[49] Augustine, *The City of God*, 379, 386, 387.

justice is "to assign to each his due," which brings about "just order" in a person so that his soul is rightly ordered and oriented to God.[50] Here Augustine combines due with justice in the soul. In *The Trinity*, Augustine writes, "[t]hat mind is just which knowingly and deliberately, in life and in conduct, gives each man what is his own," and suggests that justice is the love that people owe one another, quoting the Apostle Paul's *Letter to the Romans* (13:8), "owe no man anything but to love one another."[51] Both the justice of rendering due and the justice of right relationship, then, are present in the writings of Augustine.

Thomas Aquinas accords due a high place in his discussion of justice, which takes place over sixty-five questions in the *Summa Theologica*.[52] Justice, in "the proper form of a definition," Aquinas writes in Question 58 of the *Secunda Secundae*, is "a habit whereby a man renders to each one his due by a constant and perpetual will."[53] Aquinas does not explicitly attribute his definition to Ulpian and does note its similarity to Aristotle, but his definition follows the language of Ulpian, known from Justinian's Digest, more than that of any other thinker.

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[50] Augustine, *The City of God*, 356, 378.

[51] Saint Augustine, *The Trinity*, trans. Edmund Hill, O.P., 2nd ed. (New City Press, 1991), 313-315. I interpret Romans 13:8 in Chapter Seven.

[52] What later scholars termed the "treatise on justice" spans the *Summa Theologica* II-II, qq. 57-122.

[53] ST II-II, q. 58, a.1, resp. The Latin reads, "iustitia est habitus secundum quem aliquis constanti et perpetua voluntate ius suum unicuique tribuit." *Tribuit* is the term that means render in this formulation and is an inflection of the verb *tribuere*. *Unicuique* is synonymous with *cuique*.

Does Aquinas regard justice as involving principles that fulfill rights? Though contemporary scholars dispute the question, I hold that he does.[54] The case for rights in Aquinas is similar to that for Ulpian's definition. In Question 57, Aquinas argues that the object of justice is *ius*, which, again, translates to "law" or "rights." Several reasons count in favor of rights being the object of justice in Aquinas. First, some translators, including the Dominican Fathers, who produced the most widely-used translation of the *Summa* in 1911, adopt rights.[55] In their translation, Article 58 reads, two paragraphs before Aquinas's central definition, "the act of justice in relation to its proper matter and object is indicated in the words, *Rendering to each one his right*, since, as Isidore says, *a man is said to be just because he respects the rights* (jus) *of others*."[56] In Article 57, the same translation reads, "[i]t belongs to justice to render each one his right."[57] Second, Aquinas' use of *suum unicuique* in his core definition of justice expresses the idea of a right: to each what is properly a person's, or what she is entitled to.[58] Third, in Aquinas's

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[54] The interpreters whom I follow most closely on this question include John Finnis, *Natural Law and Natural Rights* (Oxford University Press, 1980), 198-230; Finnis, *Aquinas: Moral, Political, and Legal Theory* , 133-138; Jean Porter, *Justice as a Virtue* (Eerdmans, 2016), pp. 131-146; Thomas D. Williams, *Who is My Neighbor? Personalism and The Foundations of Human Rights* (Catholic University of America Press, 1995), 256-300; Paul A. Macdonald, Jr., "Grounding Human Dignity and Rights: A Thomistic Response to Wolterstorff," *The Thomist: A Speculative Quarterly Review* 82, no. 1 (2018): 1-35; Dominic Legge, "Do Thomists Have Rights?" *Nova Et Vetera* 17, no. 1 (2019): 127-147. Other scholars, however, dispute the presence of (subjective) rights in Aquinas. See, for instance, an exchange involving Brian Tierney, Michael P. Zuckert, Douglas Kries, and John Finnis, "Natural Law and Natural Rights: Old Problems and Recent Approaches," in *The Review of Politics* 64, 3 (Summer 2002), 389-420. Tierney, Zuckert, and Kries (representing Ernest Fortin) take a skeptical view. The fact that other translators adopt "a right" does not make their translation the correct one, of course, but their judgment is corroborative.

[55] The translator was Fr. Laurence Shapcote, O.P., who retained anonymity and so attributed the translation to the Fathers of the English Dominican province. The translation was first published in 1911 by the Benziger Brothers.

[56] ST II-II, q. 58, a.1, resp., italics in original.

[57] ST II-II, q. 57, a. 4, ad 1.Porter translates Aquinas's definition as "a constant and perpetual will rendering to each that which is his right" and also indicates that Aquinas takes the terms of his definition from Justinian's *Digest*, in *Justice as a Virtue*, 1.

[58] Two such usages of *suum unicuique* appear in ST II-II, q. 58, a.1, resp. and another in ST II-II, q. 57, a. 4, ad 1, the passages just discussed. I will define rights as entitlements and explain that concept in Chapter Five.

discussion of the definition of justice, he also uses the term *debitum* (or a close cognate) to express what is rendered to each (and which translators often express in English as "due"). Meaning something owed (as in a debt), *debitum* is equivalent to a right.[59] Fourth, in several places in the *Summa*, Aquinas distinguishes between obligations that are due and ones that are not due, a distinction that is intelligible only if due means rights.[60] Fifth, in numerous instances – theologian Dominic Legge, O.P. finds twenty-three – throughout Aquinas's writings, he uses the term *ius* in a context in which it clearly means rights. The right of the poor to take from the rich when they are desperate, the rights of parents to decide whether their children will be baptized – these and many other instances of rights correspond to principles that Aquinas regards as ones of justice and confirm the place of rights in Aquinas's justice.[61]

It might seem, then, that Aquinas's thought is a classic exemplar of, and milestone in the historical rise of prominence in, the justice of rendering due. Yet in certain respects, justice in Aquinas reaches beyond due and resembles the justice of right relationship.

For instance, Aquinas endorses the comprehensiveness of justice. He argues in Question 58 that justice is the virtue that directs all of a person's actions in relationship to others, both his actions towards other particular persons and towards the entire community, which together make up the common good.[62] Aquinas quotes Augustine's view that "justice is the love of God and our neighbor . . . that is to say . . . the common

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[59] ST II-II, q. 58, a.1, ad 6; ST II-II, q. 56, a.2, resp.

[60] See, for instance, ST II-II, q. 80.

[61] See Dominic Legge, "Do Thomists Have Rights?" *Nova Et Vetera* 17, no. 1 (2019): 127-147; Porter, *Justice as a Virtue*, 140-146; Finnis, *Aquinas: Moral, Political, and Legal Theory*, 133-34, n. 10; H. Hering, "De Iure Subjective Sumpto apud S. Thomam," *Angelicum* 16 (1939), 295-297.

[62] ST II-II, q. 58, a.5, resp.

principle of the entire order between one man and another."[63] In Aquinas's commentary on the Gospel of Matthew, following the Vulgate's translation of *dikaiosune* as *iustitia*, he interprets the word justice in the passage on the Sermon on the Mount, "I say to you, that unless your justice abound more than that of the scribes and the Pharisees . . ." as meaning a combination of "moral precepts, judicial ones, figures, and promises" – more or less, all obligations.[64]

Aquinas also considers right human action towards God, or the virtue of religion, to be justice – one of the three dimensions of the justice of right relationship.[65] What of the other dimension of the justice of right relationship, the ordering of the self? Again, it would seem at first that Aquinas does not consider this dimension to be justice. Following Aristotle, and not Plato and Augustine, he views justice as a matter of external actions and not of internal states or intentions. A person does justice when he pays his bill to the No Squirrels Roofing Company for installing a new roof on his house regardless of whether he welcomes or rues making the payment. Yet, in agreeing with Aristotle that justice in the parts of the self – Plato's justice – is "metaphorical," Aquinas recognizes that a rightly ordered self bears a relationship to justice even if it is not fully justice.[66]

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[63] ST II-II, q. 58, a. 8, ad 2.

[64] Thomas Aquinas, *Commentary on the Gospel of Matthew Chapters 1-12*, trans. Jeremy Holmes and Beth Mortensen (Aquinas Institute, 2018), 158. The biblical passage is Matthew 5:20.

[65] Aquinas considers religion a subject of justice and includes it in what is called the treatise on justice. See ST II-II, q. 81.

[66] ST II-II, q. 58, a.2, resp., ad 1.; ST I-II, q. 113, a. 1, resp.; see Aristotle, *Nichomachean Ethics*, 114. Aquinas argues that justice is a matter of "interior disposition" in a passage on justification through divine grace. Here, he refers to Aristotle's "*justice metaphorically speaking*" (italics in original). See ST I-II, q. 113, a. 1, resp. Aquinas also argues in his discussion of almsgiving that justice can be a matter of both external action and internal motivation. See ST II-II, q. 32, a. 1, ad 1.

Similarly, Aquinas recognizes that some obligations exceed what is due and describes them as "potential parts of justice" in Question 80 of the *Secunda Secundae*. "The essential character of justice consists in rendering to another his due according to equality," he writes, and then takes note of certain obligations that direct people to actions towards others yet lack either due or equality. Much like "metaphorical justice," these potential parts resemble but are not fully obligations of justice. Of interest here are virtues that direct actions that are not due, among which Aquinas includes affability, liberality, beneficence, and friendship.[67] Justice in the Bible, I argue over the course of this book, also involves both sorts of obligations, due and beyond-due, but it includes and blends them fully into justice and lacks the concept of potential parts.

In the ensuing centuries, philosophers in the western tradition continued to espouse the justice of due and to give high place to rights, while shedding from justice principles and virtues that go beyond due. If the biblical justice of right relationship includes both sorts of principles, then modern political thought – rationales of separation – has overswept it.

Thomas Hobbes cited the "ordinary definition of Justice in the Schooles," which is that "[j]ustice is the constant will of giving to every man his own." He broke from

[67] ST II-II, q. 80, a.1, resp. Aquinas also discusses virtues that are due but lack equality, including those to God and parents. Aquinas's discussion of liberality in ST II-II, q. 117, a. 5 reinforces his rendering of it as a potential part of justice. He writes in the responsorial of this article: "Liberality is not a species of justice, since justice pays another what is his whereas liberality gives another what is one's own. There are, however, two points in which it agrees with justice: first, that it is directed chiefly to another, as justice is; second, that it is concerned with external things, and so is justice, albeit under a different aspect, as stated in this Article and above (A.2, ad 3). Hence it is that liberality is reckoned by some to be a part of justice, being annexed thereto as to a principal virtue." In a.5, ad 1, Aquinas distinguishes between two concepts of due, ones that I take up in Chapter Five. He writes, "[a]lthough liberality does not consider the legal due that justice considers, it considers a certain moral due. This due is based on a certain fittingness and not on an obligation: so that it answers to the idea of due in the lowest degree." Aquinas distinguishes between the two definitions of due that I discuss in Chapter Five – the due that corresponds to rights and the due that is more broadly "fitting.

Aquinas and earlier thinkers in holding that justice did not exist naturally, but rather only when people agree to a contract by which they establish a civil power with the force to compel. By "his own," that which justice rendered, Hobbes meant "propriety," or rightful possession, most importantly, of life, marriage and property. To have propriety of these things was the same as having a right to them, a right that the sovereign confers by virtue of his own rights, meaning his powers or his authority.[68] Justice in the commonwealth was entirely a matter of rights for Hobbes.[69]

John Locke's writings on politics, while they contain no focused discussion of justice like that of Aquinas's treatise, regularly use the terms justice and just, meaning by them moral norms that correspond to rights – to life, liberty, health, and property – and whose enforcement is the chief end of governments. Locke distinguishes justice from the (beyond-due) principles of "charity, bounty, and liberality," which he writes are enjoined by the Gospel and by reason and are indispensable for human fellowship.[70]

Similarly, Immanuel Kant in *The Metaphysics of Morals* termed public justice a condition in which everyone's natural rights are safeguarded by government. Like Locke, he also treats retribution for crime as a matter of justice. Kant, too, distinguishes justice from duties of virtue, which are wide, or imperfect, in that they are unspecified in how they are to be carried out and thus do not correspond with a right.[71]

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[68] We see here different senses of the term rights. I will explain these different senses at greater length in Chapter Five, drawing from Wesley Hohfeld. The rights of Hobbes' sovereign are "powers," or those of an authority. The rights of people living under the sovereign are "claim rights."

[69] Thomas Hobbes, *Leviathan*, ed. C.B. Macpherson (Penguin Books, 1968), 202, 383, and see earlier, 188. I have de-italicized Hobbes's definition of justice.

[70] John Locke, *A Letter Concerning Toleration*, ed. James H. Tully (Hackett Publishing Company, 1983), 30. See also 26, 33, 43. See also, John Locke, *The Second Treatise on Civil Government* (Prometheus Books, 1986), 5, 15, 69, 75-76.

[71] Immanuel Kant, *The Metaphysics of Morals*, ed. Mary Gregor (Cambridge University Press, 1991), 120-121, 140-145, 194-195, 197-198. Kant makes sympathetic reference to Ulpian's definition of justice on 62.

That John Stuart Mill, the greatest of utilitarians, would endorse justice emphatically and define it almost exactly as did Kant, utilitarianism's polar foe, may seem surprising. Yet, Mill argues in *Utilitarianism* that justice is a matter of laws, or principles, or duties; that justice corresponds to rights, or what is due, or may be claimed as a debt; that unjust acts merit punishment; and that duties of justice are distinguishable from imperfect duties of charity, beneficence, and generosity, which do not fulfill rights. An almost unexceptional adherence to justice, Mill insists, maximizes utility.[72]

The two principles of justice that John Rawls argues ought to structure society in *A Theory of Justice* – ones that would be chosen in the original position, a social contract whose parties are blinded by a veil of ignorance to their class position, status, assets, abilities, and even their conception of the good – are both built upon rights. The first, equal liberties, means the equal rights of every person to "the most extensive basic liberty compatible with a similar liberty for others." The second, that "social and economic inequalities" are to be arranged "to be to everyone's advantage" and "attached to positions and offices open to all," implies that everyone has a right to seek offices and positions and to a certain distribution of goods. Rawls's general term for his ideas, "justice as fairness," implies rights. Fairness is the principle that everyone is entitled to, what rightly is hers on some criterion such as her dignity, her needs, or her achievements. Rawls and his many followers have carried forward the tradition of defining justice as rights.[73]

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[72] John Stuart Mill, *Utilitarianism*, ed. Oskar Piest (Macmillan Publishing Company, 1985), 52-79
[73] John Rawls, *A Theory of Justice* (Harvard University Press, 1971), 60-65. Rawls strongly rejects merit as the criterion of distribution. I list it here as one possible criterion of fairness. See 83-90.

Other major political philosophers in the Western tradition, including Jean Jacques Rousseau, James Madison, and G.W.F. Hegel, have put forth justice as rendering due or its equivalent, fulfilling rights, although still others, such as Karl Marx, have not. Justice as due has triumphed all the more thoroughly in the world's constitutions and international law. Today, nearly 200 sovereign states in the world have constitutions and only five do not.[74] Obligations and prerogatives in modern constitutions are ones that fulfill rights in all four of the forms that legal philosopher Wesley Hohfeld identifies: claims that individuals and associations make; liberties and privileges that persons and associations are granted; powers and prerogatives that authorities have; and immunities that persons and associations have against authorities.[75] The United States Constitution, the world's oldest written constitution, features rights strongly, especially after the Bill of Rights was ratified in 1791, and has served as a prototype for constitutions for other sovereign states. Today, some 116 separate rights reside in all of the world's constitutions, which contain an average of 48 rights.[76] Rights feature just as strongly in international law – found in the preamble and most articles of the United Nations Charter, the Universal Declaration of Human Rights, the international human rights covenants of 1966, and the many conventions that arose from the covenants.

Conclusion

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[74] The five are Canada, Israel, New Zealand, the United Kingdom, and Saudi Arabia. The first four of these arguably have a constitution, or the equivalent of one, even though it does not take the form of a single document.

[75] Hohfeld receives greater elaboration in Chapter Five. See Wesley Hohfeld, *Fundamental Legal Concepts: As Applied in Judicial Reasoning*, Ed. Walter Wheeler Cook (Yale University Press, 2010).

[76] "How Many Rights is Enough?" in "Data Stories" at *Constitute*, find at https://www.constituteproject.org/data-stories/how-many-rights-is-enough.

The justice of right relationship consists of the totality of actions, governed by principles, that seek to bring about right relationship. This is the justice of the Bible, a warranted translation of the terms *sedeq* and *dikaiosune*. Across centuries, this justice has been overswept by the justice of rendering others their due. The justice of rendering due is a separation rationale that truncates the earlier justice of right relationship.

That due, or its equivalent, rights, has triumphed in defining justice is not to say that people never act in the political realm on the basis of principles that exceed due, such as mercy and care. The introductory chapter presented five examples of such action. It means rather that since justice is the "first virtue," or most important principle, of political institutions, those principles that qualify as justice will gain a high place in politics while other principles will be subordinated and sidelined.

The task at hand is to retrieve the justice of right relationship. The next two chapters defend in greater depth the proposition that the justice of the Bible is comprehensive right relationship. We begin with divine justice.

Chapter Three: Resurrecting Justice

This chapter and the next one, Chapter Four, defend, expand, and develop the argument of the last chapter, Chapter Two, that justice in the Bible means comprehensive right relationship – the claim that is liable to elude English readers of the Bible and to surprise today's adherents of the justice of rendering due. Justice in the Bible is sometimes quite specific – say, a commandment to employ accurate weights and measures – but is also as large as the Bible's grand story. Biblical justice is nothing less than God's establishment of moral order in his creation of the world and his rescue and restoration of humanity to right relationship with himself, eventually culminating in a final restoration of heaven and earth. Justice is the sum total of commandments that prescribe how humans live in right relationship with God and with one another, and how they restore right relationship after it has been broken. It is the acts through which humans flourish, gain happiness, and grow into union with God.

The present chapter focuses on divine justice, the comprehensive right relationship that God enacts. It consists of divine primary justice and divine rectifying justice, corresponding to Quadrants One and Two in Table 2-1. The next chapter covers human justice, meaning comprehensive right relationship with respect to human action.

Divine Primary Justice

Aquinas taught that God's justice is his act of fashioning moral order in his creation. He calls this distributive justice. God "distributes" order to the universe, including moral order, and gives human beings the rationality through which they find this order intelligible and conducive to their flourishing.[1]

[1] See ST I, q. 21, a. 1, resp.

A reading of the Old Testament's references to justice, especially in the Psalms, where these appear most commonly, might suggest that Aquinas was not quite correct. Justice, it may seem, is not exactly an act of God, but is rather the moral order that results from God's creative action. It is humans who are to live by this order, through their actions, making this order one of human justice, not divine justice.

Aquinas, however, depicts justice in the Bible more soundly than this objection suggests. True, God intends humans to enact justice, but God also superintends this justice through his actions. God creates a moral order consisting of the total set of commands by which people live in right relationship with God, with one another, and within their souls; loves this justice; delights in this justice; manifests his character in this justice; promulgates commandments that govern the actions that make up justice; creates human beings such that they will find this justice intelligible and achieve their fulfillment through it; communicates blessings and curses for obedience or disobedience to this justice; bequeaths this moral order with glory and magnificence; and faithfully sustains all of these aspects of right relationship that he has created. These actions are divine primary justice.[2]

The first of these actions is creation. God creates the moral order, a set of commands that further the flourishing and correspond to the nature of the human beings that he made, much as Aquinas argued. Genesis (1:1, 2:1, 2:4) vows that God created the "heavens and the earth," the Bible's phrase for the universe and all that is in it. God created the heavens and the earth according to his wisdom, in order to increase

[2] Bible scholar Christopher J.H. Wright corroborates this argument in *Old Testament Ethics for the People of God*: "If justice perished, the foundations of the whole cosmic order would disintegrate, because justice is fundamental to the very nature of the Lord, the creator of the universe and to the core of God's government of history." See Christopher J.H. Wright, *Old Testament Ethics for the People of God* (InterVarsity Press, 2004), 253.

his love, his goodness, and his glory, and created them entirely out of freedom, out of nothing, and not out of necessity or lack. Human beings are the pinnacle of God's fashioning work, the work of the sixth day, the final day before God rested. God fashioned humans with his image, or likeness (Gen 1:26–28), meaning human capacities for knowing, loving, and realizing the goods that fulfill right relationship with God, with other persons and with the self, all of which mirror God and the Trinity. In repeating, "God saw that it was good," Genesis teaches that God originally set creation in right order.[3] Although Genesis does not use the word *tsedeq(ah)* to describe God's creation, Aquinas terms the Garden of Eden a condition of "original justice" and describes it as one of "undisturbed love of God," where Adam lived justly towards Eve and the natural creation, and where Adam's soul was "just," meaning that his reason governed his passions.[4]

In the center of God's original creation is the tree of knowledge of good and evil (Gen 2:16-17). In commanding Adam not to eat from this tree, God says that humans attain goodness, flourishing, abundance, and right relationship to others – the conditions of the Garden – by obeying him as creator and author. This original justice involves acts without commandments, which are not necessary. In eating of the tree, Adam and Eve disobeyed God and sought to "become like God," as the serpent says, that is, to attain the knowledge of good and evil that God, the author of good and evil, possesses.

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[3] The phrase appears in Gen 1:4; 1:10; 1:12; 1:18; 1:21; 1:25; 1:31.

[4] See ST I, q. 95, a. 1, resp.; a. 2, sc; a.2, resp.; a. 3, resp.; ST I, q. 96, a. 3, resp.; a. 4, resp. The phrase "original justice" does not appear in this question, but Thomas uses it in ST I-II, q. 113, a.1, resp.; and in Thomas Aquinas, *De Malo* q. 5, a. 1; and it is clear that this justice is what he is discussing in ST I, q. 95. On Aquinas's use of original justice see David W. Houck, *Aquinas, Original Sin, and the Challenge of Evolution* (Cambridge University Press, 2020), 55-87.

The Old Testament employs justice terms to describe God's creation of right relationship later, mostly in Psalms and Isaiah.[5] Psalm 33:5 closely links God's love for justice with his creation: "The Lord loves justice (*tsedeqah*) and right (*mishpat*) and fills the earth with goodness." Likewise, Psalm 96 describes God creating a moral order that he sustains through his justice. It speaks in verse 5 of the Lord who "made the heavens," and, in verse 13, of "the Lord who comes, who comes to govern the earth, To govern the world with justice (*tsedeq*) and the peoples with faithfulness." Psalm 65:6 speaks of God's justice in upholding the world that he created when it refers to "awesome deeds of justice (*tsedeq*), O God our savior" and proceeds to describe God's acts of creation, including setting up the mountains, stilling the seas, and making the earth fertile. Psalm 119:138 describes God's issuance of his decrees, which collectively constitute moral order, as an act of justice: "You have issued your decrees in justice (*tsedeq*) and in surpassing faithfulness."[6] Such justice is universal, Isaiah 61:11 testifies: "So will the Lord God make justice (*tsedeqah*) and praise spring up before all the nations."[7] God does not only build his moral order of justice but also sustains it enduringly: "His dominion is vast and forever peaceful, From David's throne, and over his kingdom, which he confirms and sustains By judgment (*mishpat*) and justice (*tsedeqah*), both now and forever," reads Isaiah 9:6.[8] God tends the moral order he established through his covenants with acts of judgment that bless the just and curse the unjust: "O Lord,

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[5] Several scholars make the case that some instances of *sedeq(ah)* and of the hendiadys, *sedeq(ah)* and *mishpat*, express God's establishment of moral order in the Old Testament. See Rolf Knierim, *The Task of Old Testament Theology* (Eerdmans, 1995), 15; Moshe Weinfeld, *Social Justice in Ancient Israel and in the Ancient Near East* (Magnes Press, 1995), 20; H.H. Schmid, *Gerechtigkeit als Weltordung: Hintergrund und Geschichte des alttestamentlichen Gerechtigkeitsbegriffs* (Mohr, 1968).

[6] Associating justice with God's decrees are also Deut 4:8; Ps 111:7; Ps 119: 159-160; Ps 119:164; Ps 119:172; and Rom 7:12.

[7] On God applying his justice to "the nations" or "the peoples," see also Ps 7:9-12.

[8] On God sustaining his justice, see also Ps 9:8; Ps 36:7; Isa 9:9; Isa 41:10; and Jer 9:23.

judge of the nations. Grant me justice, Lord, for I am blameless, free of any guilt," Psalm 7:10-12 recounts, continuing, "[b]ring the malice of the wicked to an end; uphold the innocent (*saddiq*), O God of justice (*saddiq*), who tries hearts and minds. A shield before me is God who saves the honest heart. God is a just (*saddiq*) judge, who rebukes in anger every day."[9] Isaiah 51:6-7 declares with brio that God sustains his justice:

> Raise your eyes to the heavens and look at the earth below; Though the heavens grow thin like smoke, the earth wears out like a garment and its inhabitants die like flies, My salvation shall remain forever and my justice (*tsedeqah*) shall never be dismayed. Hear me, you who know justice (*tsedeq*), you people who have my teaching at heart: Fear not the reproach of men, be not dismayed at their revilings.

In justice, God creates, loves, and sustains what he created.

The Psalms tie God's creation to his kingship – his authority, his sovereignty, and his good purposes – and describe his kingship by justice.[10] "The Lord is king," Psalm 96 (10, 13) announces, and "comes . . . [t]o govern the world with justice." Kingship, justice, and creation are combined, too, in Psalm 89: 12-15: "Yours are the heavens, yours the earth; you founded the world and everything in it . . .. Justice (*tsedeq*) and judgment (*mishpat*) are the foundation of your throne."[11]

The Bible also describes as justice God's establishment of right relationship with humans through his covenants. Taking the form of treaties among nations in the ancient Near East, covenants are solemn agreements between God and human beings according to terms that God sets forth. Through covenants with Noah, Abraham, Moses and David,

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[9] Associating justice with divine judgment are also Ps 5:13; Ps 11:7; Ps 50:6; Ps 94:15; Isa 11:4; Isa 30:18; Zeph 3:5; and 2 Thess 1:5.

[10] See Weinfeld, *Social Justice in Ancient Israel and in the Ancient Near East*, 20.

[11] Other verses associating justice with the moral order include Isa 28:17; Isa 33:5; and Isa 45:8. Associating justice with kingship are also Ps 72:1-2; Ps 97:1-6

and ultimately through the New Covenant that Jesus Christ institutes, God progressively reveals the terms of right relationship between human beings and himself. Especially important for justice are God's covenant with the Israelites on Mount Sinai and the New Covenant. The covenant on Sinai entails all of the elements of a biblical covenant, including a grant of God to his people, a narration of the historical basis for the covenant, the people's acceptance of the covenant through a public reading, a promise of blessings and curses, and, crucially for justice, a setting forth of moral order, or the set of actions by which humans are to live in right relationship with God and other human beings. These are the Ten Commandments, the foundation of morality. Jesus's New Covenant includes the terms by which humans may receive his forgiveness, namely repentance, faith, and living the new moral law that Jesus teaches.[12]

Through covenants, as through creation, God performs his justice of establishing comprehensive right relationship. Psalm 99:4 attests: "The strength of the King loves justice (*mishpat*); You have established order; You have executed justice (*mishpat*) and righteousness (*tsedeqah*) in Jacob."[13] Jacob is the scripture's term for Israel, to whom God gave the law through a covenant. Psalm 119:137 declares, "[y]ou are righteous (*saddiq*), Lord, and just (*yashar*) are your edicts (*mishpat*)," followed by verse 138, which reads, "[y]ou have issued your decrees in justice and in surpassing faithfulness." God's justice is his announcement of justice for humans, which he issues through his

[12] Ezek 34: 25-31; Ezek 37: 26-28; Jer 30; Matt 26:28; Mark 14:4; Luke 22:20; Gal 3:19, 3:23, 4:5; 1 Cor 11:23-25; 2 Cor 3:6; 2 Cor 4-5; Heb 8:6; Heb 9:15; Rev 21:8. See Scott Hahn, *Kinship as Covenant*: *A Canonical Approach to the Fulfillment of God's Saving Promises* (Yale University Press, 2009).

[13] In Psalm 99:4, the New American Bible translation that I use as the standard one in this book states "just rule in Jacob," rather than "justice and righteousness in Jacob," whereas the original Hebrew uses the hendiadys, *mishpat* and *sedeqah*, which other English versions translate "justice and righteousness," rather than simply "just." I quote here from a different translation of the New American Bible that shows the hendiadys.

edicts, most prominently his covenant at Sinai. Isaiah 42:6 also links God's justice with God's covenant: "I, the Lord, have called you for the victory of justice (*tsedeq*), I have grasped you by the hand; I formed you, and set you as a covenant of the people, a light for the nations."

God performs his justice, conducts his artistry in chiseling and preserving the world, reflectively of his traits, especially his goodness and wisdom. God's acts reflect his being. Many verses use the adjective, *saddiq*, to describe God such as Psalm 11:7: "The Lord is just (*saddiq*) and loves just deeds (*tsedeqah*); the upright shall see his face." Likewise, Deuteronomy 32:4 declares, "[t]he Rock – how faultless are his deeds, how right (*mishpat*) all his ways! A faithful God, without deceit, how just (*saddiq*) and upright he is!" Similar is Isaiah 24:16: "From the end of the earth we hear songs: Splendor to the Just (*saddiq)* One!" In the New Testament, the Gospel of John 17:25 refers to the "[r]ighteous (*dikaie*) Father," and Paul's Second Letter to Timothy 4:8 to the Lord as "the righteous (*dikaios*) judge." Several times, the Book of Acts refers to Jesus as "the righteous one," using a close equivalent to *dikaios,* the word that I have argued may translate to just.[14]

God's primary justice involves commandments, equity, fairness, and impartiality, but enfolds these in a relationship with human beings that is not dispassionate, cold, unemotional, or distant. Divine justice is right relationship in a family. Bible scholar Scott Hahn makes the case that God's covenants are ones of kinship.[15] The prophet Hosea, who describes God's love for Israel as that of a bridegroom, uses justice in this

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[14] For the other references in Acts, see 3:14, which uses *dikaion*, 7:52, which uses *dikaiou*, and Acts 22:14, which uses *dikaion*. Other verses characterizing God is just include Ezra 9:15; Ps 116:5; Ps 119:137; Isa 5:16; Isa 24:16; Isa 30:18, and others.

[15] See Scott Hahn, *Kinship as Covenant: A Canonical Approach to the Fulfillment of God's Saving Promises* (Yale University Press, 2009), 37-48.

way in verse 2:21: "I will espouse you in right and in justice." In Psalm 11:7 (quoted above), it is a face-to-face union with God to which justice leads: "The Lord is just (*tsedeq*) and loves just deeds (*tsedeqah*); the upright shall see his face." This familial and personal justice, the psalmist and other writers of scripture describe ebulliently. "It pleased the Lord in his justice to make his law great and glorious," recounts Isaiah 42:21.[16]

Whereas God's primary justice and God's rectifying justice are separable instances of God's agency, ones that Table 2-1 presents in different squares, the acts through which God creates and sustains right relationship are closely connected to the acts through which God addresses the breach of right relationship. Even in creation, as the first sentence of the Bible tells, there existed a formless wasteland and an abyss covered by darkness, out of which God brought order and light – a remedy of lack, an act of mercy.[17] The covenants, manifesting God's faithfulness and will to renew, were all "added for transgressions," as Paul explains in Galatians 3:19. The New Covenant, accomplishing forgiveness, is a response to sin. The judgments through which God sustains the covenants all respond to evil. Yet, although primary and rectifying divine justice are woven tightly, each remains intact as a separate strand, distinct in its function and end. Divine primary justice constructs and sustains comprehensive right relationship; divine rectifying justice wills to restore comprehensive right relationship after humans have sundered it. The first kind involves establishing, re-establishing,

[16] See also Ps 11:7; Ps 35:28; Ps 36:7; Ps 48:10-11; Ps. 50:6; Ps 65:6; Ps 71:17-19; Ps 97:1-6; Ps 101:1; Ps 119:164; Ps 119:172; Jer 9:23.
[17] See ST I, q. 21, a. 4, resp.

upholding, and loving the moral order and the persons who inhabit. The second kind responds to wrongs qua wrongs, involving punishment, rebuke, and forgiveness.

Divine Rectifying Justice

Divine rectifying justice consists of the acts through which God restores comprehensive right relationship with humanity. It corresponds to Quadrant Two in Table 2-1. God's rectifying justice repairs and refashions his primary justice. It manifests *hesed*, the Old Testament's term for God's faithfulness to what he established through creation and covenants, and is enacted through episode after episode in which God restores what he first created. Rectifying justice reaches its climax in the Cross and Resurrection of Jesus Christ, which defeats the power of sin and its severing of right relationship and which sets in motion the restoration of right relationship, eventually culminating in the "new heavens and a new earth," which the Apostle Peter characterizes as *dikaiosune* (2 Peter 3:13). This restoration takes place through several kinds of acts, each of a different character: punishment, foregoing of punishment, forgiveness, and the restoration of persons, land, cities, and nations. All of these forms of restoration enact *tsedeq(ah)* and *dikaiosune* and are what we may call justice.

Sin is Injustice

Sin, which destroys right relationship, is correspondingly injustice. Sin is an action – a thought, word, deed, or omission – that violates one or more of God's laws. The authors of the New Testament use the word *adikia* to denote sin twenty-five times and the authors of the Septuagint frequently use *adikia* to translate the Hebrew word for

sin, *ʿâvôn*.[18] *Adikia* conveys injustice through its root, *dik*-, which, in its biblical usage, denotes the justice of right relationship, and through its prefix, *a*-, which means a negation. *ʿÂvôn,* for its part, means sin in the broad senses of both an offense and the wide destruction of persons and relationships. Although these are not the Bible's only words for sin, all sin in the Bible is injustice in its breaking of right relationship, which God's laws define. "The sinner rebels against the order of justice," theologian Matthew Levering writes.[19]

Sin wrecks relationship in its three dimensions – between persons and God, between persons, and within the person.[20] The wreckage takes the form of wounds, which are real, enduring diminishments of relationship. Wounds convey that sin does not fulminate and then flame out or leave only a mark in an accounting book external to persons and relationships. Over the course of the Bible, the wounds of sin begin with Adam and Eve's nakedness and banishment from the Garden of Eden and continue through enmity, war, death, injury, famine, blindness, barrenness, poverty, and injury to souls.

Sin marks the wounds that it creates. Sin is not merely a problem, a disease, or a disorder, although it may result in any of these conditions, but is a free act, one for which the sinner is responsible, and its intentionality shapes the resultant wreckage. Compare one person who suffers from a disease with another who experiences identical symptoms from a villain poisoning him. The latter's suffering is marked by wrong. Or

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[18] Reumann, "Righteousness (NT)," 747.

[19] Matthew Levering, "Creation and Atonement," in *Locating Atonement: Explorations in Constructive Dogmatics*, eds. Oliver D. Crisp and Fred Sanders (Zondervan, 2015), 61. Levering describes Aquinas' interpretation of the Bible.

[20] Aquinas identifies these three dimensions of sin – against oneself, one's neighbor, and God. See ST I-II, q. 72, a. 4, sc.

compare two close friends who are separated by the destruction and exodus that an earthquake causes in a village and are only reunited years later, with two friends whose village is invaded by a foreign army, one of whom accepts payment to collaborate with the invaders and the other of whom is taken prisoner and, when released, no longer wishes to see his former friend out of fear and a sense of betrayal. The first separation results from a tragedy, not sin; the second separation is a wound that is marked by sin. The nature of the wound will inform the nature of the response. In the first of these scenarios, justice involves aid and empathy; in the second, justice involves acts that redress the moral wrong – rectifying justice.

The wounds of sin, or injustice, are of two sorts.[21] The first is what may be called the standing victory of injustice, the rupture in right relationship that the act of injustice itself creates. Once a serious wrong has been committed, it stands as a "moral fact," a reality that persists. When Bob insults Michelle, he creates a moral fact in their relationship. Now, Michelle must decide: Return Bob's insult? Refuse to talk to him? Forgive him? Confront him? Even ignoring him is a willful response to the insult. Bob, for his part, may apologize, double down, protest that he was justly responding to a previous wrong, or explain that he was joking, misunderstood, or acting under pressure, all of which presuppose the moral fact that his words have created. A deposit is laid down, something that demands a response. A standing victory follows from every injustice, from interpersonal ones up through war crimes, genocide, and acts of aggression, racism, slavery, and ethnic discrimination, acts that persist in the memory of nations, sometimes for decades or centuries.

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[21] My ideas here about the wounds of injustice draw from my book, Daniel Philpott, *Just and Unjust Peace: An Ethic of Political Reconciliation* (Oxford: Oxford University Press, 2012), 31-32, 172-174.

The other sort of wound is a broad category consisting of the entire set of injuries to right relationship that a wrong inflicts apart from this standing victory. This wound varies according to the kind of wrong that inflicts it – insult, swindling, adultery, a war crime – and may include physical harms, psychological harms, harms to relationship such as a breakdown of trust or an absence of acknowledgment of suffering, as well as a harm that the Christian tradition and philosophers such as Plato sound strongly – harm to the soul of the wrongdoer. "His soul is in jeopardy as his victim's is not," writes philosopher Herbert Morris.[22]

It would be a mistake to omit the standing victory of injustice from the wounds of sin. Responses to ordinary wrongs often reveal people's recognition of and disquietude about this standing victory. When four-year-old Teddy envies his playmate Patrick's truck, rashly seizes it from Patrick, elbowing Patrick in the face and knocking him to the floor, Teddy's mother steps in, swiftly retrieves the truck from Teddy, returns it to Patrick, comforts Patrick, salves his wounds, and reprimands Teddy, teaching him the perfidy of his affront. This is not enough, though, Teddy's mother believes. Teddy must renounce his contumely by apologizing and performing some gesture of repair towards Patrick – embracing Patrick, perhaps donating to Patrick a piece of his candy collection. If Teddy does not make good, his mother is prepared to sentence him a "time out" or exile in his bedroom. It is essential that Teddy make good or be punished, she believes, and not merely that Patrick receive his truck back; Teddy learns a lesson for the future, and the like. The act itself stands as a wound and not merely its effects. It has rent the boys' friendship, a relationship whose rightness depends on mutual respect for

[22] Herbert Morris, "A Paternalistic Theory of Punishment," *American Philosophical Quarterly* 18, no. 4 (1981), 268.

possessions. To repair the friendship, Teddy must remediate the wrong itself, that is, dismantle the standing victory of injustice.

Grave political crimes elicit similar judgments. Human rights activists sought the trial of Chilean dictator Augusto Pinochet well after he had left office, was elderly and infirm and could no longer order torture. The activists' cry, "no more impunity," communicates what they thought was at stake: the fact that Pinochet's deeds had not been shorn of their legitimacy, that they stood victorious.

This distinction among wounds – between the standing victory and the other wounds -- concurs with the Catholic Church's theology of sin and penance. Sin results in guilt, which a sin itself incurs, as well as in disorders to the soul of the sinner, broken relationships with others, and material, psychological, and spiritual forms of damage. In the sacrament of reconciliation, the priest absolves the penitent of her sins, thereby removing the guilt incurred by the act, while separately prescribing a penance, through which the sinner seeks to heal the disorders caused by the sin, to herself and to others.

The wounds of sin are comprehensive, marring all three dimensions of right relationship – with God, with others, within the soul. In sinning, humans turn away from God and incur a state of separation from God. Because sin involves a loss of grace, human efforts alone cannot restore this separation. "The wages of sin is death," writes Paul (Rom 6:23).[23]

All sin is committed against God while much, but not all, of it is committed against other persons.[24] The Bible depicts many sins against others, and some among

[23] Catholic theology distinguishes between mortal and venial sin. It is mortal sin that results in a loss of charity and privation of grace, which require the saving action of God to be restored.
[24] Some sins are primarily personal rather than interpersonal, for instance, sins of gluttony, even while personal sins often wound others as well.

these are distinct to political orders: crimes against the poor, the widow, the orphan, the foreigner, and the wage earner, as well as extortion, fraud, unjust wars, and the king's idolatry. Sin includes what the tradition has come to call structural sin – structures that sin begets and that beget further sin such as extreme maldistributions of wealth and pernicious cultural norms.[25] Among the manifold wounds of sin between persons are poverty, ongoing oppression, cultures of violence, the fracture of families, enmity, loss of trust, vengefulness, negligent damage to the shared natural environment and the death, injury, economic loss, loss of job and career, and psychological damage that violence inflicts.

Finally, just as blunders on a battlefield emanate from disarray at command central, the sinful acts of a person manifest disorder in the person who acts. An act against God's law is performed by a will directed by the intellect to act upon desires for an inferior or disordered good over the true good. Wounds to the person result and disintegration sets in. As Aquinas explains, the soul has become darkened in its intellect, weakened in its will, disordered in its desires, and thus prone to further sin.[26] Thus, the penitential Psalm 51 cries out for cleansing.

Sin in the Bible is injustice, a violation of the comprehensive right relationship that is justice. It leaves a legacy in wounds along all dimensions of relationship. The nature and reality of these wounds is the condition to which God's rectifying justice responds.

Divine Rectifying Justice in the Old Testament

[25] I explore structural sin in Chapter Seventeen.
[26] ST I-II, q. 85, a. 3, resp; ST I-II, q. 87, a. 2, resp.

God responds to sin, injustice, through his acts of justice, the wide justice that restores right relationship. Many instances of *tsedeq(ah)* in the Old Testament speak of the divine justice of salvation and deliverance. "In your justice (*tsedeqah*) rescue and deliver me," says Psalm 71:2. "I am bringing on my justice (*tsedeqah*), it is not far off, my salvation shall not tarry," announces Isaiah 46:13. Justice, or *tsedeq(ah),* often refers to God's salvation of Israel from a place of bondage – slavery to Egypt, exile in Babylon. A song in Judges 5:11 goes: "Sing of them to the strains of the harpers at the wells, where men recount the just deeds (*tsedeqah*) of the Lord, his just deeds (*tsedeqah*) that brought freedom to Israel." *Tsedeq(ah)*, meaning divine rectifying justice – Quadrant Two of Table 2-1 – is found most frequently in Psalms and Isaiah and is also common in Hosea, Micah, Amos, and Judges.[27]

This justice is most dramatic in Isaiah, which features destroyed nations, the invasion and exile of Israel, a place where every tear is wiped away, the mountain of the Lord's house, and a nation refashioned like the Garden of the Lord, combined in a justice that is brought to victory. Telling the story is the prophet Isaiah, whose name means "the Lord saves" and who speaks for God in his response to Israel's sin during its time of kingship and exile. Justice, a purifying, restorative justice performed by God, is the persistent theme of Isaiah and provides a pattern for the writers of the Gospels and for the Apostle Paul in their depictions of Jesus Christ.[28]

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[27] J.J. Scullion, "Righteousness (OT)," in *The Anchor Bible Dictionary*, ed. David Noel Freedman, vol. 5 (Doubleday, 1992), 732-734. Scullion notes that *sedeqah* occurs 34 times in the Psalms, 9 of which refer to God's saving action. For examples of *sedeq(ah)* (or a close cognate) that carry the meaning of divine rectifying justice, see Ps 7:10; Ps 31:1; Ps 35:24; Ps 35:28; Ps 40:10; Ps 51:16; Ps 71:2; Ps 71:15; Ps 71:16; Ps 71:19; Ps 99:4; Ps 103:6; Ps 143:11; Judg 5:11.

[28] Carroll Stuhlmueller, "Isaiah Reading Guide," in *The Catholic Study Bible* (Oxford University Press 1990), 299.

Isaiah begins with several chapters that describe Israel's sins: oppression of the poor, land grabs, corruption, unjust laws, hoarding of wealth, pride, ritual without obedience, magic, apostasy, and, most of all, idolatry. This thorough degradation Isaiah characterizes as a desert and a burning land. Sin is the negation of human justice, denoted by *tsedeq(ah)* and *mishpat*, and so derives its meaning from justice. Reflecting the three dimensions of broken right relationship, Isaiah speaks of sin as people turning away from God and God's consequent wrath; as "holy cities" that "have become a desert" on account of discord and oppression between humans (64:9); and as "crimson red" on the besmirched souls of the people (1:18). Isaiah often refers to sin collectively, borne by nations.

God responds to the standing victory of sin in Isaiah through a justice that restores. *Tsedeq(ah)*, referring to God's rectifying action, arises frequently in Second Isaiah (chapters 40-55), the portion of the book whose plot is God's liberation of Israel from exile in Babylon but whose message about the character of salvation is far wider.[29] "Let justice descend, O heavens, like dew from above, like gentle rain let the skies drop it down. Let the earth open and salvation bud forth; let justice also spring up! I, the Lord, have created this," recounts Isaiah (45:8) in a chapter in which the word justice or just appears seven times and always refers to God's actions. The verse describes justice as coming from God and renewing what God has created. A verse in First Isaiah (chapters 1-39) makes clear that this justice reflects God's very character: "God the Holy shall be shown holy by his justice" (5:16). God's restorative justice is God's overarching action in response to sin.

[29] Isa 45:8; Isa 45:13; Isa 45:19; Isa 45:21; Isa 46:12; Isa 46:13; Isa 51:1-8; Isa 54:14; Isa 56:1; Isa 59:17.

What kinds of actions does this response involve? Ones of different kinds. Undoubtedly God punishes. As is true throughout the Bible, God punishes both indirectly, for instance, by "handing over" Israel to the conquest of another nation, and directly, inflicting destruction.[30] Eleven chapters in Isaiah (13 through 23) describe God destroying nations out of his wrath and consigning people to the netherworld, a theme to which the book returns in its final chapters, 63 to 66. "I will punish the world for its evil and the wicked for their guilt," God says in Isaiah 13:11, "I will put an end to the pride of the arrogant, the insolence of tyrants I will humble." God punishes Israel by allowing it to be attacked by Assyria and captured by Babylon. In Second Isaiah, God "poured out wrath upon," rebukes, displays anger, and speaks of vengeance towards Israel. Isaiah 10:22 speaks of punishment as justice, "their destruction is decreed as overwhelming justice (*tsedeqah*) demands." Isaiah also uses the term *mishpat* to refer to God's authoritative judgments upon sin, which have justice as their criterion.[31]

How is punishment a part of the justice through which God restores? Let us return to primary justice. God created the world to expand himself and his love, and willed that humans share in this love, a sharing that is none other than the justice of right relationship. It is because people have flouted this justice, violating the laws that God gave them for their flourishing, that he is wrathful towards them.[32] Isaiah conveys that God is giving people what they deserve according to their guilt through the language of repayment, requital, and recompense. This guilt, though, is not a mark on an abstract index or a bead on an abacus in the sky, but rather arises from responsibility

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[30] In Rom 1, Paul writes three times that God "handed over" sinners.

[31] Isa 1:27; Isa 4:4; Isa 5:7; Isa 5:16; Isa 34:5, Isa 42:1; Isa 42:3; Isa 42:4; Isa 56:1; Isa 58:2.

[32] See Matthew Levering, *Engaging the Doctrine of Creation*: *Cosmos, Creatures, and the Wise and Good Creator* (Baker Academic, 2017), 297-300.

for acts that wound right relationship.[33] In a larger sense, God is putting a stop to sin out of fidelity to his creation. When God's punishment is conjoined with his willingness to renew, the overall meaning of this punishment becomes clear: It is an act of communal purification. "[T]he Lord washes away the filth of the daughters of Zion, And purges Jerusalem's blood from her midst with a blast of searing judgment (*mishpat*)," verse 4:4 states.[34]

Yet, Second Isaiah also declares that Israel's "service is at an end" and that God will "restrain my anger," "not accuse forever," nor remember the events of the past.[35] The word redeem or a form of it appears 22 times in the whole book of Isaiah. God ceases to punish and does not mete it out measure for measure. In places, Isaiah echoes the divine restraint recounted in other passages in the scriptures such as Psalm 103: 6-10, which uses "righteous deeds" (*tsedeqah*) and "justice" (*mishpat*) to characterize the Lord's acts in this way: "Merciful and gracious is the Lord, slow to anger, abounding in kindness. God does not always rebuke and nurses no lasting anger, Has not dealt with us as our sins merit, nor requited us as our deeds deserve." Isaiah recounts God's mercy and forgiveness towards Israel as well as other nations and links these, too, with God's justice, as in verse 16:5: "A throne shall be set up in mercy, and on it shall sit in fidelity (in David's tent]/ A judge upholding right (*mishpat*) and prompt to do justice (*tsedeq).*" Stronger still is this verse from Lamentations: "The favors of the Lord are not exhausted,

[33] These themes of debt and guilt in God's rectifying justice are explored in greater depth in Chapter 6.
[34] On purgative punishment, see Deut 13:6; 17:7; 17:12; 19:19; 21:21; 22:21; 24:7.
[35] Isa 10:21; 40:1-2; 48:9; 57:16; 62:4-12.

his mercies are not spent; They are renewed each morning, so great is his faithfulness" (3:22-23).[36]

Isaiah also speaks at length and with verve of God's restoration of Israel and describes this, too, as justice, especially in Second Isaiah.[37] In contrast to images of desert, decay, and burning are posed images of fertility, lushness, greenness, life, prosperity, and abundance.[38] Over the course of the book appear references to deliverance of the poor: the blind regain their sight, prisoners go free, the lame walk, the oppressed are set free, the homeless are sheltered, and the naked clothed.[39] Peace, a condition of well-being, describes the restored Israel, and often appears alongside justice: "Justice (*tsedeqah*) will bring about peace; right (*tsedeqah*) will produce calm and security" (32:17).[40] A restored Israel is a community of just rule and laws: "See, a king will reign justly (*tsedeq*) and princes will rule rightly (*mishpat*)." It is a "city of justice, faithful city," the first chapter of Isaiah reads (1:26). Second Isaiah refers to a restored Jerusalem, the city that stands at the center of Zion and its salvation.[41] "Everlasting justice (*sedeq*) will be introduced," the Book of Daniel likewise describes Israel's restoration, "a most holy city will be anointed" (Dan 9:24).

Isaiah announces that the justice of God's salvation is not just for Israel but for everyone. Second Isaiah as well as Third Isaiah describe the restored Israel as a light to the nations.[42] God promises to restore everything and for all time: "Lo, I am about to

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[36] For other examples of God's mercy and forgiveness, see the Book of Judges; Ps 51; Isa 16:5; Isa 54:6-8; Isa 55:7; Isa 63:7-8; Hosea 11:8-9; Hosea 14:2-5.
[37] Isa 41:2; Isa 42:1-6; Isa 45:8; Isa 45:13; Isa 45:19; Isa 46:12; Isa 56:1; Isa 59:16-17.
[38] Isa 41:17-19; 42:15; 43:19-28; 44:3-4; 48:18-21; 49:8-10; 51:3; 52:12.
[39] Isa 11: 4; Isa 29:19; 41:17; Isa 42:7; Isa 42:16; Isa 3:8; Isa 49:9-10; Isa 55:1-2; Isa 57:15; Isa 58:6-10; Isa 61:1-3.
[40] Isa 11:6-9; Isa 57:19; Isa 66:12.
[41] Isa 44:26; Isa 52:1-9; Isa 60:10-14; Isa 62:1-7; Isa 65:17-19.
[42] Isa 42:6; Isa 49:6; Isa 60:3.

create new heavens and a new earth; The things of the past shall not be remembered or come to mind" (65:17). Earlier in Isaiah, God says, "[the Lord] will destroy death forever. The Lord God will wipe away the tears from all faces" (25:8). This sweeping and final restoration is justice: "[M]y justice (*tsedeqah*) shall remain forever and my salvation, for all generations" (51:8).

Isaiah's mysterious and messianic agent of this justice is the servant who appears in four songs in Second Isaiah. "I, the Lord have called you for the victory of justice (*tsedeq*), I have grasped you by the hand," God says to the servant (42:6). The servant shall "bring forth justice (*mishpat*) to the nations" (42:1). In Chapter 52 and 53 of Isaiah, the servant is an innocent figure who bears the guilt of many, suffers by it, and thereby "[justifies] many," healing them and making them whole (53:11). The servant is an expression of divine rectifying justice in Isaiah. The writers of the Gospel identify this figure as Jesus; it is Isaiah's most formidable link to the New Testament.[43]

From Adam to Zechariah, the Old Testament recounts God punishing, forbearing from punishing, showing mercy, forgiving, reviving the poor, and restoring persons, the land, nations, Israel, and all of heaven and earth. Is God's rectifying justice coherent?

The traditional Christian doctrine of divine simplicity teaches that God is a simple, unified, changeless being without parts or composition.[44] It would defy this doctrine to hold that God manifests a punitive nature on one occasion and a different, forgiving, one on another. How can these seemingly different actions be reconciled in a simple being? An answer begins by locating change and division in human beings, not

[43] The four songs can be found in 42:1-4; 49:1-6; 50:4-11; and 52:13-53:12. Several passages in the New Testament link Jesus to the Suffering Servant of Isaiah; see Matthew 8:17; Matthew 12: 18-21; Luke 22:37; John 12:38; Acts 8:32-33; 1 Peter 2:21-25.

[44] Augustine, Anselm, and Aquinas all espoused the doctrine of divine simplicity. Biblical support for the doctrine can be found in Deut 6:4; Exod 3:14; Mal. 3:6; Jas 1:17; and 1 John 1:5.

God. Just as, while the sun is unchanging in its brightness and heat, people experience it differently whether they are trudging through Death Valley, skiing on a clear winter day, or sitting by a swimming pool on an 85-degree summer day, so too, God is unchanging in his love for human beings, yet they experience this love differently if they are in harmony – that is, right relationship – with God than if they have strayed from God.[45] King David and his son, King Solomon, were wise, virtuous, and faithful, then gravely sinful, a variability that many other figures in the Old Testament exhibited, and experienced God appositely. God acts towards people according to their actions and decisions and does so consistently with his *hesed*, or covenant faithfulness, by which he fashioned, sustained, and restores his creation, the common end that underlies God's actions. In a consistent pattern, over the course of the scriptures, reaching a climax in Jesus Christ, God reaffirms his laws, forgives the repentant, and reserves punishment for the unrepentant. "When . . . they make amends for their guilt, I will remember my covenant," reads Leviticus 26:40-42, while Deuteronomy 30 says, "provided that you and your children return to the Lord . . . the Lord, your God, will change your lot; and taking pity on you, he will again gather you from all the nations wherein he has scattered you."[46]

The analogy of parenthood helps further. Good parents raise their children through varying measures, sometimes punishing, sometimes forbearing, sometimes rewarding, sometimes encouraging, adopting mildness, turning to sternness, all according to the child's intentions, habits, age, temperament, and circumstances. What

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[45] I am indebted to Christopher Kaczor for this metaphor. He adopts it in Christopher Kaczor, *Is Belief Believable? Reasoning About God from Plato and Aquinas to C.S. Lewis and Jordan Peterson* (Ave Maria Press, 2025), 100-102.

[46] For other verses that see God's repentance as a response to mercy, see 2 Chr 30:9, Ps 51; Ps 79:8.

appears to be inconsistent might be prudential good judgment, and an excess of consistency may be foolish. The Bible depicts God frequently as a parent and his people as his children. In Paul's *Letter to the Galatians*, he describes the people under the Mosaic law as under a tutelage, a custody in which God is a disciplinarian (3:23-26). Discipline is voiced repeatedly in Leviticus 26, cited just above in which God punishes and then restores Israel.[47] Frequent, too, though, is tender mercy, forgiveness, and closeness to the brokenhearted. The actions come from the same parent and for the same purpose.

God's Rectifying Justice in the New Testament

Jesus identifies himself with the servant who brings justice to victory when he quotes Isaiah 42 in the Gospel of Matthew (12:18-21):

> "Behold, my servant whom I have chosen, my beloved in whom I delight; I shall place my spirit upon him, and he will proclaim justice [*krisis*] to the Gentiles. He will not contend or cry out, nor will anyone hear his voice in the streets. A bruised reed he will not break, a smoldering wick he will not quench, until he brings justice (*krisis*) to victory. And in his name the Gentiles will hope."[48]

God's rectifying justice in the New Testament, as in the Old Testament, is God's act of restoring the world, and is performed by Jesus Christ, God incarnate. "Blessed is the wood through which justice (*dikaiosune*) comes about," the Book of Wisdom (14:7)

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[47] Lev 26: 14-46.

[48] The quote is at Matthew 12:18-21. The quotation marks are in the original; I leave them to show that Jesus is quoting Isaiah. The word justice here is translated by the New American Bible from *krisis*, which is the Greek equivalent of *mishpat*, meaning justice. It is the word with which the Septuagint translates *mishpat*. Here, as with the meaning of *mishpat* in the Old Testament, judgment is conducted according to justice, or standards of right relationship, which are denoted by the New Testament's word, *dikaiosune*. That the translators of the New Testament choose to use "justice" to translate *krisis* testifies to the close relationship of justice and judgment. It is not too much of a stretch to translate Jesus as saying that, through him, God's saving justice is performed.

adumbrates. The Cross and Resurrection are the climax of Israel's story of God's saving justice, declares New Testament scholar N.T. Wright.[49] This restoration of right relationship is not merely spiritual and religious, but also encompasses every dimension of life, including political orders.

Jesus identifies himself as the performer of God's saving justice, or *dikaiosune*, at the outset of his public ministry. In the Gospel of Matthew's depiction of Jesus's baptism, Jesus insists, in answer to John the Baptist's query: "Allow it now, for thus it is fitting for us to fulfill all righteousness (*dikaiosune*)" (3:15). Why does Jesus allow himself to be baptized? The phrase "fulfill all righteousness" appears only in Matthew's version and stands as Jesus's statement of the purpose of his baptism. Fulfill here means to bring about what was prophesied. What is fulfilled is *dikaiosune*, which, as I have argued, may be translated as justice.[50] What, then, is the justice that is prophesied and that Jesus is now fulfilling in his baptism? It is divine rectifying justice, the saving justice of God that the Old Testament expresses as *tsedeq(ah),* that the Septuagint translates as *dikaiosune* and that the New Testament expresses as *dikaiosune*.[51] Matthew's Gospel adopts *dikaiosune* to express the justice that Jesus commends

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[49] See N.T. Wright, *Evil and the Justice of God* (IVP Books, 2006), 75-100. This is one of many works in which Wright expresses this idea.

[50] True to form, the Douay-Rheims Bible translates the word as justice and the Latin Vulgate as *justitiam*.

[51] Several sources also interpret Jesus' baptism as the inauguration of the mission of saving justice that culminates in the cross and resurrection. See *Catechism of the Catholic Church*, secs 536, 1224; John P. Meier, *Matthew* (Collegeville, MN: Liturgical Press, 1980), 241-242; Reumann, "Righteousness (NT)," 755; Weinandy, *Jesus Becoming Jesus*, 80-90; Anatolios, *Deification Through the Cross*, 152-159; Benedict XVI, *Jesus of Nazareth: From the Baptism in the Jordan to the Transfiguration* (Doubleday, 2007), 18-19; Richard B. Hays, *Echoes of the Scripture in the Gospels* (Baylor University Press, 2016), 116; Frank J. Matera, *The Sermon on the Mount* (Liturgical Press, 2013), 38; and Matthew Levering, *Christ's Fulfilment of Torah and Temple* (University of Notre Dame Press, 2002), 43. Nathan Eubank interprets the passage somewhat differently to mean "fill up all righteousness," meaning that the baptism symbolizes that Jesus will pay the debt of sin through his own superabundant righteousness. See Nathan Eubank, *Wages of Cross-Bearing and Debt of Sin: The Economy of Heaven in Matthew's Gospel* (De Gruyter, 2013), 121-132.

humans to enact – that of the two lower quadrants in Table 2-1 – but in this instance Jesus is speaking of the justice that he performs. John had already been conducting baptisms for the purpose of repentance, and, just before he baptizes Jesus in the Gospel of Matthew, John states that "the one who is coming after me . . . will baptize you with the Holy Spirit and fire," indicating that the baptism associated with Jesus will involve a cleansing and renewing of sinners (3:11-12). In Jesus' own baptism, he identifies with the repentant sinner and accepts his vocation of cleansing the sinner that he will achieve definitely through his cross and resurrection. As Bible scholar Richard Hays puts it, "Jesus's acceptance of a baptism of repentance at the Jordan River is meant to signify his symbolic identification with sinful Israel (the people whom he will 'save from their sins'), and the figurative beginning of that new Israel's entry into the land of promise."[52] All three synoptic Gospels, Matthew, Mark, and Luke, present Jesus' baptism at the beginning of, and thus defining, his ministry.[53] In both Mark and Luke, Jesus refers to his future crucifixion, the climactic act of his saving justice, as a baptism.[54] At the end of Matthew's account of Jesus's baptism (3:17), God speaks from heaven, "[t]his is my beloved Son, with whom I am well pleased," paralleling what God spoke about his servant in Isaiah 42:1 through the terms of justice, "[h]ere is my servant whom I uphold, my chosen one with whom I am pleased, Upon whom I have put my spirit; he shall bring forth justice to the nations." In Jesus' baptism, he is inaugurating his mission of divine rectifying justice that Isaiah foretells and that Paul makes a central theme of his writings.

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[52] From Hays, *Echoes of Scripture in the Gospels*, 116.
[53] Matt 3:13-17; Mark 1:9-11; and Luke 3:21-22.
[54] Mark 10:38 and Luke 12:50.

Paul looked upon the cross and resurrection of Jesus Christ as the axial event in the story of God's salvation and as *dikaiosune*, or the justice that restores the world. Several scholars have argued that *dikaiosune theou*, God's justice (as I translate it), is the unifying theme of Paul's *Letter to the Romans*.[55] Paul found in God's justice the connection between God's being and God's action to which the Psalms and Isaiah testify. He employs *dikaiosune theou* first in Romans 1:17. Theologian Michael J. Gorman translates *dikaiosune* here as justice: "For I am not ashamed of the gospel; it is the power of God for salvation to everyone who has faith, to the Jew first and also to the Greek. For in it the saving justice (*dikaiosynē*) of God is revealed through faith for faith . . .."[56] Romans 3:21-26, arguably the most important expression of God's saving justice in Romans, also employs *dikaiosune theou*. This justice is a quality possessed by God and manifested in his action. Here is Gorman's translation, which I adopt because of his use of justice terms:

> But now, apart from the law, the saving justice (*dikaiosynē*) of God has been disclosed, and is attested by the law and the prophets, the saving justice (*dikaiosynē*) of God through the faith of Jesus Christ for all who believe. For

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[55] Making this claim, among others, are A. Katherine Grieb, "`So that in Him we might Become the Righteousness of God' (2 Cor 5:21): Some Theological Reflections on the Church Becoming Justice," *Ex Auditu* 22, (2006), 58-59; Reumann, "Righteousness (NT)," 759; Darrin W. Snyder Belousek, *Atonement, Justice, and Peace: The Message of the Cross and the Mission of the Church* (Eerdmans, 2011), 369; Christopher D. Marshall, *Beyond Retribution: A New Testament Vision for Justice, Crime, and Punishment* (Eerdmans, 2001), 39-53; Colin Gunton, *The Actuality of Atonement: A Study of Metaphor, Rationality and the Christian Tradition* (T&T Clark, 1988), 102; James B. Prothro, "Why God's Justice Is Good News: God's Generosity, Impartiality, and Equity in Romans," *The Catholic Biblical Quarterly* 87, no. 3 (July 2025): 482–488; and Michael J. Gorman, *Participating in Christ: Explorations in Paul's Theology and Spirituality* (Baker Academic, 2019), 193-194. Gorman cites the similar claim of L.T. Johnson, *Reading Romans: A Literary and Theological Commentary* (Smyth and Helwys, 2001), 13, 19-30, 47, 52-62. Although theologians have debated the meaning of the concept for some three-quarters of a century, I am persuaded that those instances of *dikaiosune* in the New Testament that belong to Quadrant Two in Table 2-1 refer to God's restoration of comprehensive right relationship. It is the same justice that is found in Isaiah, which Paul believes Jesus Christ has reenacted.

[56] See Michael J. Gorman, *Becoming the Gospel: Paul, Participation and Mission* (Eerdmans, 2015), p. 226. In the quotation, I maintain Gorman's spelling, *dikaiosynē,* which is slightly different from the one I use.

> there is no distinction, since all have sinned and fall short of the glory of God; they are now justified [or "made just," "made part of the community of the just"; *dikaioumenoi*] by his grace as a gift, through the redemption that is in Jesus Christ, whom God put forward as a sacrifice of atonement by his blood, effective through faith. He did this to show his saving justice (*dikaiosynēs),* because in his divine forbearance he had passed over the sins previously committed; it was to prove at the present time that he himself is just (*dikaios*) and that [or "in that"] he justifies (*dikaiounta*) the one who has [or "shares"] the faith of Jesus.[57]

Paul writes of the saving justice of God again in Romans 10:3, "[f]or, in their unawareness of the righteousness (*dikaiosynen*) that comes from God and their attempt to establish their own [righteousness] (*dikaiosynyn*), they did not submit to the righteousness (*dikaiosune*) of God."[58] The third instance of *dikaiosune* in this passage means the saving justice of God, while the first, most likely, the justice that is bestowed upon humans by God through his saving action.

Outside Romans, Paul uses the term *dikaiosune* in his First Letter to the Corinthians 1:30, where he writes of "Christ Jesus, who became for us" and follows with the four characteristics of wisdom, righteousness (*dikaiosune*), sanctification, and redemption. Jesus Christ, who is just, became for us the one who would perform for us saving justice, an act that is closely tied to sanctification and redemption and that manifests his wisdom.[59] Paul also uses the term *dikaiosune theou* in his Second Letter to the Corinthians, Chapter 5:14-21, at the end of which verse 21 reads, in Gorman's translation: "For us God made the one who did not know sin to be sin so that in him we

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[57] See Gorman, *Becoming the Gospel*, p. 231. The bracketed words are Gorman's. Arguing that *dikaiosune* is the saving act of Jesus Christ are also Nardoni in *Rise Up, O Judge*, 281; Dunn and Suggate in *The Justice of* God, 35; and Belousek, *Atonement, Justice, and Peace*, 369-380;
Frank J. Matera, *God's Saving Grace: A Pauline Theology* (Eerdmans, 2012), 107; Brant Pitre, Michael P. Barber, and John A. Kincaid, *Paul, a New Covenant Jew: Rethinking Pauline Theology* (Eerdmans, 2019), 157-59.

[58] The use of brackets around the second instance of righteousness is adopted from the text as it appears in the New American Bible.

[59] On divine action emanating from divine character, see Thomas D. Stegman, SJ, "Paul's Use of Dikaio-Terminology: Moving Beyond N.T. Wright's Forensic Interpretation," *Theological Studies* 72 (2011): 502.

ourselves would become the justice of God."[60] Paul teaches here that the believer becomes conformed to the justice that Jesus Christ enacted through his cross and resurrection – the same justice that centers the book of Romans.

This justice is an act by which God purports to restore all things. The evidence for the restorative character of this justice lies in all that scripture says about how and why God restores broken humanity through his acts of salvation. All that scripture says is admittedly formidable. Paul's writings alone contain dozens of metaphors for the atonement, and the Gospels and the other books of the New Testament adopt still other descriptions and images.[61] Metaphors draw from familiar areas of human life to describe a mystery whose meaning exceeds what any one image can convey. Bible scholars Ched Myers and Elaine Enns summarize the Bible's metaphors for atonement: images from Israel's cult of sacrifice; images from the law court such as acquittal, vindication, and amnesty; images of victory over powers, death, and Satan such as ransom, rescue, and liberation; images of freedom from debt of slavery such as redemption and release; images of overcoming separation from God, including restoration and restored kinship; images associated with God's covenants in which the sins are infidelity, lack of faith, and rejection of gift; and anthropological images that depict humans as corrupt or fallen and salvation as new Adam, new creation, resurrection, and eternal life.[62] The images are often mingled and some passages employ several of them. For instance, theologian Katherine Grieb shows that three images are bundled closely together in Romans 3:21-

[60] Gorman, *Participating in Christ*, 224. In addition to his interpretation, see also the corroborating arguments of Morna Hooker, "On Becoming the Righteousness of God: Another Look at 2 Cor 5:14-21," in *Novum Testamentum* 50 (2008), 374-75; Grieb, "So That In Him," 64-66. The translation here is Gorman's in *Participating in Christ*, 224.

[61] Marshall, *Beyond Retribution*, 40-41; McKnight, *A Community Called Atonement*, 107-114.

[62] Ched Myers and Elaine Enns, *Ambassadors of Reconciliation* (Orbis Books, 1970), 96-97.

26, the central passage describing God's justice quoted above: justification, involving the law court; redemption, involving the rescue of property or a person in financial bondage; and ritual sacrificial cleansing.[63]

Over subsequent history, theologians have fixed upon one dominant theme or another, selecting from certain images or clusters of images in the Bible. Prominent in the early Church, wielded most assertively by Irenaeus and Athanasius, were images of a victory in battle over sin, evil, and death, and of "recapitulation," or the restoration of all humanity and creation to wholeness. In the eleventh century, St. Anselm of Canterbury inaugurated a far more legal and judicial interpretation by which Christ exercised both justice in paying humanity's debt for its sin, and mercy, paying this debt in the stead of fallen humanity. Many theologians followed in this more juridical approach in ensuing centuries.[64] In 1930, a Swedish Lutheran theologian, Gustaf Aulén, defined the debate over atonement through his classic book, *Christus Victor*, in which he set forth "types," or models, of the atonement, defending the early Church's victory model over what he considered the overly legalistic approach of Anselm. Any one model of the atonement, though, is incomplete and prone to distortion and reciprocal counter-distortion. Tellingly, the Catholic Church has never endorsed any of these models authoritatively.

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[63] A. Katherine Grieb, *The Story of Romans: A Narrative Defense of God's Righteousness* (Westminster John Knox Press, 2002), 35-43.

[64] This is not to simplify atonement theology in the centuries after Anselm as legal and juridical. Abelard strongly criticized Anselm's approach and other theologians differed significantly, including Aquinas, Francis de Sales, Matthais Scheben and many others. For a helpful survey of theories of atonement, see Peter Schmiechen, *Saving Power: Theories of Atonement and Forms of the Church* (Eerdmans, 2005).

Several integrative accounts, seeking to synthesize metaphors and reconcile disputing schools, have emerged in recent decades.[65] It is these that I follow and do so persuaded by Gorman that the work of the cross and resurrection is understood best through the end, or purpose, of these acts rather than through the mechanism by which they function. This end is the actual restoration of persons and relationships, healed of their sin and shaped to conform to God's love.[66] These accounts differ from partial ones that center upon a forensic restoration in which the sinner is only declared, not made, just; a mere example to be emulated; a restoration that involves no debt, payment, or retribution; or a punishment or payment that sidelines God's loving solidarity with humanity.[67] Each in their own way, these accounts clip God's holistic restoration, his wide justice.

Scripture conveys this holism through a double movement, a defeat of sin and a restoration of humanity. Expressing the defeat of sin are metaphors such as liberation from captivity, redemption from bondage, ransom, acquittal, vindication, debt payment, cleansing sacrifice, and the lamb of God.[68] Articulating restoration are images that

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[65] Proposing an integrated approach, for example are Anatolios, *Deification through the Cross*, 25-31; McKnight, *A Community Called Atonement* 107-114; and Michael J. Gorman, *The Death of the Messiah and the Birth of the New Covenant: A (Not-So) new Model of the Atonement* (James Clarke & Co., 2014), 209-210.

[66] Similar is Anatolios's conclusion in *Deification Through the Cross*, after surveying competing models, motifs, and metaphors in the Bible and arguing against understanding salvation through any one of them, that "[t]here is a normative core of christological and, by implication, trinitarian doctrine that governs and controls the use of . . . soteriological motifs . . . and this normative core is encompassed by the concept of deification," 10.

[67] I deliberately do not offer examples of any of these more partial approaches. Many are disputed in their meaning and content. In the past generation, the "penal substitution" theory, held by many conservative Protestants, for instance, has come under intense fire, yet has been defended in response by those who find the attacks to be caricatures and distortions. It is not my purpose here to weigh in, but rather to offer brief examples of rationales that differ from mine. For thoughtful defenses, see Oliver D. Crisp, *Participation and Atonement: An Analytic and Constructive Account* (Baker Academic, 2022); J. I. Packer, *What Did the Cross Achieve? The Logic of Penal Substitution* (Crossway, 2021).

[68] Matt 20:28; Mark 10:45; Mark 10:45; Rom 3:25; Rom 4:7; Rom 5:16; Rom 8:33; 1 Cor 6:20; 1 Cor 7:23; Gal 3:13; Gal 4:5; 1 Tim 2:6; 1 Pet 1:18; and 2 Pet 2:1.

convey the fruits of renewal that cross and resurrection bear: life, peace, freedom, new creation, and a restored image of God in the person. Life is the fullness of being that results from the grace gained through restoration. Paul writes in nearby passages in *Romans* on the effects of the Cross and Resurrection: "live in the newness of life," (6:4); "we shall also live with him" (6:8); "reign in life" (6:17); and "the law of the spirit of life in Christ" (8:2). In 2 Corinthians 3:18, he writes, "[a]ll of us, gazing with unveiled face on the glory of the Lord, are being transformed into the same image from glory to glory, as from the Lord who is the Spirit." Renewal is the work of grace, accomplished through the Holy Spirit. It was what theologians call deification, a concept strongly associated with the Eastern Orthodox tradition but no less present in the Western Latin tradition, though under different names.[69]

These two movements are conceptually distinct but part of a single act of justice, much as both removing dirt and applying wax are part of the single task of cleaning a car. Paul combines metaphors for these movements, indicating that he views them as occurring together, in Romans 5:18, "through one righteous act (*dikaiomatos*) acquittal and life came to all." A verse in 1 John (1:9) expresses the same combination in the language of justice, "[i]f we acknowledge our sins, he is faithful and just [*dikaios*] and will forgive our sins and cleanse us from every wrongdoing." So, too, does a passage in 1 Peter (2:24) that invokes *dikaiosune*, or justice, and quotes the Fourth Servant Song in Second Isaiah (53:5-6), "[h]e himself bore our sins in his body upon the cross, so that, free from sin, we might live for righteousness (*dikaiosune*). By his wounds you have

[69] Gorman, for instance, adopts the term, *theosis*. See Michael J. Gorman, *Becoming the Gospel: Paul, Participation and Mission*, 3-9.

been healed."[70] The unity of the movements is conveyed further through verses that describe the exchange by which God takes away humanity's sin and fills humanity with his own justice. The verse quoted above, 2 Corinthians 5:21, may be read again as such an exchange: "For us God made the one who did not know sin to be sin so that in him we ourselves would become the justice of God."[71] Certain verses about God's forgiveness convey this unity, too. In the story of the prodigal son in the Gospel of Luke, an allegory of God's forgiveness, the father forgoes punishing his son while also celebrating his return with a feast. Likewise, Jesus's new covenant involves both removing humanity's sin through the blood of the cross and renewing humans upon their decision to enter his grace through repentance, faith, and obedience.[72]

Through these two movements, God restores right relationship in the three respects that sin has destroyed it. God overcomes the enmity and separation between humans and God and enables humans to grow into friendship and union with God. God removes the sin that divides humans from one another and imparts the grace that enables friendship, including in political communities. God also removes the debt of sin and bestows grace that cleanses the other wounds in the soul. Renewal in all of these respects is what is meant by restoration of right relationship.

Justification

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[70] I am indebted for this reference to Bethany Hanke Hoang and Kristen Deede Johnson, *The Justice Calling: Where Passion Meets Perseverance* (Brazos Press, 2016), 120.

[71] Again, I use Gorman's translation. On interchange texts in Paul, see Morna D. Hooker, *From Adam to Christ: Essays on Paul* (Cambridge University Press, 1990), 13-41.

[72] Gorman, *The Death of the Messiah and the Birth of the New Covenant*, 32-50. It can also be argued that the two are combined in glorification. Theologian Khaled Anatolios derives a fresh theology of cross and resurrection, proposing to understand Christ's "work of salvation" as "doxological contrition" by which Christ glorifies the Father through vicarious repentance for humanity's sin and restores humanity to its original vocation of glorifying God in the three persons of the Trinity. Anatolios, *Deification Through the Cross*, 32.

Two important concepts in the writings of Paul, justification and reconciliation, both subjects of long theological dispute, arguably converge with and reinforce God's rectifying justice in the New Testament. Justification, or God's act of justifying humans, is the very justice that God performed through the cross and resurrection, and is a justice that restores persons and relationships through both of the movements described just above – a negation of sin and a regeneration of humanity. To say that humans are justified means that God has made them just.[73]

This interpretation of justification has been disputed by Christians for five centuries. Justification was the greatest source of theological contention at the time of the Protestant Reformation.[74] Martin Luther insisted that justification was limited to God's declaration of the innocence of the sinner and that God's sanctification of the sinner was a separate process. He appealed to passages such as those in which Paul described justification as a judge acquitting a defendant. The Catholic Church responded at the Council of Trent with its traditional position, that justification entails

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[73] "Justification and justice are joined at the hip," Timothy Keller, an American pastor and writer, put it in public talks. He discusses this relationship, though he did not use the phrase, in Timothy Keller, *Generous Justice: How God's Grace Makes Us Just* (Penguin, 2010), 1-18. I do not necessarily mean to imply that Keller would agree with the argument that I am about to articulate, that justification entails sanctification. Some Protestants hold to the separateness of justification and sanctification even while affirming the importance of sanctification as a fruit of the cross and resurrection. N.T. Wright expresses his view in N.T. Wright, *Justification: God's Plan and Paul's Vision* (IVP Academic, 2009). He argues that justification restores right relationship in that God comes to look upon the sinner as in good standing, but this does not involve an internal regeneration of the sinner.

[74] The *Joint Declaration on the Doctrine of Justification* of 1997 begins, "The doctrine of justification was of central importance for the Lutheran Reformation of the sixteenth century. It was held to be the 'first and chief article' and at the same time the 'ruler and judge over all other Christian doctrines.' The doctrine of justification was particularly asserted and defended in its Reformation shape and special valuation over against the Roman Catholic Church and theology of that time, which in turn asserted and defended a doctrine of justification of a different character. From the Reformation perspective, justification was the crux of all the disputes. Doctrinal condemnations were put forward both in the Lutheran Confessions and by the Roman Catholic Church's Council of Trent. These condemnations are still valid today and thus have a church-dividing effect." Find at https://lutheranworld.org/resources/publication-joint-declaration-doctrine-justification.

not only the remission of sins but also renewal through grace, or God's bestowal of justice. Trent's *Decree on Justification* articulates the position:

> Justification . . . is not only a remission of sins but also the sanctification and renewal of the inward man through the voluntary reception of the grace and gifts whereby an unjust man becomes just and from being an enemy becomes a friend, that he may be an heir according to hope of life everlasting . . ..

Shortly thereafter the *Decree* continues:

> [T]he single formal cause [of justification] is the justice of God, not that by which He Himself is just, but that by which He makes us just, that, namely, with which we being endowed by Him, are renewed in the spirit of our mind, and not only are we reputed but we are truly called and are just, receiving justice within us, each one according to his own measure, which the Holy Ghost distributes to everyone as He wills, and according to each one's disposition and cooperation.[75]

Justification is the justice by which God makes us just, The Council of Trent declares. Its use of words from the *just-* family is unsurprising since the council fathers read the Vulgate as their Bible. In stating that the "formal cause" of justification is the justice of God, the Council states in Aristotelian terms that God's justice – "that by which He makes us just" – is what gives shape to justification.[76]

Rapprochement has arisen in recent decades. In 1997, the Catholic Church and the Lutheran World Federation succeeded in issuing a "Joint Declaration on the Doctrine of Justification" that articulated a "common understanding" of the concept.

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[75] The Council of Trent, *Decree Concerning Justification,* Chapter VII, find at https://www.ewtn.com/catholicism/library/decree-concerning-justification--decree-concerning-reform-1496m.

[76] The *Catechism of the Catholic Church* discusses justification in this way: "Justification is at the same time *the acceptance of God's righteousness* through faith in Jesus Christ. Righteousness (or 'justice') here means the rectitude of divine love. With justification, faith, hope, and charity are poured into our hearts, and obedience to the divine will is granted us . . .. [Justification] conforms us to the righteousness of God, who makes us inwardly just by the power of his mercy." See Catechism of the Catholic Church, no. 1990-1992. Italics in original.

Christian unity is also served by Protestant and Catholic theologians defending common notions of justification. In recent years, Thomas D. Stegman, S.J. and Michael J. Gorman, the latter a Protestant, have offered careful scholarly defenses of the position that justification involves both remission and regeneration. Gorman argues forthrightly that justification is God's justice. Both theologians stress that the verb, justify, *dikaioō*, and the noun, justification, *dikaiōsis*, belong to the *dik-* family, whose terms connote right relationship. Both argue that Paul is insistent, especially in his letters to the Romans and Galatians, that justification takes place not through works of the law but rather through the grace of Jesus Christ's Cross and Resurrection. Both hold, too, that justification makes the sinner just, or right, again.[77]

Justification, to be sure, involves "acquittal" (Rom 5:16, Rom 5:18, and Rom 8:33), "redemption" (Rom 3:24), and "expiation" (Rom 3:35). Even acquittal, though, is not of the usual sort that courtrooms practice. Rather, as Bible scholar John Haughey, S.J. writes:

> Not only does God declare persons who deserve the sentence of "guilty" to be declared innocent, but he makes them innocent. Their acquittal does not remain something extrinsic to them as if only their records were

[77] Gorman, *Becoming the Gospel*, 222-260; Thomas D. Stegman, S.J., "Paul's Use of Dikaio- Terminology: Moving Beyond N.T. Wright's Forensic Interpretation," *Theological Studies*, 72 (2011), 496-524. I am paraphrasing Stegman's argument here. He argues that Paul's use of *dikaio-* language contains "both forensic and transformational meanings." See also James D.G. Dunn, "The Justice of God," *Journal of Theological Studies*, 43, 1 (1992): 1-21; and Matera, *God's Saving Grace: A Pauline Theology*, 106-107. Others who argue that justification is closely linked with justice include James D.G. Dunn and Alan M. Suggate, *The Justice of God: A Fresh Look at the Old Doctrine of Justification by Faith* (Eerdmans, 1993); Perry Yoder, *Shalom: The Bible's Word for Salvation, Justice, and Peace* (Faith and Life Press, 1987), 65; Marshall, *Beyond Retribution*, 53-59; John C. Haughey, "Jesus as the Justice of God," in *The Faith That Does Justice*, ed., John Haughey (Paulist Press, 1977), 282-286; Belousek, *Atonement, Justice, and Peace,* 130; Douglas Harink, "Setting it Right," *Christian Century*, June 14, 2005, 25; and L. Cerfaux, *Christ in the Theology of St. Paul*, trans. Geoffrey Webb and Adrian Walker (Herder and Herder, 1959), 138-142; Robert C. Koons, *A Lutheran's Case for Roman Catholicism: Finding a Lost Path Home* (Cascade Books, 2020), 14-21, 117-140.

> tampered with. The acquittal given by God transforms persons at the deepest level of their being. They become "justified."[78]

Acquittal, like other metaphors in the Bible, describes part of a reality but also points to a meaning of this reality larger than the metaphor. Paul also writes that justification brings about "peace" (Rom 5:1), "this grace in which we now stand" (Rom 5:2) "reconciliation" (Rom 5:11), an "abundance of grace" (Rom 5:17), "life" (Rom 5:17, 5:18), "Christ [living] in me" (Gal 2:20), and being "saved by his life" (Rom 5:10), "made righteous [or just]" (Rom 5:19), "glorified" (Rom 8:30), "blessed" (Gal 3:8), "slaves of righteousness [or justice]" (Rom 6:18), "a new creation" (2 Cor 5:17), and "the righteousness [or justice] of God (2 Cor 5:21). Later in Paul's First Letter to the Corinthians (6:11), he describes justification and sanctification in the same thought: "That is what some of you used to be; but now you have had yourselves washed, you were sanctified, you were justified in the name of the Lord Jesus Christ and in the Spirit of our God." Both Stegman and Gorman argue that the term *dikaioo* is best interpreted not as to justify but rather as to make right or, in the case of Stegman, "to bring into right relationship."[79]

Reconciliation

Reconciliation, much like justification, turns out to be divine rectifying justice. It is Christian leaders' advocacy of reconciliation in global politics, their retrieval of the New Testament's justice, in recent times that spurred this book.[80] Like justification,

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[78] Haughey, "Jesus as the Justice of God,", 283.

[79] Stegman, "Paul's Use of Dikaio- Terminology: Moving Beyond N.T. Wright's Forensic Interpretation,," 522; Gorman, *Participating in Christ: Explorations in Paul's Theology and Spirituality* , 116-235.

[80] See John W. De Gruchy, *Reconciliation: Restoring Justice* (Fortress Press, 2002), 44-76.; Erik Doxtader, *With Faith in the Works of Words: The Beginnings of Reconciliation in South Africa, 1985–1995* (Michigan State University Press, 2009). Arguing that reconciliation and justification are exceedingly close in meaning are Gorman, *Participating in Christ: Explorations in Paul's Theology and*

reconciliation is a favorite term of Paul. It appears hardly at all in the Old Testament apart from a cluster in Second Maccabees, while twelve of its fifteen appearances in the New Testament are in Paul's letters, including Romans, First and Second Corinthians, Ephesians and Colossians.[81] Paul mostly uses the Greek words *katallage* and *katallasso,* which can mean either an exchange of currency or commodities or the refashioning of enmity between persons into a relationship of peace and friendship, and in three instances uses the word *apokatallaxai*, meaning to reconcile completely or restore to favor.[82] Here again, these metaphors both describe an aspect of a reality and point to its larger meaning. Paul understands this exchange and refashioning as God's saving acts of Cross and Resurrection, through which God restores right relationship with humanity, between humans, within humans, and, as he indicates in certain verses, in the whole cosmos. If reconciliation is God's act of restoration, being reconciled is humanity's resulting condition.

The close relationship between reconciliation and justification is found in Romans 5:9-11, where Paul pursues the two concepts in parallel and describes reconciliation through the double movement of the Cross and Resurrection:

> How much more then, since we are now justified by his blood, will we be saved through him from the wrath. Indeed, if, while we were enemies, we were reconciled to God through the death of his Son, how much more, once reconciled, will we be saved by his life. Not only that, but we also boast of God through our Lord Jesus Christ, through whom we have now received reconciliation.

Spirituality, 207; Ralph P. Martin, *Reconciliation: A Study of Paul's Theology* (Wipf and Stock, 1989), 37, 76, 80; Brevard S. Childs, *Biblical Theology of the Old and New* Testaments (Fortress Press, 2011), 485-486; and Matera, *God's Saving Grace*, 108-109.

[81] 2 Macc 1:5; 3:33; 7:33; 8:29; 12:42-45; Rom 5:10, Rom 5:11, Rom 11:15; 1 Cor 7:11; 2 Cor 5:18; 2 Cor 5:19; 2 Cor 5:20; Col 19-20; Col 1:22; Eph 2:14-16.

[82] The word *apokatallaxai* is formed from *katalloso,* adding the prefix *apo*. Erik Doxtader, "Reconciliation in a State of Emergency: The Middle Voice of 2 Corinthians," *Journal for the Study of Religion* 14, no. 1 (2001), 51.

Paul writes in Colossians of Christ who "reconcile[s] all things . . . whether those on earth or those in heaven" (Col 1:20). In Paul's view, these passages indicate, God's reconciliation of all things involves the three dimensions of right relationship: it overcame the enmity with God that humans wrought through their sin (Rom 5:10, Eph 2:16, Col 1:20-21, and 2 Cor 5:18); it made peace between Jews and Gentiles and indeed between all separated humans (Eph 2:14-16); and it refashions people to be "holy, without blemish, and irreproachable before him" (Col 1:22). In depicting the transformation that Christ's death brought about in the passage, 2 Corinthians 5:14-21, Paul uses the word reconciliation five times. In reconciling the world to himself, God bade humans to be reconciled and entrusted to them a message of reconciliation to spread to others.

Three Difficulties

The claim that God's justice establishes and restores comprehensive right relationship – reconciles all things – grinds against realities that seem anything but restored and far from being reconciled. Three of these realities raise difficulties with God's justice.

First, while divine rectifying justice is depicted as efficacious, actually accomplished, and holistically transforming, the world ever since the resurrection of Jesus has remained untransformed, replete with massacres, invasions, genocide, disease, pandemics, sudden accidents, the destruction of the natural environment, pride, envy, betrayals, corruption, crimes, and standing victories of injustice. "The real problem . . . is this: Jesus interpreted his coming death, and the vindication that he expected after that death, as the defeat of evil: but on the first Easter Monday evil still

stalked the earth from Jerusalem to Gibraltar and beyond, and stalks it still," N.T. Wright put it.[83] Would it not be wiser to moderate the claims about this justice to say that it offers a new principle, sets a transcendent example, or restores partially?

No, divine rectifying justice really, actually accomplishes, achieves, and transforms comprehensively. It defeated sin and bestowed renewing grace, and in receiving this grace, humans share in God's resurrected life and begin to be made just in the three dimensions of right relationship. Justice in relationships between persons extends to groups and communities, including political orders.

Yet this expansion is not consummated and coexists with pervasive sin. The Christian's task is to participate in this expansion, which Paul likens to a battle for which justice is a breastplate, faith is a shield, and salvation a sword – armor that furthers the "gospel of peace" (Eph 6:13-17). Victories are possible yet will be incomplete and are reversible, the predicament of politics that later chapters describe. Consummation will come eventually in the "new heavens and new earth," where, Peter writes, *dikaiosune*, or justice, dwells (2 Pet 3:13). The Book of Revelation also writes of a "new heaven and a new earth" in which God will "wipe every tear from their eyes" and "make all things new" (Rev 21:1-5). Divine rectifying justice has begun and will achieve completion.

God's justice is described by the theological ideas of the "already but not yet" and of inaugurated eschatology. Participating in God's justice, persons and communities realize it among themselves to some degree – *justitia imperfecta* – even while being surrounded by its dearth. Such is the configuration of the two cities in Augustine's *City of God*, which he wrote while Rome was being attacked in the early 5th century. The City

[83] N.T. Wright, *Jesus and the Victory of God* (Fortress Press, 1996), 659.

of God is present on earth in graced persons and communities, who manifest the new law of Christ even in political life. Surrounding them is the Earthly City, characterized by the love of self to the point of contempt for God.

Second, if sin confronts God's justice, hell accosts it. How can a justice in which God restores right relationship comprehensively – in which God will "reconcile all things" in "the new heavens and earth," where God will be "all in all" – be squared with the eternal separation of hell, which persists forever in Christian traditional teaching?[84]

Isaiah's account of God's restorative justice closes with a passage about "the new heavens and the new earth which [God] will make," in which people who rebelled against God experience this condition: "Their worm shall not die, or their fire be extinguished; and they shall be abhorrent to all mankind" (Isa 66: 22, 24). The Gospels recount Jesus teaching on several occasions that the consequences of rejecting God's justice are Gehenna, the fiery furnace, the unquenchable fire.[85] He speaks directly of the "eternal punishment" of people who ignore his presence in the poor (Matt 25:46). The Christian Church has taught traditionally that hell, a place of eternal suffering, is a real possibility for the unrepentant. It has never taught definitively what the population of hell is or who is included in it apart from Satan, even while it has taught that certain people – saints – are assuredly in heaven. It has never taught, either, though, that hell is merely a metaphor or a pedagogical story.[86]

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[84] 1 Cor 15:28; Col 1:20; 2 Pet 3:13.

[85] See, for instance Matt 5:22, 29; Matt 10:28; Matt 13: 40-42, 50; Mark 9:43-48.

[86] As I stated at the end of the introduction, I take the magisterium of the Catholic Church as the authoritative source on disputed questions. The main contours of its doctrine of hell are shared in the tradition of the largest Protestant churches and the Orthodox Church but is not universally shared among Christians. A statement of this doctrine that I find persuasive is Avery Dulles, "The Population of Hell," *First Things*, no. 133 (May 2003), 36-41.

Hell is consistent with a justice of complete restoration because this justice is a total defeat of evil. The privation of good, the wound to right relationship, that the free decision to sin brings about, is overcome. It is through free acts that humans choose right relationship with God, that they enact the justice that God established, and that they grow into the union with God to which God invites them. In committing mortal sin, they choose instead to separate themselves from God, and in refusing to repent, they reject the grace that God offers them to be made just again and to return to the justice of friendship with him. Because God wills for this justice to be eternal, humans' refusal of it unto death merits eternal separation from God. A wide consensus of theologians and the magisterium of the Catholic Church teaches that hell is a condition of self-exclusion.

If injustice leads to hell, though, hell is not a condition of injustice. Evil is defeated there in the sense that inhabitants of hell no longer sin or desire to sin. In this sense, they are restored. They suffer the pain of perpetual remorse because they did not accept the supernatural gift of restored justice that God offered them, one that the blessed now enjoy in the form of the beatific vision – a communion with God and with one another. God ratifies their choice and continues to love them by respecting the freedom that he has given them. Hell is justice in that it is the right relationship that befits the definitive choices that people have made.[87]

A third difficulty with divine rectifying justice is also found over the course of the Old Testament and is linked with the language of God's justice in the book of Isaiah, which involves Babylonian infants being dashed to pieces (13:16), famine for the Philistines (14:30), the ruin of Damascus (17:1), and Egyptian fishermen, linen-workers,

[87] On squaring the reconciliation of all things with hell, I have benefitted from Peter J. Ryan, S.J., "God's Mercy for the Damned," *Nova et Vetera* 23, No. 3 (2025), 1039-1074.

combers, weavers, and spinners being brought to mourn, lament, pine away, turn pale, be despondent, be disappointed, and be crushed (19:8-10). How can a justice that restores right relationship be squared with episodes where God appears to punish the innocent and punish peoples unfairly and disproportionately? Critics charge that these texts contribute to violent and vindictive understandings of God and to sanctioning religious violence, misogyny and abuse.

I do not attempt to explain these episodes fully and satisfyingly but rather to question whether they define or mar a Christian justice of right relationship or its application to modern politics and social affairs. First, although the episodes may exceed moral comprehension, they are not bereft of intelligibility, namely as being part of God's long-term purpose of saving and restoring Israel and of humanity, a purpose that converges with the purifying aim of God's punishments. Second Maccabees states the idea:

> Now I beg those who read this book not to be disheartened by these misfortunes, but to consider that these chastisements were meant not for the ruin but for the correction of our nation. It is, in fact, a sign of great kindness to punish sinners promptly instead of letting them go for long. Thus, in dealing with other nations, the Lord patiently waits until they reach the full measure of their sins before he punishes them; but with us he has decided to deal differently, in order that he may not have to punish us more severely later, when our sins have reached their fullness. He never withdraws his mercy from us. Although he disciplines us with misfortunes, he does not abandon his own people. Let these words suffice for recalling this truth. Without further ado we must go on with our story (6:12-17).

Second, certain episodes contain an allegorical meaning as much as a moral meaning. The call of Abraham to slay his son, Isaac, in Genesis, for example, prefigures the crucifixion in Christian tradition. Third, these episodes do not negate the force of the moral law that God gives to human beings, not least the commandment, thou shall not

kill. God's salvific purposes appear to exceed these moral laws on these occasions but do not authorize the Israelites or any other human to take up similar acts. Fourth, the Christian Church derives ethics from the Bible in light of the authoritative teachings and acts of Jesus Christ, who affirms the Ten Commandments and extends its prohibition on killing to hating one's brother and calls for loving one's enemies and forgiving. Jesus Christ, God incarnate, exemplifies these teachings, manifesting a new stage in God's relationship with humanity. Fifth, the Church continues to interpret and to convey Jesus' teachings as binding doctrine for all believers. In this doctrine, killing the innocent, violence in the name of religion, terrorism, misogyny, and abuse are condemned roundly in God's enduring justice. Even more so, this very justice offers the profoundest reasons why these acts are condemned. While much more can be and has been said about these texts, they do not detract from the meaning of the justice of right relationship as it has been conveyed to us.

Conclusion

Divine rectifying justice, like divine primary justice, is justice enacted by God. It reaches its climax in the resurrection of Jesus Christ, the act of justice through which God restores the world, or makes it just. God completes the justice of the resurrection in his establishment of new heavens and earth at the end of time. The concern of the chapter, then, is resurrecting justice.

Through God's rectifying justice, God restores the original, primary justice that he created but also adds to it the character of being restored. The resurrected Jesus bears the wounds of his crucifixion, which no longer cause him pain, instead rendering him the God who not only created the world but also is glorified in re-creating it through

suffering and dying. The justice that results through forgiveness, loving one's enemies, exercising mercy, and practicing sacrificial love is more than the justice that Adam and Eve lived prior to eating from the Tree of Knowledge. The New Jerusalem is something more than the Garden of Eden. This human justice is the subject of the next chapter.

Chapter Four: Participating in Justice

Human justice consists of the comprehensive right relationship that God instructs humans to enact. The lower two quadrants of Table 2-1 represent this justice in which humans are the agents. Enfolding all realms of human life, including politics, is a justice that realizes right relationship in its three dimensions: with God, with others, and in the soul. Human justice is shaped, defined, and propelled by divine justice, both primary and rectifying, that of the upper two quadrants in Table 2-1. It culminates in Jesus Christ, whose new justice enfolds and does not abolish the Ten Commandments but rather expands them into his "new commandment" to "love one another as I have loved you," that is, to imitate Jesus' sacrificial giving of self.[1] The Cross and Resurrection are the apex of this new justice, instructing, exemplifying, enabling, and empowering humans in performing the justice of right relationship. Through the Holy Spirit, humans participate in, or enter into, Jesus' justice, not only performing but also becoming the justice that God embodies, communicates, and performs for them.[2] "Righteousness . . . is not only *derived* from the Messiah's death but also *defined* by the Messiah's death," Gorman explains.[3]

This chapter maps human justice in the Bible and aims to show that it is comprehensive, inclusive of all of the principles that God directs humans to follow. It is comprehensive in other respects, too. Its principles not only prescribe behavior but also

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[1] John 13:34-35; John 15:12.
[2] Paul expressed this conformity in 2 Cor 5:21: "For us God made the one who did not know sin to be sin so that in him we ourselves would become the justice of God." Here again, I use Gorman's translation, *Participating in Christ*, 224. In addition to his interpretation, see also the corroborating arguments of Morna Hooker, "On Becoming the Righteousness of God: Another Look at 2 Cor 5:14-21," in *Novum Testamentum* 50 (2008), 374-75; and Grieb, "'So That in Him We Might Become the Righteousness of God' (2 Cor 5:21): Some Theological Reflections on the Church Becoming Justice," Ex Auditu 22 (2006): 64–66.
[3] Gorman, *Participating in Christ*, 141. By righteousness, here, Gorman means the equivalent of justice, one of the major arguments of his book.

contour flourishing and happiness. Human justice is both primary and rectifying, corresponding to Quadrant Three and Quadrant Four of Table 2-1. It is shaped and animated by divine justice, displayed most comprehensively in the Cross and Resurrection.

Human Justice in the Bible

Old Testament

A portion of the terms *tsedeq(ah)* in the Old Testament denote human agency. In these instances, *tsedeq(ah)* refers to the entire set of behaviors that make up a life lived in fidelity to God – human justice. Likewise, a subset of instances of the adjective *saddiq* refer not to the character of God but rather to that of human beings – those who are just. The term *mishpat*, too, refers both broadly to humans living in right relationship with God and others and narrowly to humans making judgments according to justice, especially kings and judges.[4]

Human justice, expressed through these terms, is spread across the Old Testament and means the entire set of human actions, governed by principles, that bring about right relationship. The terms appear in the first five books of the Bible, known as the Torah, or the Pentateuch. In Genesis, Noah is referred to as a "good (*saddiq*) man and blameless in that age" (6:9); God credits Abram's faith as "righteousness (*tsedeq(ah)*" (15:6), an instance of general right conduct; God appoints Abraham to direct his progeny to "keep the way of the Lord by doing what is right (*tsedeq(ah)*) and just (*mishpat*)," in order that God would keep his promises (18:9); and

[4] See Deut 1:17; Deut 16:18-20; Deut 17:9-11; Judg 4:52; Sam 15:2-6; 1 Kgs 3:11; 1 Kgs 3:28; Ps 72:1; Ps 99:4; Jer 22:15-16; Isa 42:1-4; Amos 5:15.

Abraham pleads with God to spare Sodom and Gomorrah on the basis of people remaining in these cities who are *saddiq*, or just (18:23-28).[5] Justice terms appear in Exodus, Leviticus, and Deuteronomy. Deuteronomy 6:25 and 16:20, cited in Chapter Two, for instance, state the comprehensiveness of justice: "all of these commandments;" and "alone shall be your aim."

In the following "historical" books that recount Israel's history before and after its exile in Babylon in the sixth century, B.C.E., these terms are less frequent but still present and similar in meaning. In 2 Samuel 22:21, for instance, King David says, "[t]he Lord rewarded me according to my justice (*tsedeq(ah)*)," while in 1 Kings 10:9, the Queen of Sheba says to King Solomon, "[t]he Lord has made you king to carry out judgment (*mishpat*) and justice (*tsedeqah*)." The hendiadys here befits the role of the king and refers to his general right conduct.[6]

The greatest concentration of these terms is in the third set of books in the Old Testament, the "Wisdom" literature, which instruct their readers about right human conduct. Psalms contains the largest concentration of the term *tsedeq(ah)* in the Old Testament, where 50 out of 135 instances of *tsedeq(ah)* refer to human conduct.[7] "The Lord acknowledged my righteousness (*tsedeq)*, rewarded my clean hands," runs one example (Ps 18:21). Proverbs holds the second highest total of the term *tsedeq(ah)*, almost all of whose 84 uses of the term refer to human conduct. "In the path of justice (*tsedeq(ah)*) there is life, but the abominable way leads to death," runs Proverbs 12:28.

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[5] Abram becomes Abraham in Gen 17:5.

[6] Moshe Weinfeld, *Social Justice*, 7-9, 27-29.

[7] Hemchand Gossai, *Justice, Righteousness and the Social Critique of the Eighth-Century Prophets* (Peter Lang, 1993), 42-43.

The Book of Job, also in the Wisdom literature, contains the fifth most occurrences of *tsedeq(ah)*, which arises often in the discourse between Job and his critics. "'The one whom God answers when he calls upon him, the just (*saddiq*) man, the perfect man,' is a laughingstock," Job laments (12:4), while pleading later, "I wore my honesty (*tsedeq*) like a garment; justice (*mishpat*) was my robe and turban" (29:14).

In the Old Testament's last, "prophetic," set of books, justice terms are most numerous in Isaiah and Ezekiel. Isaiah, in addition to its overarching story of God's rectifying justice, also speaks of human justice as a result of this renewal: "They will be called oaks of justice (*tsedeq*), planted by the Lord to show his glory" (Isa 61:3). Ezekiel, who prophesied the destruction of Jerusalem in 587 and then its restoration, invokes justice terms many times, *tsedeq(ah)* in particular 41 times, in almost all cases referring to human justice. One passage is especially strong in invoking justice terms and expressing their comprehensive meaning:

> If a man is virtuous (*saddiq*)– if he does what is right (*tsedeqah*) and just (*mishpat*), if he does not eat on the mountains, nor raise his eyes to the idols of the house of Israel, if he does not defile his neighbor's wife, nor have relations with a woman in her menstrual period; if he oppresses no one, gives back the pledge received for a debt, commits no robbery; if he gives food to the hungry and clothes the naked; if he does not lend at interest nor exact usury; if he holds off from evildoing, judges fairly between a man and his opponent; if he lives by my statutes and is careful to observe my ordinances, that man is virtuous (*saddiq*) – he shall surely live, says the Lord God (Ezek 18:5-9).

Justice terms mottle the other prophetic books, right up to the last book in the Old Testament, Malachi, which says, "[t]hen you will again see the distinction between the just (*saddiq*) and the wicked; [b]etween him who serves God, and him who does not serve him" (3:18). A few verses later reads, "[b]ut for you who fear my name there will

arise the sun of justice with its healing rays" (3:20). The just person, here as elsewhere in the Old Testament, is one who serves God overarchingly.

The Old Testament gives content to this human justice through the law, precepts that govern human acts. Shortly after Moses has received the Ten Commandments from God and given them to the Israelites, he gives the instruction in the verse quoted above, "our justice (*tsedeq*) before the Lord, our God, is to consist in carefully observing all these commandments he has enjoined on us" (Deut 6:25). Prior to Sinai, the justice terms that describe the moral behavior or character of people – Noah, Abraham, the residents of Sodom and Gomorrah – are ones that embody laws that God has given to all of humanity. Now God gives the law to the Israelites and it is justice.

God gives the Israelites the Ten Commandments as well as a voluminous set of precepts that the Torah records. Aquinas categorizes these laws, or precepts, in the *Summa Theologica* according to a taxonomy that informs this book's argument about justice. A Franciscan friar, Alexander of Hales, and his students introduced it just over a decade before Aquinas borrowed and developed it further.[8] At the center of this taxonomy are what Aquinas calls "the moral precepts," which consist of the Ten Commandments and their corollaries. They express justice, are divulged by God, and can be known through reason, belonging to the natural law. The first three of the Ten Commandments convey human obligations towards God and express the more general command, "you shall love the Lord, your God" (Deut 6:5). The final seven express

[8] J. Budziszewski, *Commentary on Thomas Aquinas's* Treatise on Divine Law (Cambridge University Press, 2021), 61. See also Matthew Levering, *Christ's Fulfillment of Torah and Temple*, 6-7.

human obligations towards other people and express the more general command, "love your neighbor as yourself" (Lev 19:18).[9]

The Torah contains scores of other precepts that follow from these axial ten moral precepts. Several precepts are corollaries of the Ten Commandments, meaning norms that logically follow from the commandments. Aquinas gives the example, "rise up before the hoary head, and honor the person of the aged man," which is a corollary of the Fourth Commandment, to honor one's father and mother.[10] Corollaries of the Ten Commandments are a large portion of the moral law that the Christian Church teaches and that reason grasps. Each of the Ten Commandments entails metonymy, a figure of speech in which a word or phrase stands for something more comprehensive, here one by which a wide range of moral precepts is implied and logically inferred from the trunk commandment. The modern *Catechism of the Catholic Church* contains a compendium of these precepts in its section on the Ten Commandments. For instance, prohibitions of usury, fraud, extortion, unjust wages, and slavery, and the commands to care for the natural environment and for the poor flow from the Seventh Commandment's prohibition against theft and the duty of proper stewardship that underlies it. The section on the Fifth Commandment, "you shall not kill," for instance, yields norms on killing related to self-defense, the justice of war, euthanasia, abortion, suicide, kidnapping, torture, and many other kinds of acts that flow from the core commandment.[11] All of these norms are corollaries.

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[9] ST I-II, q. 99, articles 1-4.
[10] ST I-II, q. 100, a. 1, resp. The precept is found in Lev 19:32. On Aquinas's thought on the corollaries, see ST I-II, q. 100, a. 11.
[11] *Catechism of the Catholic Church*, no. 2054-2250.

Aquinas's taxonomy also includes the ceremonial and judicial precepts, which are not corollaries but rather "determinations" of the Ten Commandments, meaning that they are derived from the commandments but are not necessary and could be otherwise. Determinations derive their authority from the decision of a holder of authority – in human affairs, a legislature or other authority, and in the case of the biblical precepts, God. In the Old Testament, ceremonial precepts, consisting of norms of right worship, entail duties towards God and are determinations of the first three commandments. Judicial precepts involve the duties of Israelites towards one another and outsiders and are determinations of the last seven commandments. They deal with obligations of the king, punishments, treatment of the poor, norms governing commerce and exchange, treatment of the stranger, and many other matters. All of these precepts, along with the moral precepts consisting of the Ten Commandments and their corollaries, make up the "law" or the "commandments" that the Old Testament refers to, again and again, as justice.[12]

The law that defines justice elicits the flourishing – or well-being, or happiness, or fulfillment – of the people who abide by it. The Old Testament knows no distinction between abstract law and human flourishing. One of the most important moral theologians in recent decades, Servais Pinckaers, O.P., pursued the renewal in theology called for by the Second Vatican Council by developing a "morality of happiness." He anchored this renewal in the Bible and the natural law that he hoped would improve upon the "morality of obligation" that he thought had come to beset Catholic moral theology, in which laws and norms had become dryly disconnected from happiness and

[12] Aquinas refers to these laws as justice in ST I-II, q. 99, a. 4, resp.; a. 4, ad 3; a. 5, resp.; a. 5, ad 1; ST I-II, q. 100, a. 12, resp.; and ST, II-II q. 122, a. 1, resp.

flourishing.[13] Pinckaers did not jettison principles, though, but rather argued that they conduce to happiness. Likewise, the Old Testament joins law to happiness. The verse quoted above in Deuteronomy, linking justice to the commandments, is preceded by this one: "Therefore, the Lord commanded us to observe all these statutes in fear of the Lord, our God, that we may always have as prosperous and happy a life as we have today" (Deut 6:24). In the Psalms are several beatitudes that connect happiness to the laws that make up justice. "Happy those who do what is right (*tsedeqah*), whose deeds are always just (*mishpat*)," reads Psalm 106:3. Psalm 1 begins with, "[h]appy those who do not follow the counsel of the wicked," and follows with, "the law of the Lord is their joy," and closes with "[t]he Lord watches over the way of the just (*saddiq*)," while Psalm 92:13 recounts, "[t]he just (*saddiq*) shall flourish like the palm tree, shall grow like a cedar of Lebanon."[14]

Nor does the Old Testament know another distinction found in modern moral philosophy, one between a morality of law and an ethics of virtue. The virtuous person is one who is disposed to keep the law and his disposition is strengthened by his habitual action.[15] When Proverbs says, "anything deceitful the just (*saddiq*) man hates" (13:5) or that "the just (*saddiq*) walk in integrity" (20:7), it means by *saddiq* a person who possesses right relationship in the parts of himself, leading him to live justly, according to the demands of the law, towards others and towards God.[16] Spread throughout the

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[13] Servais Pinckaers, O.P., *The Sources of Christian Ethics*, trans. St. Mary Thomas Noble, O.P. (The Catholic University of America, 1985). For a shorter version, see Servais Pinckaers, O.P., *Morality: The Catholic View*, trans. Michael Sherwin, O.P. (St. Augustine's Press, 2003).

[14] Beatitudes can also be found, in addition to Mt. 5:1-12, in Ps 2; Ps 19:8; Ps 119: 1-2; Wis 1:13; Sir 25: 7-11; Mt 16:17; Lk 1:45; Jn 20:29; Rev 14:13; Rev 16:15; Rev 19:9; Rev 22:7, 14, and many other verses.

[15] See ST I-II, q. 100, a. 9.

[16] The quotation of Proverbs 20:7 is from the New American Bible Revised Edition translation, but not the translation that is standard in this book.

Old Testament are verses that point to the interior origin of the law, often invoking the heart. The Shema, for instance, which both the Jewish and Christian tradition look upon as foundational for religious life, is a command, or a law, that reads "you shall love the Lord, your God, with all your heart, and with all your soul, and with all your strength" (Deut 6:4). Leviticus 19:17 says "[y]ou shall not bear hatred for your brother in your heart." Psalm 119 speaks lyrically and copiously of the place of the heart in acting by the principles that make up justice. Consider only this passage:

> Give me insight to observe your teaching, to keep it with all my heart.
> Lead me in the path of your commands, for that is my delight.
> Direct my heart toward your decrees and away from unjust gain.
> Avert my eyes from what is worthless; by your way give me life . . ..
> See how I long for your precepts; in your justice give me life (34-40).[17]

The heart, mind, soul, and will are immersed in justice in the Old Testament.[18]

The language of justice in the Old Testament is often directed to kings, their minions, and the social and political realm, especially in books written during the period of Israel's strong monarchy before its exile.[19] In all three stages of Isaiah, God's rectifying justice brings about a renewed Israel or Jerusalem—a "city of justice (*tsedeq*)," as Isaiah 1:26 puts it. Pennington observes that in the Jewish tradition, a good king was one who ruled with wisdom, by which he understood justice.[20] The hendiadys, *tsedeq*

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[17] Other verses in Ps 119 that connect obedience to laws with an interior disposition include 1, 2, 4, 6, 7, 10, 11, 13, 14, 15, 16, 20, 24, 27, 28, 32, 43, 46, 47, 48, 52, 54, 58, 62, 64, 68, 69, 70, 72, 77, 80, 81, 88, 92, 93, 94, 97, 105, 111, 112, 120, 125, 127, 128, 130, 144, 149, 156, 159, 167, 168, 171, 172, 174, 175, and 176.
[18] Verses in the Old Testament that connect justice to an interior disposition include 1 Kgs 3:6; 1 Kgs 3:9; Job 29:14; Ps 15:2; Ps 19:8; Ps 32:11; Ps 64:10; Ps 68:3; Ps 97:11; Ps 97:12; Ps 118:15; Prov 10:28; Prov 21:15; Prov 29:6; Isa 51:7; and Isa 61:10. An important insight arises for Christian-Jewish relations: the Judaism of the Tanakh is not a religion of external rules. Jesus's excoriation of the Pharisees for their hypocrisy and for their external but not internal adherence to the law does not constitute a rejection of the moral law of the Old Testament as being merely external. See Shai Held, *Judaism Is About Love: Recovering the Heart of Jewish Life* (Farrar, Straus and Giroux, 2024).
[19] Enrique Nardoni, *Rise Up, O Judge: A Study of Justice in the Biblical World,* trans. Seán Charles Martin (Hendrickson Publishers, 2004), 95-121.
[20] Pennington, *The Sermon on the Mount and Human Flourishing* , 15.

and *mishpat*, connoting rulership, is frequent in the Psalms and Isaiah and often pertains to a human king even while it sometimes also describes God's reign. For instance, Isaiah 16:5 declares that "[a] throne shall be set up in mercy, and on it shall sit in fidelity [in David's tent]/ A judge upholding right (*mishpat*) and prompt to do justice (*tsedeq*)." This justice demands especially strongly that the king treat rightly the vulnerable, whom the Old Testament identifies as widows, orphans, resident aliens, and the poor.[21] The Lord told the prophet Jeremiah to tell the King of Judah: "Do what is right (*tsedeqah*) and just (*mishpat*). Rescue the victim from the hand of his oppressor. Do no wrong or oppress the resident alien, the orphan, or the widow, and do not shed innocent blood in this place" (Jer 22:3). The Book of Wisdom opens by exhorting the King, "[l]ove justice, you who judge the earth" and continues to instruct the King.[22]

New Testament

Many times in the New Testament, too, justice words mean the justice that God enjoins people to live – towards God, towards other people, and in cultivating their own character. This human justice is also comprehensive right relationship and its meaning is developed, taught, exemplified, fulfilled, and embodied by Jesus Christ. The most important of these words are *dikaiosune*, by which the New Testament translates *tsedeq(ah),* and *dikaios*, the adjective that describes a just person, while other *dik-* words also share the meaning of comprehensive right relationship.

Dikaiosune's comprehensiveness is evidenced in the book where it is most prominent, the Gospel of Matthew. There, Greek words with the root *dik-* appear 26

[21] Nardoni, *Rise Up, O Judge,* 80-81.
[22] See Wis 6 in particular.

times: *dikaios*, 17 times, the verb *dikaioo*, twice, and *dikaiosune*, seven times.[23] In the passage describing Jesus's baptism in Matthew 3:15, *dikaiosune* means divine rectifying justice, as I argued in Chapter Three. In the other six instances, *dikaiosune* means human justice.[24] Five of these six instances, in turn, are located in Jesus's Sermon on the Mount, the New Testament's most important teaching on morality, one that Pinckaers calls the "new justice," manifesting the new law, promulgated from a mountain by the new Moses.[25] Pennington argues that *dik-* words in the Sermon on the Mount are "an umbrella concept that envisages what Jesus expects of his disciples so that they may enter the kingdom of heaven," and that *dikaiosune* is one of the two overarching ideas in the Sermon on the Mount (along with the Kingdom of God), meaning "whole-person behavior that accords with God's nature, will, and coming kingdom."[26]

In two places in the Sermon on the Mount, *dikaiosune* serves as an *inclusio*, a word that launches and sets the central theme of a long passage. In Matthew 5:20, shortly after Jesus exhorts his crowd of hearers to keep the commandments, he tells them "unless your righteousness (*dikaiosune*) surpasses that of the scribes and Pharisees, you will not enter into the kingdom of Heaven," and proceeds to present six

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[23] Pennington, *The Sermon on the Mount and Human Flourishing: A Theological Commentary* (Baker Academic, 2017), 88.

[24] The judgment is corroborated by Benno Przybylski's important book on the Gospel of Matthew, *Righteousness in Matthew and his World of Thought* (Cambridge University Press, 1980), 77-104. The six are Matt 5:6; 5:10; 5:20; 6:1; 6:33; and 21:32.

[25] Servais Pinckaers, *The Sources of Christian Ethics*, 143; Thomas Weinandy, *Jesus Becoming Jesus: A Theological Interpretation of the Synoptic Gospels*, 146.

[26] Pennington, *The Sermon on the Mount*, 88-91. Italics removed from the latter quoted phrase. Pennington cites other scholars who share in his judgment about the importance and meaning of *dikaiosune* in the Sermon, including Ulrich Luz, *Matthew 1-7: A Commentary*, rev. ed., trans. James F. Crouch (Fortress, 2007), 177; Johan C. Thom, "Justice in the Sermon on the Mount: An Aristotelian Reading," *Novum Testamentum* 51 (2009): 315; and W.S. Davies and Dale C. Allison, Jr., *A Critical and Exegetical Commentary on The Gospel According to Saint Matthew*, vol. 1 (T&T Clark, 2004), 499. Sharing in this judgment are also Frank J. Matera, *The Sermon on the Mount: The Perfect Measure of the Christian Life* (Liturgical Press, 2013), 31. Most translators of *dikaiosune* into English render the term as righteousness, but as I have been arguing all along, the term can equally well be translated as justice. For a leading scholar of the Sermon on the Mount who treats it as justice, see Mattison, *The Sermon on the Mount and Moral* Theology, 31, 32, and 49.

contrasts – "you have heard that it was said . . . but I tell you" – in which he purifies or extends the moral law of the Torah. The end of this passage – the *inclusio*'s close – is the injunction, "be perfect," translating the Greek word *teleios,* implying wholeness, the entirety of human behavior and interior disposition (Matt 5:21-48). What Jesus has been teaching about *dikaiosune*, he is saying, directs one towards wholeness. Pennington holds that "this idea of *greater righteousness* [is] the meta-category that makes sense of the whole Sermon."[27]

Righteousness, or justice, is the subject of a second *inclusio* that begins with the very next verse, Matthew 6:1, in which Jesus says, "take care not to perform righteous (*dikaios)* deeds in order that people may see them" and then illustrates with three forms of deeds that hypocrites perform to be seen by others but that his followers ought to perform for their heavenly Father. They are almsgiving, prayer and fasting and correspond to the three dimensions of right relationship: with God, with others, and in the soul (Matt 6:2-8). Righteous, or just, deeds involve right motives and right action in all three dimensions of right relationship.[28]

Conform all of your behavior to the ways of the Kingdom of God, Jesus says to his hearers in the familiar verse, "seek first the Kingdom of God and his righteousness (*dikaiosune*)" (Matt 6:33).[29] Those who desire *dikaiosune* – the realization of right relationship in the world – so intensely that they hunger and thirst for it are blessed and will be satisfied, Jesus says in the fourth of the beatitudes that open the Sermon on the

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[27] Pennington, *The Sermon on the Mount and Human Flourishing*, 69-85, 89, italics in original. See also Matera, *The Sermon on the Mount*, 4. On the crowd of hearers, see Matt 5:1-2 and 7:28-29. On the *inclusio*, see Mattison, *The Sermon on the Mount and Moral Theology*, 74.
[28] See Mattison, *The Sermon on the Mount and Moral Theology,* 157.
[29] For this interpretation, see Mattison, *The Sermon on the Mount and Moral Theology*, 181; Matera, *The Sermon on the Mount*, 96; and Pennington, *The Sermon on the Mount and Human Flourishing*, 250. Pennington also cites Luz, *Matthew 1-7*, 344.

Mount (Matt 5:6).[30] Those who are persecuted on account of *dikaiosune* – living rightly towards others and God – are blessed and "theirs is the kingdom of heaven," Jesus says in another beatitude (Matt 5:11).[31] In teaching that "your heavenly Father . . . causes rain to fall on the just (*dikaios*) and the unjust (*adikaios*)," Jesus means by just those who live faithfully (Matthew 5:45).

The stringency of the Sermon's teachings have prompted Christians to read them other than as ones that everyone should strive to fulfill in their entirety. Pennington notes medieval monastic views that the whole teaching of the Sermon on the Mount was for monks and not for the laity or secular clergy, and Martin Luther's view that the Sermon was an "impossible ideal" that would convict people of their sins and lead them to faith but was not a teaching that Christians could expect to live. Christian Realism, the subject of Chapter Fifteen, argues along these lines: the Sermon on the Mount cannot be followed successfully in politics. These are separationist narratives. Pennington rejects them, as do Augustine, Aquinas, some important Protestant theologians and the magisterium of the Catholic Church.[32] There is nothing in Jesus' words or their context that indicates the separation. He addresses the Sermon on the Mount to "the crowds" on a hillside and to everyone who would hear or read it. None of his words suggest that he meant them for a sequestered stratum or that they are not to be enacted.

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[30] Mattison, *The Sermon on the Mount and Moral Theology*, 32; Matera, *The Sermon on the Mount*, 37.
[31] Matera, *The Sermon on the Mount*, 37. Scholars dispute the number of beatitudes, holding variously that there are seven, eight, or nine. While I take no strong stand on the issue, I refer to this verse as a beatitude because it takes the form "blessed are . . .," meaning happy or flourishing are those who . . ..
[32] Pennington, *The Sermon on the Mount and Human Flourishing*, 4-8. On Aquinas, see ST I-II, q. 107; and ST I-II, q. 108. In q. 108, a. 3 he quotes Augustine. See *Catechism of the Catholic Church*, no. 477-480. To be sure, as I will argue beginning in Chapter Five, principles can be distinguished between perfect and imperfect duties and some such as forgiveness are inflected by role.

Outside of the Sermon on the Mount, Matthew describes Joseph, the husband of Mary, as *dikaios*, meaning a person who kept the law, in this case the Jewish laws of marriage (Matt 1:19). Jesus commends the one who "receives a righteous (*dikaios*) man because he is righteous (*dikaios*)" (Matt 10:41). Several times, Jesus speaks of eternal life as the reward for the *dikaios*, meaning the one who has lived faithfully to the ways that God has taught. The *dikaios* receive eternal life in Matthew 25 (37, 46) are those who saw and responded to him in the hungry, the thirsty, the prisoner, the ill, and the stranger.[33] Elsewhere in the New Testament, the other Gospels, the Letters of Paul, the Letters of John, James, Hebrews, Peter, and Revelation, *dikaiosune* and *dikaios* appear frequently and mean the acts that constitute comprehensive right relationship. For instance, 2 Timothy 3:16 reads, "[a]ll scripture . . . is useful . . . for training in righteousness (*dikaiosune*)," and 2 Peter (2:21), "[f]or it would have been better for them not to have known the way of righteousness (*dikaiosune*) than after knowing it to turn back from the holy commandment handed down to them."[34]

Just as Jesus commands *dikaiosune,* so, too, *dikaiosune* is defined by commands. As Aquinas teaches, Jesus fulfills the ceremonial and judicial precepts of the Old Testament in a manner that annuls their injunctive force. By contrast, Jesus fulfills the moral precepts, the Ten Commandments and their corollaries, by affirming their ongoing bindingness, showing perfectly how they are to be lived, extolling their

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[33] Matt 1:19, 10:41, 13:43, 13:49, 21:32, 25:37, 25:46.

[34] I am indebted to Kevin Walsh for this reference to 2 Tim 3:16. For other examples (but not an exhaustive list), see Mark 2:17; Mark 6:20; Luke 1:6; Luke 5:32; Luke 14:4; John 16:18; Rom 6:18; Rom 6:19; Rom 9:30; Rom 9:31; Rom 14:17; 2 Cor 9:9-10;; Gal 2:21; Gal 3:6; Gal 3:11; Gal 3:21; Eph 4:24; Eph 5:9; Phil 1:11; Phil 3:9; Phil 4:8; 1 Thess 2:10; 1 Tim 1:9; 1 Tim 6:11; 2 Tim 2:22; 2 Tim 4:8; Titus 2:12; Titus 3:5; Heb 1:9; Heb 5:3; Heb 12:11; Jas 3:18; 2 Pet 2:21; 2 Pet 3:13; Rev 22:11.

wholehearted performance, and expanding what they call their hearers to do.[35] Taking the form of commands are his injunctions not merely to limit one's retaliation but also to turn one's other cheek and to love one's enemies (Matt 5:38-42); to forgive others their debts (Matt 6:12); to be merciful (Luke 6:36); to take up one's cross and follow him (Matt 16:24); to lay down one's life for one's friends, the greatest form of the love that he commands (John 15:13); and to show mercy to one's neighbor, who is anyone who is suffering regardless of her communal affiliation (Luke 10:37). Sometimes Jesus' commandments are implicit yet binding. His teaching, when you pray, fast, and give alms, implies that one ought to pray, fast, and give alms (Matt 6:1-8). Implicit in Jesus' depiction of God separating the sheep from the goats at his final judgement according to whether they responded to him in the poor is the command to serve the poor, one that he associates with being *dikaios* (Matt 25:46). The beatitudes, too, imply injunctions. "Blessed are the merciful, for they will be shown mercy" implies that one ought to be merciful (Matt 5:7). Jesus commands mercy explicitly in the Gospel of Luke: "Be merciful, just as [also] your Father is merciful" (6:36).[36] Together, these commands – *dikaiosune* – make up the New Law and are the route to the perfection that Jesus teaches. Paul sums up, "[s]o then the law is holy, and the commandment is holy and righteous (*dikaia*) and good" (Rom 7:12).

Jesus teaches right relationship not only through his commands but also through his life, which he beckons to be imitated. He says in the Gospel of John, "I have given you a model to follow, so that as I have done for you, you should also do" (John 13:15);

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[35] On Jesus' affirmation of the Ten Commandments, see, in the Gospel of Matthew alone, Matt 5:17, Matt 15:19; and Matt 19:18-20. Corollaries can be found in verses such as Rom 1:29-31; Gal 5: 19-21.
[36] The bracketed word is in the original. See Eubank, *Wages of Cross-Bearing*, 75.

and "[t]his is my commandment: love another as I love you" (John 15:12). His teaching that his followers ought to deny themselves and take up their cross, repeated in each of the synoptic gospels, summons imitation of his climactic act.[37] Paul also teaches: "So be imitators of God, as beloved children, and live in love, as Christ loved us and handed himself over for us as a sacrificial offering to God for a fragrant aroma" (Eph 5:1-2); and "[b]e imitators of me, as I am of Christ" (1 Cor 11:1).[38] Jesus also invokes imitation with regard to specific practices, sometimes calling for conformity with the Father. When he teaches "be merciful," he adds, "just as [also] your Father is merciful" (Luke 6:36). In Jesus' exhortation to "be perfect," he also calls for imitation of the Father: "just as your heavenly Father is perfect" (Matt 5:48).[39]

The New Testament, like the Old Testament, admits of no distinction between commandment and flourishing. Pennington, who shows that *dikaiosune* is central to the Sermon on the Mount, holds that righteousness, or justice, means flourishing. He finds in the Second Temple period of Jewish history – the cultural ambience of the Sermon on the Mount – a convergence of Greek philosophy, which understood life as a search for *eudaimonia*, or happiness, and Jewish thought, which situated human happiness and well-being in God's revelation of his purpose in bringing about the world. Jesus delivered the Sermon on the Mount, then, in the terms of a tradition that sought human

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[37] Matt 16:24; Mark 8:34; Luke 9:23.

[38] See also 1 Pet 1:15-16, "[a]s he who called you is holy, be holy yourselves in every aspect of your conduct, for it is written, 'Be holy because I am holy.'"

[39] Related is a point that classicist Robert Wilken makes regarding Gregory of Nyssa: "He observed that *justice* (or *righteousness*), the term used in the fourth beatitude, 'those who hunger and thirst for justice,' and in the eighth, "persecuted for the sake of justice,' is used of Christ elsewhere in the Bible. In 1 Corinthians, Paul says that Christ Jesus is 'our wisdom, our justice and our sanctification and redemption' (1 Cor 1:30). In the beatitudes, then, *justice* does not simply mean 'give to each according to his worth,' which is called distributive justice, but a higher form of justice, 'the justice of God which is truly to be desired," Christ, who is 'justice itself.'" See Robert Louis Wilken, *The Spirit of Early Christian Thought: Seeking the Face of God* (Yale University Press, 2003), 277. Italics in original.

happiness in light of God's purposes.[40] The Greek word, *macarios*, which English translators of the Sermon on the Mount usually translate as blessed, in turn translated the Hebrew word, *'ašrê*, in the Old Testament, where it means flourishing of the whole person, Pennington explains.[41]*'Ašrê* is the Hebrew word for blessed or happy in the beatitudes in the Psalms. In Psalm 1, it is the condition of the one who follows the law of the Lord, which is the way of the just (*saddiq*). In the Sermon on the Mount, "blessed" leads the series of teachings that Jesus gives about living in Him, all planks of comprehensive right relationship.[42] This *dikaiosune*, this justice, brings about fulfillment, happiness, and well-being.

For the one who is *dikaios*, this fulfillment, though it is incomplete in this life, will be made perfect in heaven. Jesus speaks of a reward in several of the beatitudes – the kingdom of heaven, seeing God, and being satisfied, comforted, or children of God – and in many other places of a heavenly reward for obedience. Isaiah 61, from which Pennington believes the beatitudes derive, likewise promises everlasting joy for people who have lifted up the brokenhearted, the mournful, the captives, and the prisoners – acts that are called just (*mishpat*) and that result in God making justice (*tsedeqah*) "spring up before all nations." The eternal reward is an intrinsic one, meaning that it stands in continuity with and magnifies the blessedness of the just one on earth, and not merely one of extrinsic payment.[43]

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[40] Pennington, *The Sermon on the Mount*, 25-40.
[41] Here the Septuagint is important. Its authors adopted *macarios* to translate *'ašrê*.
[42] Pennington, *The Sermon on the Mount*, 43-47.
[43] On intrinsic rewards in the Sermon on the Mount, see Mattison, *The Sermon on the Mount and Moral Theology*, 22-24; Germain Grisez, *The Way of the Lord Jesus: Christian Moral Principles*, 807-830.

Finally, as is true in the Old Testament, the New Testament links command and flourishing closely with virtue, the character of the person who is *dikaios*. Putting it most succinctly is 1 John 3:7: "The person who acts in righteousness (*dikaiosune*) is righteous (*dikaios*), just as he is righteous (*dikaios*)." The *dikaios* person is one who keeps the law and it is a law that Jesus renews by insisting again and again on its seat in the heart. Avoid not only adultery but also lust, not only murder but also hatred, he teaches in explaining the *dikaiosune* that is greater than that of the Pharisees (Matt 5:20-30). His three exhortations to pray, fast, and give alms in secret, not to be seen by others, are calls for renewal of the heart (Matt 6:1-8). His point in an argument with the Pharisees, he reveals to his disciples, is that the actions that defile a person come from the heart (Matt 15:18-20). The inner dimension of right relationship is prominent in Jesus' message and animates the other dimensions of right relationship with others and with God.

This inner dimension is important to Jesus' message and mission in one other way. Paul teaches consistently and insistently, especially in Romans, Galatians, and Philippians, that *dikaiosune* is brought about in a person through faith in Jesus Christ, not through works of the law.[44] But Paul, like Jesus, also commends living in conformity to *dikaiosune* through keeping the law. How does this teaching hold together? Through faith. Paul teaches that one cannot realize *dikaiosune*, or be brought into right relationship with God, by performing the law on one's own efforts, apart from grace. He regards himself as "not having any righteousness (*dikaiosune*) of my own based on the law but that which comes through faith in Christ, the righteousness (*dikaiosune*) from

[44] Rom 3; Rom 10:6; Phil 3:9-10; Gal 3:11; Gal 5:5.

God, depending on faith to know him and the power of his resurrection" (Phil 3:9-10). He, like everyone, has sinned and is "deprived of the glory of God" (Rom 3:23). Rather it is through faith in Jesus and what he accomplished in his Cross and Resurrection that one comes into *dikaiosune*. This takes place in two ways. First, faith, or assent to Jesus's truth, is an act that is itself part of comprehensive right relationship. Thus, God credited Abraham's faith to him as righteousness, or justice, as Genesis teaches (15:6) and Paul elaborates (Rom 4). Second, upon a person's profession of faith, God enables that person to live justly. Thus, Paul writes of the "righteousness (*dikaiosune*) that comes from faith" (Rom 10:6). It is through grace and the Holy Spirit that God enables. Through faith in the saving power of the Cross and Resurrection, a person receives the grace to live in right relationship with God, others, and in his soul, with which he then cooperates by acting according to this right relationship. Made just, he lives justly.

Comprehensive Right Relationship

The human justice of the Bible is comprehensive, too, in entailing both primary justice and rectifying justice, corresponding to the two lower quadrants in Table 2-1. Human primary justice entails the actions, governed by principles, by which humans aim to bring about right relationship. Human rectifying justice entails those actions, also governed by principles, that address violations of right relationship with the goal of restoring right relationship.

Human primary justice consists of moral prohibitions and of positive commands to love one's neighbor, love God, and seek purity of heart. Love of neighbor includes practicing mercy, welcoming the stranger, and care for the poor, for instance. Human rectifying justice is found in the Bible's norms for responding to wrongs. In the Old

Testament, these are norms for responding to injustices within the community of Israel. In Aquinas's rubric, they are among the "judicial precepts." Among these are laws governing standards and procedures for the punishment of crimes. Retribution – guilt, desert, proportionate punishment administered according to legal procedure – is central, as is restitution, or compensation. The concept of restorative punishment, I will argue in Chapter Eleven, combines retribution with wider forms of restoration in a holistic restoration of right relationship. Certain laws commanding that the poor be lifted up, and that the prisoners, slaves, and oppressed be set free are framed in the language of rectification, presupposing that injustice is behind the condition of the vulnerable.[45] In one place, Sirach 28 (1-7), the Old Testament teaches forgiveness as a precept of human action. Human justice contains the Bible's instructions to kings in their judgment upon perpetrators of crimes.

The most important strands of human rectifying justice in the New Testament can be found in the Sermon on the Mount. Passages that the Sermon introduces as ones about justice contain Jesus' development of the *lex talionis* – do not retaliate, I will interpret his teaching in Chapter Twelve – as well as his command to love your enemies and his teaching on forgiveness. Paul's Letter to the Romans affirms the place of retribution in the state's practice of punishment (13:4), a principle, again, that can be enfolded into a doctrine of restorative punishment, as I shall also argue in Chapter Twelve.

Human justice, both primary and rectifying, is shaped by divine justice; the two lower quadrants are shaped by the two upper quadrants in Table 2-1. In this respect,

[45] See, for instance, Isa 58:1-4.

too, the Bible's justice is comprehensive. The Cross and Resurrection manifest divine justice most fully and shape human justice in three respects.

First, they vindicate all of Jesus's teachings about human justice. In Jesus's resurrection, he proves and displays his divinity and thus gives new authority to the principles of human justice that he taught and affirmed in his earthly ministry. On the Cross, Jesus exercises a judgment of sin that supplants the judicial norms that governed the people of Israel; in his Resurrection, he merits that worship be drawn to himself and likewise supplants the old ceremonial law. The Cross and Resurrection also renew the divine authority of the commandments that Jesus leaves in force – the Ten Commandments and their corollaries as well as the handful of other commandments that he gives such as to practice mercy and to forgive.

Second, Cross and Resurrection exemplify, or provide a pattern for, the justice that Jesus taught. The self-donating love through which he defeated sin and won victory for the restoration of life in all of its fullness exemplifies the Bible's moral principles most profoundly, both its moral prohibitions and its commandments of positive action. The prohibition of murder, for instance, remains the same in its content – a prohibition of taking the life of an innocent person – but now is expanded into commitment to protect and preserve life that is dignified by Christ and destined for resurrection with him. The Cross and Resurrection depict and invite a sacrificial gift of self – "[n]o one has greater love than this, to lay down one's life for one's friends" (John 15:13) – which bestows new meaning upon the beatitudes, which in turn deepen the meaning of the Ten Commandments. In this way, Jesus fulfills, and does not abolish, the law (Matt 5:17).[46]

[46] On how Cross and Resurrection shape the beatitudes, see Weinandy, *Jesus Becoming Jesus*, 146-178. On the "intensification and interiorization" of the Old Law in the Sermon on the Mount, see Eubank, *Wages of Cross-Bearing and Debt of Sin*, 77.

Third, through Jesus' resurrection, he wins grace that enables humans to perform the justice that the resurrection exemplifies. Through the Holy Spirit, the practitioner of justice is conformed to divine justice and empowered to live justly. Paul employs *dikaiosune* to describe the ways of the person who is transformed and renewed by the Cross and Resurrection. He writes, "[f]reed from sin, you have become slaves of righteousness (*dikaiosune*)" in Romans 6:18, and "through the obedience of one the many will be made righteous (*dikaios*)" in Romans 5:19.[47] This human justice is the fruit of reconciliation, Paul holds in 2 Corinthians 5:18-21, culminating with his conclusion that humans are made just:

> And all this is from God, who has reconciled us to himself through Christ and given us the ministry of reconciliation, namely, God was reconciling the world to himself in Christ, not counting their trespasses against them and entrusting to us the message of reconciliation. So we are ambassadors for Christ, as if God were appealing through us. We implore you on behalf of Christ, be reconciled to God. For our sake he made him to be sin who did not know sin, so that we might become the righteousness (*dikaiosune*) of God in him.[48]

In this verse and in the foregoing discussion in this chapter, what emerges is the comprehensive meaning of the Bible's human justice – one that derives from divine justice, comprises all commands, forms the contours of flourishing, and is interiorly mirrored. [49]

Cousins of Justice

The Bible often mingles justice with other principles, virtues and qualities – love, mercy, peace, truth, kindness, goodness, and faithfulness – some of which have

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[47] See also 1 Peter 2:24: "Freed from sin, we might live for righteousness/justice (*dikaiosune*)."
[48] The meaning of reconciliation for politics is fleshed out in later chapters. Corneliu Constantineanu, *The Social Significance of Reconciliation in Paul's Theology* (T&T Clark, 2010), 99-206.
[49] Mattison, *The Sermon on the Mount and Moral Theology,* 202-203.

appeared in this and the previous chapter. It is not surprising that a virtue that means comprehensive right relationship in the Bible – or that Aquinas, drawing from Aristotle, renders as general justice – would encounter such intersections.[50] Other terms are often paired with or are so proximate to justice that they shape the meaning of justice in the Bible's story.[51] Justice and peace kiss in a line after love and truth meet in Psalm 85. "You have issued your decrees in justice and in surpassing faithfulness," says Psalm 119:138.[52] The hendiadys *tsedeq* and *mishpat*, often translated justice and righteousness, sometimes as justice and judgment, is often linked further with other terms. Isaiah 16:5-6 offers this ideal of a king: "A throne shall be set up in mercy, and on it shall sit in fidelity . . . A judge upholding right and prompt to do justice." Hosea speaks of God espousing Israel through justice and mercy:

> I will espouse you to me forever:
> I will espouse you in right (*tsedeq*) and in justice (*mishpat*),
> in love (*hesed*) and in mercy (*rahamim*);
> I will espouse you in fidelity,
> and you shall know the LORD (Hosea 2:21-22).

What Gorman said of the term *shalom* in the Bible – that it is a "semantic magnet" – can also be said of justice: it attracts, and is close in meaning, to other qualities.[53] Justice's sibling words help us understand what justice means in the Bible and thus

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[50] Theologian Jean Porter argues that justice is an architectonic virtue in Jean Porter, *Justice as a Virtue: A Thomistic Perspective* (Cambridge University Press, 2016), 104, 112, 116, 162.

[51] On these relationships, see Moshe Weinfeld, *Social Justice*, 25-33; and Wright, *Old Testament Ethics*, 258.

[52] According to the interpretation of some scholars (which I find persuasive), God's saving justice is closely related to God's faithfulness, which is conveyed in the phrase *pistis Iēsou Christou*. The phrase also refers to both the character and action of God and is manifested in Jesus Christ (Rom 3:22; Gal 2:16). On this reading of the phrase *pistis Iēsou Christou*, see Stegman, "Paul's Use of *Dikaio-* Terminology," 508; Gorman, *Participating in Christ*, 123-129; and, for the fullest argument, see Richard B. Hays, *The Faith of Jesus Christ: The Narrative Substructure of Galatians 3:1-4:11* (Eerdmans, 2002).

[53] Gorman, *Becoming the Gospel*, 146.

what justice might mean for politics. Three of these sibling terms, love, mercy, and peace, illustrate this role.

What's Love Got to Do With It?

It might seem that the virtue in the Bible that best encompasses comprehensive right relationship is not justice but rather love. Jesus teaches love of God and neighbor as the greatest commandments, on which the "law and the prophets depend," and gives the "new commandment," love one another. Aquinas claims that love, or charity, is the greatest of all virtues, excels the moral virtues, of which justice is one, and gives shape to all the other virtues.[54] Does not love trump justice in a clash of titan virtues, and lay claim to the description of comprehensive right relationship?

How a Christian thinker views the relationship between love and justice affects and reveals how she views the relationship between Christianity and politics. Christian philosopher Nicholas Wolterstorff argues in his important book of 2010, *Justice in Love*, that justice means rendering each person what is her due while love includes justice but also additional virtues such as generosity.[55] Anders Nygren, the Swedish Lutheran theologian, wrote in his book, *Agape and Eros*, of the 1930s that love supplants justice as the chief Christian virtue.[56] The American Christian ethicist, Reinhold Niebuhr, thought that only justice was realizable in politics, and always partially, while attempts

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54 ST II-II, q. 23, a. 6, co; ST I-II, q. 65, a. 3, sc.

55 See Nicholas Wolterstorff, *Justice in Love* (Eerdmans, 2011), 207-220.

56 Anders Nygren, *Agape and Eros*, trans. Philip S. Watson (University of Chicago Press, 1982). References to Niebuhr are in Chapter Fifteen. While many other Christian accounts of the relationship between love and justice are on offer, particularly sophisticated are Timothy P. Jackson's arguments in Timothy P. Jackson, *Love Disconsoled: Meditations on Christian Charity* (Cambridge: Cambridge University Press, 1999); and Timothy P. Jackson, *The Priority of Love: Christian Charity and Social Justice* (Princeton: Princeton University Press, 2002).

to realize love in politics were utopian and destined for ironic failures. More variations are on offer.

What is the meaning of love, and the relationship of love to justice, in light of the argument at hand, that justice consists of the acts that bring about comprehensive right relationship? Love, I hold, does not involve some remainder of virtues, actions, laws, or commands that the Bible's justice does not involve. That is, with respect to right action, love is not a circle that includes but is larger than justice. Instead, in this respect, the Bible's love and the Bible's justice are synonymous. Following the four quadrants of Table 2-1, God's justice in creating the world and establishing moral order is what scriptures often speak of as God's love.[57] The justice of God in restoring the world through Cross and Resurrection is also described in scripture as God's love.[58] Love and justice also encompass human action in the lower two quadrants. The love for God and neighbor of the greatest commandments is none other than *dikaiosune*, comprising the "law" and the teaching of "the prophets." The link between the commandments, love and *dikaiosune,* is strong in the First Letter of John, which teaches that Jesus's most important commandment is to love, through which a person "remains in Him" is "begotten by God" and "knows God, but also to practice *dikaiosune*, which consists of right actions in general, and through which a person "is begotten by Him" and "belongs to God."[59] Love and *dikaiosune* are vividly equated in 1 John 3:10: "[N]o one who fails to act in righteousness (*dikaiosune*) belongs to God, nor anyone who does not love his

[57] See, for instance, Pss 136:4-9.

[58] See, for instance, John 3:16, Rom 5:8; Gal 2: 20; Eph 2:4-5; 1 John 4:10. On the convergence of God's love and his charity, see Matthew Levering, "Juridical Language in Soteriology: Aquinas's Approach," *Angelicum* 80, no. 2 (2003), 321.

[59] 1 John 2:3; 1 John 2: 8-11; 1 John 2:29; 1 John 3:7; 1 John 3:10; 1 John 3:12; 1 John 3:23; 1 John 4:7; 1 John 4:16; 1 John 4:21.

brother." As love is commanded, so, too, is *dikaiosune*. Following suit, Aquinas approvingly quotes Augustine as writing, "justice is the love of God and our neighbor which pervades the other virtues, that is to say, is the common principle of the entire order between one man and another."[60]

An objection to the argument that love and justice consist of the same actions might draw from a distinction that Aquinas makes, that love is a theological virtue whereas justice is a natural virtue. A theological virtue, says Aquinas, is one whose object is God, is infused in humans by God alone, and is made known only through divine revelation, as recorded in scripture.[61] The three theological virtues are faith, hope, and charity. Aquinas holds that charity is given to a person by God, creating the ready disposition to carry out acts of love. He quotes Paul, "the love of God has been poured out into our hearts through the holy Spirit that has been given to us" (Rom 5:5). Justice, by contrast, Aquinas argues, is a moral, or natural, virtue, and is one of the four cardinal moral virtues along with temperance, fortitude, and prudence. These are not given to a person through an act of grace and are known through reason alone. Might not this view – that love is theological and supernatural, whereas justice is based on common reason and natural – suggest that love is wider than justice, involving a fuller set of precepts and acts?

In fact, even in Aquinas's reading, there is reason to think that there is little difference between love and justice as a matter of action. Aquinas elaborates further on his distinction between theological and moral virtues. Moral virtues, he explains, take the form not only of natural virtues but also of infused virtues, which, elevated by grace,

[60] ST II-II, q. 58, a. 8, ad. 2.
[61] ST I-II, q. 62, a.1, resp.

are directed towards God as their end and entail additional actions. They are infused prudence, infused temperance, infused fortitude, and infused justice. Infused temperance, for instance, assumes a new mean by which fasting becomes a virtuous action. Alas, Aquinas does not elaborate much on infused justice, leaving unclear how its component actions differ from those of moral justice.[62] A reasonable conjecture, though, is that infused justice is none other than the New Testament's *dikaiosune*. Its component actions are ones that conform to the Ten Commandments – known by reason – in addition to teachings of Jesus such as mercy and forgiveness that are not known by reason alone but are rather revealed in scripture. An infused justice of *dikaiosune* is identical to the actions that compose the love that emanates from the gift of charity. With respect to right action, justice is love, and justice and love are each the will to enact and restore comprehensive right relationship.[63]

Yet, in a respect different than that of right action, one that the Bible also depicts, love differs from justice. A second meaning of love is affection, attachment, and desire, as in a person's love of wine, his dog, a sunset, and playing basketball. Love of other people is of this sort, too: A father declares he loves his daughter, a wife that she loves her husband, a friend that she loves her friend, or a citizen that he loves his country. Between persons, this kind of love involves a desire for harmonious union– marriage, personal friendship, or civic friendship.[64]

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[62] ST I-II, q. 63, a. 4, resp.

[63] For a treatment of infused justice in Aquinas, see Markus Christoph, "Justice as an Infused Virtue in the *Secunda Secundae* and Its Implications for Our Understanding of the Moral Life," PhD Diss., University of Fribourg, 2011.

[64] See Eleonore Stump, *Atonement* (Oxford University Press, 2018), 40.

In the Bible, God also loves humans in this second respect. Pope Benedict XVI taught in his encyclical, *God is Love*, that divine love takes the form of *eros* as well as *agape*.[65] In the Johannine books – the Gospel of John, the letters of John, and Revelation – God's love is a major theme. When the Gospel of John (3:16) teaches, "God so loved the world that he gave his only Son," it conveys that God possesses an abiding care and affection for the world, out of which he sent his Son. When 1 John 3:1 declares, "[s]ee what love the Father has bestowed on us that we may be called the children of God," it says that God loves his children with filial affection – caring about them, desiring a family bond with them. When the Gospel of John (20:2) mentions the "disciple whom Jesus loved," it means one for whom Jesus, in his humanity, had affection. Humans are to love God in this second respect, too. When the Gospel of Matthew (6:24) says, "[n]o one can serve two masters. He will hate one and love the other, or be devoted to one and despise the other," it speaks about what a person has affection and desire for. Humans in the Bible love one another in this respect as well, for instance, David and Jonathan in the First Book of Samuel.

The two forms of love are both dimensions of right relationship. One is the acts that make up right relationship; the other is a desire for the relationship itself. The two are related. One person's affection for another person may lead him to act so as to bring about the union of friendship or marriage. God acts towards people in this way, too. In Hosea 2:19, quoted above, God promises to act upon his fatherly affection. Here it is again: "I will espouse you to me forever: I will espouse you in right (*tsedeq*) and in

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[65] Benedict XVI, *Deus Caritas Est, The Holy See,* December 25, 2005, sec. 3-11. See also Jon D. Levenson, *The Love of God: Divine Gift, Human Gratitude, and Mutual Faithfulness in Judaism* (Princeton University Press, 2016), xiv.

justice (*mishpat)*, in love and in mercy; I will espouse you in fidelity and you shall know the Lord." The act of justice, denoted by the hendiadys, which is also an act of love, flows from God's connubial attachment. The teaching of 1 John (4:12) is that a person who acts according to the commandments thereby realizes union with God: "[I]f we love one another, God remains in us."[66] Living faithfully leads to union with God in heaven. If related, though, the two forms of love are different. Love, like justice, involves acts, but it also involves affection, attachment, desire, and union with people and with God, something different from acts. Love is wider than justice.[67]

A Merciful Justice

Mercy, prominent in the Bible, often appears proximate to justice and informs its meaning. Aquinas offers a definition that matches the Bible's many mentions of mercy: "Heartfelt sympathy for another's distress, impelling us to succor him if we can." Mercy is equivalent to pity, argues Aquinas, and is linked to the heart in the Latin word, *misericordia*.[68] In this sense, mercy is an emotion, or desire, or appetite. It also involves a judgment: Another's distress anguishes a person and prompts her to alleviate it as if it were her own distress. Mercy can also be a virtue, the ready disposition to perform mercy that characterizes a merciful person. From this virtue flow actions of mercy, ones that are motivated and characterized by mercy. Pope John Paul II, who declared mercy the defining message for our times and defined his pontificate by it, also viewed mercy as a virtue but lays the stress on action in his encyclical, *Dives in Misericordia*, of 1980:

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[66] See also John 15:10.

[67] Consonant with this argument about the relationship between love and justice is Pinckaers, *The Sources of Christian Ethics*, 36-37.

[68] Aquinas, ST, II-II, q. 30, a. 1, resp.

> [M]ercy is manifested in its true and proper aspect when it restores to value, promotes and draws good from all the forms of evil existing in the world and in man. Understood in this way, mercy constitutes the fundamental messianic content of the messianic message of Christ and the constitutive power of His mission.[69]

While mercy is an emotion, a judgment, a virtue, and a form of action, here it is most centrally an action, the core component of justice.[70]

All acts of mercy aim to "restore value" and "[draw] good from . . . evil." Mercy addresses the distress that people suffer undeservedly and that results from their wrongs. While all acts of mercy are justice, not all acts of justice are mercy. Not all right actions address the distress of another. For instance, mutual, collaborative endeavors of friendship and marriage, decisions to avoid violating the rights of others, and worshipping God are acts of justice but not ones of mercy. Mercy is a portion of the justice of right relationship.

Mercy belongs in each of the four quadrants of Biblical justice in Table 2-1. It is performed by God, as in the top two quadrants, and by humans, as in the bottom two quadrants. In Quadrant One, mercy, although the term does not appear in the creation narrative of Genesis, expresses a quality of God's creation of order in the world. The condition out of which God created, expressed in the first two verses of Genesis, was first one of nothingness, then one of chaos – a "formless wasteland," an "abyss." The human being, who is created with rightly ordered souls, and who is fulfilled through this right order, is a part of God's response to non-being and to disorder, indeed the pinnacle

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[69] Pope John Paul II, *Dives in Misericordia*, encyclical, 1980, sec. 6.

[70] For a notion of justice that informs mercy, see also Kathryn Tanner, "Justification and Justice in a Theology of Grace," *Theology Today* 55, no. 4 (2006), 513-515.

of God's creative acts. In the sense that God creates order out of void and disorder, mercy is a dimension of the justice of creation.[71]

Mercy converges with the justice of God's actions to restore Israel in response to its sin in Quadrant Two. Two Hebrew terms in the Old Testament translate into mercy. The first is *hesed*, which means "steady love" and often involves faithfulness to a covenant. *Hesed* translates into God's mercy when it means the faithfulness that leads God to restore his people. The second is *rahamim*, which connotes the love of a mother for her children and often means a willingness to forgive. Some Bible translations render these terms instead as love or kindness, showing that mercy is closely related to them. The New Testament's word for mercy is most commonly *eleos*, which translates *hesed* in the Septuagint.

When God is the agent of mercy, the term most often means the actions through which God restores people in the wake of sin – acts of divine forgiveness, restraint from punishment and renewal. The Psalms extol and plea for this mercy. "Show us Your mercy, Lord, And grant us Your salvation," Psalm 85:8 says. Psalm 103:8 reads, "[m]erciful and gracious is the LORD, slow to anger, abounding in mercy" a line that appears also in other places, identifying mercy as both an attribute and act of God.[72] Paul describes God's act of salvation through Jesus Christ – the same act that he describes as justice – as an act flowing from God's mercy in Ephesians 2:4: "God, who is rich in mercy, because of the great love he had for us, even when we were dead in our

[71] See ST I, q. 21, a. 2, a. 4.

[72] I cite translations of Ps 85:8 and Ps. 103:8 from versions of the New American translation that adopt the word mercy. For other instances of God acting mercifully, see Pss 6:5, 13:6, 17:7; 31:7. 33:22, 44:27

transgressions, brought us to life with Christ (by grace you have been saved) . . .."[73] Sometimes mercy is closely linked with justice, as in Psalm 116:5, "[g]racious is the Lord and just; yes, our God is merciful."[74]

In Quadrant Three, that of human primary justice, mercy converges with the portion of human acts that alleviate forms of distress that are not caused by injustice – say, care for the sick or victims of a natural disaster.[75] Jesus teaches mercy as an imperative – "[b]e merciful just as [also] your Father is merciful" (Luke 6:36). Almsgiving, an act of giving to the poor that stands more broadly for mercy in the Bible, exemplifies "just deeds" in the Sermon on the Mount (Matt 6:1-4).[76]

In Quadrant Four, mercy converges with human rectifying justice in those acts that seek to alleviate distress that sin causes. This includes forgiveness; admonishment of sinners; enjoining repentance and penance; acts directed towards victims of wrongs, including apology, restitution and reparations; punishment, which, as I shall argue in Chapter Eleven, rightly wills restoration; and reconciliation. All of these actions find warrant in the Bible and below to the comprehensive justice of right relationship.

A Just Peace

In recent decades, political and religious scholars and activists have put forth urgently an argument that Augustine and Aquinas made, that a symbiotic tie exists

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[73] The parenthetical statement appears in the text. Other verses that describe Jesus Christ's salvation on the Cross as mercy include Rom 11:30-32; Rom 15:6; Ti 3:5; 1 Pt 2:10; 1 Pt 1:3-5; and Jude 1:21.

[74] See also Ps. 36:11; Ps 40:11; Ps 42:9; Ps. 85:11; Ps 101:1; Ps. 143:11-22; Jer 9:23 Mercy is linked to *mishpat* in verses such as Isa 30:18; Jer 9:23; Hos 12:7; and Zech 7:9. Again, in some translations, the Hebrew root words are rendered as love or kindness rather than mercy. Reumann notes, citing Bible scholar C.H. Dodd, that sometimes mercy translates *tsedeq* in the Septuagint. See Reumann, *Righteousness in the New Testament*, 18.

[75] I will elaborate on this distinction in Chapter 10.

[76] See Przybylski, *Righteousness in Matthew and his World of Thought*, 78, 100-101. In Chapter Seven, I elaborate further on the close relationship between almsgiving, justice and mercy in the Bible.

between justice and peace. In a speech in 1957, Martin Luther King, Jr. distinguished between a negative peace, which is an absence of war and other forms of direct violence, and positive peace, which also includes justice. Positive peace would be the goal of his civil rights campaign. In like spirit, a cadre of Christian theologians, many in the Anabaptist community, have developed from the symbiotic tie between justice and peace an urgent theology that views peace as integral to the saving act of Jesus Christ – his rectifying justice – and integral to the mission of a Church who is conformed to this saving justice.[77] Peace scholars and activists, many of them inspired by Christian theology, have developed the concept of peacebuilding, the construction of holistic and enduring right relationship in societies sundered by war, dictatorship, and genocide. Scholars John Paul Lederach and Scott Appleby have coined the term, "justpeace" to convey the inseparability of justice and peace.[78]

It is unsurprising that this development in political thought and activism should stem from the Christian tradition, which has looked upon peace as a fruit of justice, a view whose roots lie in the Bible.[79] "The fruit of justice (*dikaiosune*) is sown in peace," James 3:18 states in the Douay-Rheims translation. A couplet in Isaiah (32:16-17) says: "Right (*mishpat*) will dwell in the desert and justice (*tsedeqah*) abide in the orchard.

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[77] Perry Yoder, *Shalom: The Bible's Word for Salvation, Justice, and Peace* (Faith the Life Press, 1987), 10-23; Ulrich Mauser, *The Gospel of Peace: A Scriptural Message for Today's World* (Westminster/John Knox, 1992), 33; Willard M. Swartley, *Covenant of Peace: The Missing Peace in New Testament Theology and Ethics* (Eerdmans, 2006); Darrin W. Snyder Belousek, *Atonement, Justice and Peace: The Message of the Cross and the Mission of the Church* (Eerdmans, 2012), 369-604; John Meinert, *Peace in the Thought of Thomas Aquinas*: *Philosophy, Theology and Ethics* (Catholic University of America Press, 2024).

[78] John Paul Lederach and R. Scott Appleby, "Strategic Peacebuilding: An Overview," in *Strategies of Peace: Transforming Conflict in a Violent World*, ed. Daniel Philpott and Gerard F. Powers (Oxford University Press, 2010), 23.

[79] ST II-II, q. 29, a. 4, ad. 1.

Justice (*tsedeqah*) will bring about peace; right (*tsedeqah*) will produce calm and security." Peace blossoms forth from right relationship and is sweet.

In the Old Testament, peace translates *shalom*, which appears there 235 times.[80] *Shalom* is a condition of tranquility, calm, and quiet that attends upon right relationship between persons in the political and economic spheres, the family, the religious community, and between societies. Theologian Ulrich Mauser writes:

> Peace, in both the Old and New Testament, is a condition reaching into almost any aspect of human life, communally or individually considered. It is at stake in basic issues of material welfare; it comes to life in physical health; it is expressed in justice and good order; it cannot thrive except in a climate of serious social concern; it provides a home for success and prosperity; it becomes synonymous with salvation; and it is necessarily linked to harmony and good understanding in international relations.[81]

In the Bible *shalom* arises organically, as a fruit, from human justice in and between societies, emanating in turn from the vertical right relationship that a people has with God. It is the condition that God wills for his people, his primary justice, and is the result of his acts of restoration, his rectifying justice. Isaiah describes God's restoration of Israel as a reestablishment of peace and a vision of the peace that God will bring about at the end of time.[82] In the New Testament, peace translates the Greek word, *eirene*, which translates *shalom* in the Old Testament in the Septuagint. Here, too, peace attends human justice – the Gospels of Matthew and Luke associate *eirene* with the right relationship of the kingdom of God, the healing of the sick, and forgiveness – and is also a product of God's justice. Paul describes peace as a result of the Cross and

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[80] Ulrich Mauser, *The Gospel of Peace: A Scriptural Message for Today's World* (Westminister/John Knox Press, 1992), 13.
[81] Mauser, *The Gospel of Peace*, 33
[82] Isa 2:4; Isa 11:6-9.

Resurrection and of the justice that is achieved there, the work of justification and reconciliation.[83] It is a peace that justice yields in the human heart but also in the Church community, between communities, and in the world, including its political orders.

Conclusion

Love, mercy, and peace enhance the comprehensive character of the Bible's justice. Justice bids to be the Bible's very story of salvation. This justice is wider than the truncated concept of justice that has dominated western political thought from the Middle Ages and the discourse of modern nation-states. The wideness of biblical justice includes obligations that are due and that are not due. The meaning of this distinction is the subject of Chapter Five.

[83] Eph 2:14-16; Col 1:20; Gal 5:22. The relationship between justice and peace in the Bible is also reflected in Gen 14:18, which tells of Melchizedek, King of Salem, who is discussed again in the New Testament and associated with Jesus Christ and the Eucharist, see especially Heb 7:1-28. The portion of his name, "zedeq" is the same word as *tsedeq*, or justice, while Salem means peace and Jerusalem is the city of peace. I am indebted to Blažo Kažanegra for this reference.

Chapter Five: Defining the Due in Justice

I have been arguing for a distinction between those obligations that render to each what is his due and those that do not. Biblical justice, which the last two chapters have argued is comprehensive, blends the two. What exactly does it mean, though, to render another his due? How is due synonymous with rights? What exactly are rights? Most importantly, why does it matter? The distinction is not a dry or a technical one but rather expresses two different manners in which obligations bring about right relationship and the goods that constitute it. Both sorts are critical for realizing and restoring justice in the world, in politics.

What is Due?

I argued in the last chapter that human justice in the Bible comprises commandments. Commandments prescribe obligations, actions that people are required to perform or to avoid. When people violate commandments – do what they are enjoined not to do or fail to do what they are enjoined to do – they commit a wrong. Commandments define justice, *tsedeq(ah)* and *dikaiosune*, throughout the Bible. Do not murder. Do not steal. Do not commit idolatry. Be merciful. Heed the cry of the poor. Welcome the stranger. Take up your cross and follow me. Jesus's words are pervaded by commandments, culminating in his teaching that the greatest commandments are to love God and to love one's neighbor, on which all other commandments hang. Because these two forms of love encompass all true Christian acts, all of the Christian life can be said to be living out commandments.

But are not commandments and obligations cold and formal whereas the Christian life is warm, free, fulfilling, gratuitous, and impelled by grace? These latter

qualities indeed characterize the Christian life but are mistakenly contrasted to obligation. Again, obligation in the Bible is encompassing, involving not only narrow injunctions but more broadly an integrated Christian life according to the vocation to which each person is called, one that is an expression of the love commandment. As I noted in the last chapter, Jesus and previous prophets taught that their followers were to perform commandments with full inward intent – heart, soul, mind, strength – and that conformity to the commandments elicits a person's well-being, flourishing or happiness. The commandments are not merely formal or external but rather, as Psalm 19 and Psalm 119 recount, refresh the soul, enlighten the eye, and rejoice the heart. As a person grows in holiness and towards union with God, the legal aspect of commandments recedes. She is possessed and propelled by the Holy Spirit rather than by the dunning authority of the law. Such growth in supernatural virtue, though, does not negate the injunctive force of the commands but rather makes unnecessary their barriers and their compulsion and yields to a free and spontaneous adherence. Commandments and the Christian life are not at odds.[1]

It is acting persons who perform or fail to perform commandments. The prescribed obligations are addressed to and binding upon people who are capable of fulfilling them freely. Let us call them performers of obligations. Obligations also involve another party, those towards whom performers of obligations direct their acts. Let us

[1] I do not employ the concept of "supererogatory," a description of acts that exceed obligation. All right actions fall under obligation. All are in some way encompassed by love, which is, after all, a commandment. Because some obligations are imperfect duties, they are open-ended in their fulfillment and thus contain room for discretion, but this discretion pertains to how a duty is fulfilled and does not imply exceeding duty. For instance, the tradition contains the concept of "evangelical counsels" – poverty, obedience and celibacy – that are obligatory only under a promise, usually that of a religious life. These may be seen as forms of fulfillment of everyone's obligation to practice self-giving love.

call them recipients of obligations.[2] The performer of the obligation not to lie is the one who communicates a message; the recipient is the one to whom this message is communicated. The performer of the obligation to care for the poor is the one who provides food, shelter or tutoring; the recipient is the one who is fed, housed or educated. The performer of the obligation to worship God is the one who worships; the recipient is God. Not all acts performed by human beings are directed towards other human beings. A person might curtail his binge eating as an expression of temperance; his health and the integration of his soul are the object of his acts. In the Christian life, though, all acts, even those not directed at another human, are to be performed for the glory of God and thus to be directed towards God. Thus, all genuine Christian acts are directed towards some recipient.

We arrive at a critical distinction: Although all acts that people are obliged to perform are directed to one or more recipients, not all obligatory acts possess the quality of being due to a recipient. Some obligations are due to others, while others are not. What does it mean for an act to be due to another? To say that an act is due is to say that a recipient is entitled to it. Synonymously, the performer owes the act to the recipient. The recipient rightfully may assert that the performer carry out or avoid certain acts towards him and that if the performer violates this duty, the performer will have committed a wrong against him. What is in question in whether an obligation is due, then, is not whether an act is obligatory but rather whether an obligatory act is one to which a recipient of that act is entitled.

[2] Philosophers have used other terms to denote this two-person relationship. For instance, Wolterstorff adopts the terms "agent" and "patient," in Wolterstorff, *Justice*, 7.

A synonym of due is the prestigious concept, rights. To speak of a right or rights is different from speaking about what is right. To say the latter, that an act is right, is to say that it meets the demands of an obligation. Right is what performers of acts are expected to do. When Angela told the truth even as she was under pressure to lie, she did what was right. To speak of a right, by contrast, is to speak of what a person justifiably demands, is owed, or, most aptly formulated, is entitled to from others. A right is what recipients of acts are entitled to assert. Peter has a right not to be lied to. Nathan has a right to be repaid the money he lent to James. Both right and rights are critical parts of Christian justice, I hold.

That rights inhabit the Christian tradition is met with skepticism. Liberal theorists such as Rawls and Lilla hold that rights, at least core liberal rights, emerged with the "Great Separation" that broke with Christian political theology.[3] Philosopher Leo Strauss thought that rights emerged in the thought of Thomas Hobbes and were solidified in that of John Locke, both of whom departed from classical thought, which taught "right" but not "rights," as well as from Christian thought, and many of Strauss's disciples have joined him in the claim.[4] Some Christian thinkers also contend that we ought to speak only of what is right, and only of the norms that specify what is right and that constitute moral order, and that we ought not to speak of natural rights, which they claim are assertions of self-interest, corrosive of social ties, disintegrative of the common good, overly abstract, and overly rigid. Among them are Oliver O'Donovan,

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[3] The phrase is Lilla's but the concept is also Rawls's. See Lilla, *The Stillborn God,* 92; John Rawls, *Political Liberalism* (Columbia University Press, 1993), xxii-xxix.
[4] Leo Strauss, *Natural Right and History* (University of Chicago Press, 1950), 165-251.

Joan Lockwood O'Donovan, John Milbank, Alasdair Macintyre, Michel Villey, Ernest Fortin, Nigel Biggar, Simone Weil, Richard Hays, and Stanley Hauerwas.

Rights, including natural and human rights, though, long predate the alleged break and find a place in the writings of Christian thinkers. Sixteenth century Spanish Scholastics such as Francisco Suarez espoused rights, as did Bartolome De Las Casas and Francisco De Vitoria, who defended the rights of native peoples. Major early modern Protestant thinkers supported rights. Historian Brian Tierney found rights in medieval canon law. In Chapter Two, I argued for rights in Aquinas's thought. Natural rights, though, reach back far earlier. They are present in early Christian thought, including that of Tertullian and Lactantius, who asserted the natural right of religious liberty, and of the Cappadocian fathers of the late fourth century, who defended the rights of the poor. Rights are present at the origin, appearing numerous times in the Old and New Testaments. They carry forth into modern Christian thought, solidly ensconced in the magisterial teachings of the Catholic Church of the past century-and-a-half and finding expression in the thought of numerous Catholic and Protestant theorists of politics in the 20th and 21st centuries. A Christian account of justice upholds an unbroken tradition in including rights.[5]

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[5] On Spanish scholastic thought, see Annabel Brett, *Liberty, Right and Nature: Individual Rights in Later Scholastic Thought* (Cambridge University Press, 2003); and David Lantigua, "The Image of God, Christian Rights Talk, and the School of Salamanca," *Journal of Law and Religion*, 31, no. 1 (2016): 19–41. On rights in the Protestant Reformation, see John Witte Jr., *The Reformation of Rights: Law, Religion, and Human Rights in Early Modern Calvinism* (Cambridge University Press, 2007). On medieval canon law, see Brian Tierney, *The Idea of Natural Rights: Studies on Natural Rights, Natural Law, and Church Law 1150-1625* (Eerdmans, 2001). Tertullian articulates a natural, human right of religious freedom in 212 CE – remarkably, at such an early date. See Tertullian, *To Scapula* (Lighthouse Publishing, 2015), 23-24. Lactantius does not use the term human right but defends something very close to the human right of religious freedom in Lactantius, *The Divine Institutes*, trans. Anthony Bowen and Peter Garnsey (Liverpool University Press, 2003), 5.20, 319-323. On the Cappadocian fathers, see Susan R. Holman, *Beholden: Religion, Global Health, and Human Rights* (Oxford University Press, 2015), 127. On rights in modern Catholic Social Thought, see, for instance, Leo XIII, *Rerum Novarum*, encyclical letter, The Holy See, May 15, 1891; John XXIII, *Pacem in Terris*, encyclical letter, The Holy See, April 11,

What, then, are rights? Is there a single definition that expresses their variety? Army General Buyoyo has a right to expand the duties of his troops to include humanitarian missions. Maria has a right to walk her dog in Roosevelt Park on Maple Street between 7 am and 10 pm. Emmanuel has a right to exemption from the military draft on account of his ill health. Russia has no right to invade Ukraine. Nguyen has a right to have No Squirrels Roofing Company install the new roof that he paid for in advance. All of these are types, or "incidents," of rights that legal theorist Wesley Hohfeld identified in his influential account of rights of the early twentieth century.[6] Philosopher Leif Wenar, who follows Hohfeld, affirms these incidents of rights yet also argues that rights admit of a single definition: "Rights are entitlements (not) to perform certain actions, or (not) to be in certain states; or entitlements that others (not) perform certain actions or (not) be in certain states," he proposes. I am persuaded by Wenar that entitlements encompass rights and may serve as their general definition, though my focus is on actions and not on states, or what people believe, feel and want. Hohfeld's incidents, then, are forms of rights, all of which are entitlements.[7] Each of them entitles

1963, sec. 5; and John Paul II, *Redemptor Hominis*, encyclical letter, The Holy See, March 4, 1979, sec. 10. On rights in contemporary Christian thought, see John Witte Jr. and Johan D. van der Vyver, eds., *Religious Human Rights in Global Perspective: Religious Perspectives*, vols. 1 and 2 (Martinus Nijhoff Publishers, 1996).

[6] Wesley Hohfeld, *Fundamental Legal Concepts: As Applied in Judicial Reasoning*, Ed. Walter Wheeler Cook (Yale University Press, 2010), 65.

[7] Leif Wenar, "Rights", *The Stanford Encyclopedia of Philosophy* (Spring 2021 Edition), Edward N. Zalta (ed.), https://plato.stanford.edu/archives/spr2021/entries/rights/. I closely follow Wenar's clear account of the Hohfeldian incidents, or forms of rights, in the discussion that follows. I define rights here with respect to acts rather than states since acts are the subject of justice in my analysis. See also Leif Wenar, "The Nature of Rights," *Philosophy and Public Affairs,* 33, No. 3 (2005), 223-252. This definition of right, entitlement to action, differs from other definitions of natural rights in the tradition such as a power or a faculty. I do not necessarily reject these definitions but hold that rights are most soundly thought of as entitlements to action.

the bearer of the right to assert that others act in a certain way towards him – provide him with something, refrain from doing something to him, obey him, respect him.

There are four of these incidents and they teach much about what rights do. Hohfeld's first incident, or type of right, is a claim. *A has a claim that B performs (or not performs) X if and only if B has a duty to A to perform (or not perform) X.* Contracts illustrate claims clearly, for instance, Nguyen's claim to have his roof installed. Many human rights take the form of claims that each human being asserts against all others, for instance, the right not to be tortured, enslaved, and arbitrarily detained, and the right to be provided safe working conditions. The right to receive deserved honors, say, the award for winning an essay contest, is a claim. Groups proffer rights as claims, too – states not to be invaded, baseball teams not to be cheated.

Second, Hohfeld argues that rights take the form of a privilege, or liberty. *A has a privilege to perform X if and only if A possesses no duty not to perform X.* Privileges specify acts that a person or group is authorized to perform. Maria's right to walk her dog in the park is a privilege. This act is open to her. The bishop has the privilege of determining the curriculum of church schools in his diocese. A town's historical commission leaves homeowners free to paint their home any color they wish, including pink. A license – to practice medicine, to drive an eighteen-wheeler, to own a gun – is a privilege, Wenar points out.[8]

Wenar observes that Hohfeld's claims and privileges correspond to what the prominent legal theorist of the mid-twentieth century H.L.A. Hart calls "primary rules," ones that require people to perform or not to perform certain acts. The two other

[8] Wenar, "The Nature of Rights," 225-228.

Hohfeldian incidents are what Hart terms "secondary rules," ones that prescribe how people may establish, abrogate, or change primary rules.[9]

One of these, the third of Hohfeld's incidents, is a power. *A possesses a power if and only if A is authorized by a set of rules to alter his own or another's Hohfeldian incidents*. What Hohfeld means by a power is not the same as what many political scientists mean by power, the ability to coerce.[10] For Hohfeld, a power means authority, the entitlement of a holder of authority to perform a specified action according to norms. General Buyoyo's authority to expand the mission of his soldiers is a right that takes the form of a power. General Buyoyo's powers also include firing a colonel in the army for misconduct, an action that would alter the colonel's own powers as well as his privileges and claims. Senators exercise a power by legislating a right to health care for the citizens of their country, thus altering what citizens may claim. Wenar offers the further example of one who, by making a promise, creates for her promisee a claim that the promiser will do what she has promised. Wenar lists "ordering, promising, waiving, sentencing, buying, selling, and abandoning" as examples of acts by which the holder of a power may change the Hohfeldian incidents of another.

The fourth and final form of Hohfeld's incidents is an immunity, which places limits on powers. *B possesses an immunity if and only if A lacks the corresponding authority according to a set of rules to alter B's Hohfeldian incidents*. If a country does not have an active draft or required military service, citizens possess immunity from being called up. If the government instates a draft, citizens of draft age lose this

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[9] H.L.A. Hart, *The Concept of Law*, 2nd ed. (Oxford University Press, 1961) 79-99.
[10] See Robert A. Dahl, "The Concept of Power," *Behavioral Science* 2, no. 3 (July 1957): 201–215.

immunity. They may reacquire immunity if they merit a medical or conscientious exemption. If motorists have the right to drive on public streets at all times, then they possess immunity from Mr. Glimfeather's irate demand that they not drive in front of his house at 6 am. By virtue of the U.S. Constitution's religious freedom clause, Muslim-Americans have an immunity from a town council passing a law prohibiting them from building a mosque in their town.

All four incidents, or types of rights, are forms of entitlement in that each entitles the bearer of the right to assert that others act in a certain way towards him – provide him with something, refrain from doing something to him, obey him, or respect him. These forms of act are in turn obligations that people have toward the bearer of the right. All rights invoke correlative obligations. The correlation is clear for claims and privileges. A human being's claim-right not to be tortured correlates to the obligation of every other human being not to torture her. A resident's privilege-right to paint her house pink correlates with the obligation of the historical commission not to prevent or penalize him. Powers and immunities also correlate with obligations. General Buyoyo's troops have a duty to perform the humanitarian missions that she has a right to, in the form of a power, to command. Town councils have a duty not to pass laws that enact a prohibition on building a mosque by virtue of the religious liberty rights of Muslim Americans, an immunity.

Rights express complex relationships between persons. Wenar describes the property-right that a person has to his computer as a right that involves all four Hohfeldian incidents: a claim against others using the computer, a privilege to use the computer, a power to sell, donate, or allow open access to the computer, and an

immunity against others altering his claim to use his computer.[11] Rights often involve multiple parties and institutions. An employee at McDonald's restaurant has certain rights vis-à-vis his manager, who in turn has certain rights to the employee's service, both of which are stipulated by the corporation, which is constrained by the employment laws of the state, who may enforce these laws if they are not obeyed. Entire societies comprise an encyclopedic network of rights and corresponding obligations. Societies are also bound to one another by rights and obligations, as international law prescribes. All told, combinations of rights and obligations express right relationship among persons, groups, and societies. Obligations that correspond to rights belong to the justice of right relationship.

Distinctions Among Rights

Certain other distinctions describe ways in which rights convey what people are entitled to or due. One is between negative and positive rights. Through negative rights, people assert that others – persons, groups, governments – refrain from treating them in certain ways: lying, killing, stealing, torturing, defaming, insulting, committing adultery against them, and many others. What the recipients of negative rights assert is respect. The holders of positive rights assert that others provide them with goods: the means of subsistence, a living wage, safe working conditions, entry for asylum seekers, health care, gratitude, and the deliverables in a contract, for example. Respect and provision are two forms of what people are entitled to, owed, or due.

Another important distinction is between natural rights and posited rights (which also are often called positive rights, but mean something different than the positive

[11] Wenar, "Rights," sec. 2.1.6.

rights just mentioned). Natural rights are apprehended by reason and arise from the natural good of persons and groups. They are pre-legal and pre-institutional, that is, valid even apart from being specified in constitutions or other public law. Familiar examples include the rights of persons not to be murdered, tortured, enslaved, and arbitrarily detained; to be deprived of religious liberty, free speech, and parental authority; to own property; to be provided with subsistence and safe working conditions; and the rights of sovereign states not to be invaded and to have their treaty commitments honored. Every natural right held by a person is also a human right, one that she holds by virtue of being a human being. Natural rights are found among many of the human rights enumerated by the Universal Declaration of Human Rights and the international law covenants of 1966.

Posited rights are ones that are generated, declared, and made legally binding upon citizens by people who possess the authority to posit them: legislatures are the body prescribed to establish legal rights in constitutional government and executive officials may also decree them. Other organizations may also confer rights, say a university grants its professors and students the right to academic freedom. In addition to these distributive rights, conferred by officials in organizations upon their citizens or members, are commutative rights, established by person and groups with other parties through contracts. The No Squirrels Roofing Company, for instance, has a right to be paid for the new roof that a homeowner agreed to have the company install.

Officials establish all sorts of rights that are not natural or human rights and are binding only because they are rightfully posited. Professors and students enjoy academic freedom because their university employers granted it to them, whereas employees of business corporations and government agencies do not enjoy such freedom. In some

cases, though, posited rights are natural human rights that a government legislates in order to enable and secure these rights. Article 28 of the Universal Declaration calls for such positing: "Everyone has the right to a social and international order that allows them to fully realize the rights in the Declaration." Governments secure the right to life, the most fundamental of human rights, for instance, by legislating statutes that prohibit murder, define degrees of murder, and promote the enforcement of the prohibition. Positive rights depend distinctly upon the legislation that enables it. The right to education, for instance, requires legislation that grants the right, defines adequate schooling, decrees what kinds of schools citizens may attend (public, private, or home), levies funds for schools, and determines which schools will receive funds.

Another distinction: Rights vary among their holders, who include not only individuals and states but also a wide assortment of associations: religious bodies, sports teams, business corporations, unions, lobbies, civic organizations, and political parties. Groups may assert rights against individuals, for instance, the state asserts a right to a person's taxes or military service in the case of a draft, while individuals also possess rights against the state, for instance, a right against arbitrary arrest. States possess rights against other states, including their right to territorial integrity and to be respected in their treaty commitments. God also has rights, a proposition that might seem to suggest fallaciously that God, like humans, would be diminished were his rights to be deprived, but that rests more soundly on the gratitude and worship that people owe God for God's gift in creating and redeeming them.

Finally, rights vary between those contained in primary justice and those contained in rectifying justice. In primary justice, rights are the entitlements that people and groups justifiably assert. In rectifying justice, rights are what those who have been

wronged may justifiably assert as redress. Central among these rights is that of retribution, a word that derives from the Latin, *retribuere*, meaning repayment. When one person wrongs another, the wrongdoer then becomes obligated to repudiate the wrong while the wronged attains a right to see this repudiation and to engage in proportionate retaliation.[12] The wronged have other rights as well – to apology, reparations, and truth – which have grown in their presence in international law.

These distinctions about rights form a lexicon that provides the grammar for the argument ahead. One other pair of qualities characterize rights in general and serve to clarify the difference between obligations that fulfill rights and ones that do not, the distinction on which this chapter pivots and the argument of the book depends. Rights carry the qualities of being specified and dischargeable.

Obligations to fulfill rights are specified when clarity is possible about the performers, the recipients, and the substantive content of the obligation, that is, what is respected or provided. In the case of human rights, the recipients are every human being and sometimes associations, and the performers are every human being, every group, and every government. Other rights are specified in these matters by the laws that prescribe them. Most human rights demand specification beyond the naming of the right alone for them to be enacted. Does the right to life allow armed combat? The death penalty? Religious freedom, a natural human right, yields the question whether all avowedly religious actions are protected. The International Covenant on Civil and Political Rights answers that this right "may be subject . . . [to] limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or

[12] Chapter Eleven elaborates retribution.

the fundamental rights and freedoms of others."[13] Likewise, debates took place in the early 2000s over the meaning of torture in the setting of the United States government's pursuit of terrorists. The U.S. had signed the Torture Convention, but what is torture? Specification was required. Specification is also essential for the fulfillment of positive human rights, ones that mandate safe working conditions, education, and health care. What does each require? How do we know when it is met? And who is responsible for providing it? Without specific answers, we cannot know if the right has been fulfilled.[14]

To say that a right is dischargeable is to say that the obligation that fulfills the right can be completed. An obligation that is not dischargeable, and so does not fulfill a right, is one that is never completed. The duty to care for the poor, for example, is open-ended in its scope, and can never be said to be discharged. Negative rights are discharged when performers of obligations refrain from prohibited acts towards recipients of obligations: torture, enslavement, insult, violating the religious practice of others, and so on. Positive rights are discharged when the performers of obligations provide a certain good to recipients of obligations – payment of a contract, provision of safe working conditions, or a shoveled sidewalk. That a right is dischargeable presupposes that it can be specified. It is only when safe working conditions are defined that it can be assessed whether they have been provided.[15] Discharge also implies that the action of provision or respect can be judged to have been completed. Relatedly, it

[13] Find at https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights

[14] This specification is not to be confused with corollaries or determinations as discussed in the previous chapter or in Chapter Eight. A corollary or determination is a principle that is derived from a separate and prior principle. Specification discussed here pertains to the meaning and boundaries of the obligation that corresponds to a right, not to any derivative principles.

[15] Some rights are ongoing yet are amenable to judgments whether they have been completed, for example, the right of a child to the care of a parent.

implies that performers of the obligation are capable of completing it. If Kenyan law grants Kenya's citizens a right to health care, then the Government of Kenya must be capable of providing, or of mandating realistically that others can provide, a set of goods and services of which health care consists. If not, health care is not a right.

These qualities, that rights are specified and dischargeable, are indispensable if rights are to function well as entitlements. Lost without these qualities is the ability to distinguish those obligations that correspond to rights from those that do not, what is due from what is not. Lost, too, is the force of rights, which is their announcement that this kind of action, performed by this set of people, toward this other set of people, is wrong or required. If this force is lost, then so, too, is the moral achievement of rights, which is their securing of certain principles and goods. Lost as well is the ability to distinguish and to name what is morally important about the other kind of obligations – those that do not fulfill rights.

What is More Than Due?

Many obligations are due to their recipients, but many others are not. The ones that do not are not owed, asserted as a right, or put forth as creditors towards debtors. Performers of these obligations surpass what is due, reach beyond what is due, or forego what is due. The justice of the Bible, *tsedeq(ah)* and *dikaiosune*, involves both, obligations that are due and those that are not, as Chapters Six and Seven will argue.

Many obligations that are not due take the form of imperfect duties. The concept, at least in its explicit form, comes from Kant, who, in *The Metaphysics of Morals*, distinguishes between perfect and imperfect duties and appears to equate this

distinction with one between narrow and wide duties.[16] Some contemporary philosophers hold that the two distinctions in Kant are not equivalent and that they express different ideas.[17] For the present argument, the perfect vs. imperfect distinction suits fine and is the one that philosophers use most widely. As I argue in Chapter Two, other philosophers, including Cicero, Aquinas, Locke, and Mill, recognized what Kant calls imperfect duties, ones that do not correspond to due.

A perfect duty is an obligation to perform or refrain from a certain act. It always involves a prohibition, either one of commission or omission. Do not lie; do not insult people; pay back the money you owe. An imperfect duty is an obligation that may be fulfilled through one of two or more separate and discrete actions. Its pursuit is discretionary with respect to who its recipients are, what and how much is to be provided, and in what manner it is to be pursued. Imperfect duties are not discharged. The obligation to serve the poor, act beneficently, perform hospitality, and be generous or merciful is never completed. Imperfect duties are all positive duties, meaning that the performer provides something to recipients rather than merely refraining from some action. The courses of action that a human person chooses to fulfill an imperfect duty are mutually exclusive, and nobody may blame her for choosing one rather than another. Nobody is owed the fulfillment of an imperfect duty; an imperfect duty is not

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[16] Immanuel Kant, *The Metaphysics of Morals*, intro. and trans. Mary Gregor (Cambridge University Press, 1991), 194; for a good explanation of Kant's distinction, see Alan Donagan, *The Theory of Morality* (The University of Chicago Press, 1977), 154. Alex Tuckness and John M. Parrish note the distinction in the earlier thought of Hugo Grotius. See Alex Tuckness and John M. Parrish, *The Decline of Mercy in Public Life* (Cambridge University), 164-166. They discuss the distinction in other thinkers as well on 168, 220, 232, and 251.

[17] See Christine M. Korsgaard, *Creating The Kingdom of Ends* (Cambridge University Press, 1996), 20-22; Onora O'Neill, *Towards Justice and Virtue: A Constructive Account of Practical Reasoning* (Cambridge University Press, 1996), 134.

due to anyone.[18] Miriam, a college student in Bangalore, India, is a Christian and accepts that she has an obligation to serve the poor. In addition to her obligations to study and to help run her family's household, she ought to spend a portion of her time serving the poor, she holds. Possessing finite resources, she faces a choice: Should she volunteer at a homeless shelter? Tutor children? Volunteer with the organization that promotes economic development in the slums of Bangalore? Miriam chooses one of these pursuits to fulfill her obligation to serve the poor. She has the capacity only to choose one of them but not the others; she cannot choose them all; she judges that, given her available time, she cannot pursue more than one effectively. She is not to be blamed for deciding to volunteer at the shelter and not to tutor children. Her duty to serve the poor is imperfect.

Because an imperfect duty is not due, nobody has a right to it. All of the obligations that correlate with rights, by contrast, are perfect duties and all involve prohibitions of commission or omission. General Buyoyo's soldiers have a perfect duty to train for and carry out military operations to which they are ordered; the head of the park service to refrain from interfering with Maria walking her dog during open hours; Russia not to invade Ukraine; everyone not to torture anyone. If the bearers of these duties fail to perform them, they will have committed a wrong. Imperfect duties, by contrast, do not correlate with the rights of others. Any impoverished person in Punjab or in Chicago may not say to Miriam that he has a right to the time that Miriam devotes to the poor. Miriam has not committed a wrong by deciding to tutor children in Bangalore rather than aid the impoverished Punjabi or Chicagoan. Nobody has a right to

[18] In this paragraph, by "nobody" and "anybody," I am referring to human beings. Human beings owe all of their actions to God, as I argue in Chapter Seven.

anyone else's imperfect duty. In this sense, imperfect duties involve limits; recipients are bounded. In a different sense, though, imperfect duties involve widenings; performers are obligated to do more than merely fulfill the rights of others.

Imperfect duties enjoy a high place in the Christian tradition. While they receive much discussion in the chapters ahead, a few may be previewed. Jesus' command to his disciples, "take up your cross and follow me," is an obligation to serve others through denial and sacrifice yet is unspecified as to how this service is directed. Pope St. John Paul II wrote in his encyclical, *Evangelium Vitae*, that the Gospel is summarized by the commandment of gift, an obligation to give others precisely what they do not have a right to.[19] Prominent and pervasive in the Christian tradition is mercy, involving a will to restore what is broken in others. Generosity is likewise a wide duty whose very meaning is to give beyond what is due to others. Philosophers write of the duty of beneficence, a general obligation to promote the well-being of others, but one that is not specific in its acts or recipients. Scholars, many of them feminist, have argued that justice involves a duty to extend care to people who are dependent on support from others, an imperfect duty.[20]

Certain imperfect duties narrow the set of recipients to whom they are directed yet are still open-ended. The duty to care for the poor, a subset of humanity, is one. Another is hospitality, extended to people without a home or resting place. An

[19] John Paul II, *Evangelium Vitae*, encyclical letter, The Holy See, March 25, 1995, sec 52.

[20] In this book, I take beneficence to be a principle that requires performing good towards others in a generalized fashion. Beneficence is a "beyond due" obligation, not one that fulfills a right. The performer of beneficence may direct this action to others in distress but this is not a necessary part of the principle. An employer may give a bonus to his employees to thank and encourage them; a person may choose to help his neighbor repair his fence. These actions are ones of beneficence but do not have the aim of alleviating distress. Beneficence, care, and other imperfect duties are discussed at much greater length in Chapter Ten.

organization with a mission to fight malaria, promote economic development in sub-Saharan Africa or protect the condor has imperfect duties that are partially directed. The organization has narrowed its purpose yet exercises discretion in what region or sphere to focus on and where to direct its resources. Imperfect yet focused are also a legislator or governor's duty to promote the common good. Within the scope of her obligations of public service, she may channel her efforts and the society's resources towards a wide variety of ends and projects, many of which are not distinctly optimal or clearly superior to other choices.

An imperfect duty of every person, one that the Christian tradition teaches and is part and parcel of the justice of right relationship, is one of pursuing vocation, a particular pathway to promoting the good. Similarly, Kant set forth the right of every person to develop his talents.[21] This vocation, whether a person adopts a religious or a lay life or becomes a farmer, electrician, merchant, professor, or missionary, is not determined by the rights of others and is not subject to prohibitions except for those few based in the moral law (ruling out, say, a career as a pimp or drug dealer). Rooted in the Latin word *vocare*, meaning to call, vocation in its Christian sense is known through God's revelation of one's direction.[22]

In certain respects, imperfect duties mingle with perfect duties. First, a person should not violate perfect duties – say, lie or steal – in the performance of imperfect duties, that is, do evil in order that good may come of it.

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[21] Immanuel Kant, *Grounding For The Metaphysics of Morals*, trans. James Ellington (Hackett, 1981), 31-32

[22] Vocation is an important theme in natural law thought. See Melissa Moschella, *Ethics, Politics, and Natural Law: Principles for Human Flourishing* (University of Notre Dame Press, 2025), 59-62; and Grisez, *The Way of the Lord Jesus: Living a Christian Life*, 113-129.

Second, certain duties that are usually imperfect may find some occasions when they are perfect. In Chapter Ten, I will argue that on some occasions people have a right to mercy. Whereas imperfect duties to care for the poor exceed rights, the poor also have certain rights with respect to their society. Likewise, hospitality, as reflected in international law, affords discretion toward the immigration of economically motivated entrants while granting a right of admission to asylum seekers.

Third, the decision to undertake an imperfect duty is itself a perfect duty. One fails in an imperfect duty to serve the poor or practice beneficence when one does not perform it at all and thus contravenes the prohibition of omission that is characteristic of a perfect duty. This prohibition leaves intact the sense in which imperfect duties are discretionary and uncorrelated with the rights of other human beings. Miriam has the option of which poor people to serve but not the option not to serve them at all.

Fourth, some imperfect duties are nested within a perfect duty. Consider this traditional Christian wedding vow: "I, Emmanuel, take you, Beatrice, to be my wife. I promise to be true to you in good times and in bad, in sickness and in health. I will love you and honor you all the days of my life." Beatrice has a right to Emmanuel's fulfillment of his promise to her, and he a right to what Beatrice reciprocally promises him in the traditional wedding ceremony. Emmanuel's promise commits him to certain perfect duties such as not dishonoring her in his speech or committing adultery – duties to which Beatrice has a corresponding right. Other commitments in the marriage, though, carry the discretionary quality of imperfect duties, for instance, the beneficence of loving and providing for one another, and must be balanced with other imperfect duties to children, friends, colleagues, and those in need. On a Saturday afternoon, there is no clear answer as to whether Emmanuel ought to help Beatrice with a project, watch

football with his buddies, help coach his daughter's soccer practice, or attend a conference. Beatrice does not have a right to Emmanuel making any one of these discretionary choices (though perhaps to his consulting her about them!). Yet she has a right to his broader commitment to love her through beneficent acts. Marriage, then, contains imperfect duties, those of provision and care, nested within a perfect duty, the commitment that Emmanuel and Beatrice made to one another on the altar and to which each has a right.

These four admixtures of perfect and imperfect duties, complexly combining the two, ought not to obscure what imperfect duties demonstrate more generally, namely that many obligations do not correspond to what is due to another. Imperfect duties predominate among the category of obligations that are not due, but they do not exhaust this category. The set of obligations that are not due also includes at least one act that is not an imperfect duty, forgiveness. In Chapter Twelve, I will argue that Jesus teaches that forgiveness is an obligation and that it involves foregoing moral debt – one's right of retribution against a wrongdoer. Like an imperfect duty, it is not an obligation that is due to wrongdoers and is not a right that wrongdoers invoke, but is rather an obligation precisely to forego what is due. Yet, unlike an imperfect duty, forgiveness does not have the discretionary quality that imperfect duties have. It is a certain act to be performed by a certain person towards a certain other person, not an act that is open-ended with respect to its recipient. Forgiveness is not an imperfect duty, then, though neither is it due.[23]

[23] I am basing my argument here on the teaching of Jesus to forgive. It is a duty that is not discretionary – that is, it is a specific act to be performed by a certain person (or corporate entity) with respect to another person (or entity). Yet, it is precisely a duty to forego one's debt, or what one has a right to. See Matthew 6:12, "as we forgive our debtors."

To summarize the argument thus far, the human justice of comprehensive right relationship consists entirely of obligations. Obligations consist both of ones that are due and ones that are not due. Obligations that are due are ones that performers owe to their recipients, which is to say, ones to which recipients have a right. A right is synonymous with what is due – or an entitlement – and takes the form of one of four types, or incidents, as Hohfeld calls them. Obligations that fulfill rights are specified and dischargeable. Other obligations, though, are not due. Performers do not owe them to any recipient and recipients do not have a right to them. Among obligations that are not due, imperfect duties occupy a large place, but they are not the whole of these obligations. Forgiveness, for instance, is an act of foregoing what is due but is not an imperfect duty. The central distinction here is that between obligations that are due and those that are not due.

	Due	Beyond-Due
Perfect (non-discretionary)	All negative prohibitions Some positive duties (such as to fulfill promises)	Forgiveness
Imperfect (discretionary)	None	Most beyond-due duties, including gift and generosity. Some of these duties are due, or correspond to rights in certain instances, such as mercy and hospitality

What is Due and What is More Than Due Are Both Important

The distinction between what is due and not due prepares the way for the argument that the justice of right relationship involves both kinds of obligation. The sharpness of the distinction depends on due meaning strictly what people are owed, entitled to, have a right to, or may claim as a debt. Like many words, due varies in its meanings. Thinkers sometimes use the term in a looser sense to mean what is fitting. The poor and vulnerable are due our love, people may exhort, by which they mean that they think it fitting and good to serve, heed, and remember the poor, but they do not establish that somebody is entitled to something from somebody else. By contrast, I use due strictly. What is due are acts that performers are obliged to refrain from or carry out towards recipients who are entitled, or have a right, to this restraint or performance.[24]

To invoke the strict sense of due is not to portray due as transactional, cold, calculating, and contractual so as to minimize, subordinate or denigrate obligations that are due. No, the strict sense of due, and well-formed rights, express a critical dimension of justice. To recognize that people (or groups) possess entitlements is to recognize what is necessary to secure certain principles and goods. It is to say that certain persons ought to perform (or refrain) from certain behaviors towards other persons, ones that are specified and dischargeable, and that these particular performances are not subject to the performer's overall judgment about the balance of good and bad that the behavior would bring about. The philosopher of law, Ronald Dworkin, calls rights "trump cards," meaning entitlements that override calculations of utility or the pursuit of some end that the performer values.[25]

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[24] In the abstract, it is entirely valid to use the term due to mean "fitting" rather than "owed" or "fulfilling a right." Both definitions have pedigrees in the tradition. I adopt the latter definition because I want to be able to distinguish between obligations that render due and those that exceed due. Both are morally important; they are separable; and they are related.

[25] Ronald Dworkin, *Taking Rights Seriously* (Cambridge, MA: Harvard University Press, 1977), xi.

Imagine that I, a professor, judge my student Jennifer's examination to be of B+ quality yet decide to award her a C+ because I find her brash and believe that humbling her will help her to be a better person and that the value of this lesson outweighs that of her receiving the grade that matches her performance. Or imagine that I reason analogously in granting Bobby an A- for an examination of the same quality because I judge that it would boost the esteem of this unconfident student. In both cases, I have failed to grant the student what he or she deserved, what is his or her due, that to which he, she, and all of the other students in the class have a right. I have denied their rights on the basis of some other value that I wished to maximize, and this is wrong.[26]

In this case, the right secures the principles of fairness and desert, which govern the right apportionment of the good of a grade, a good that carries the intrinsic value of approbation as well as whatever further good Jennifer or Bobby derive from the grade, say gaining a job or admissions to graduate school or the approval of their parents. The justice involved here is distributive, the correct apportionment of a good to each member of a group according to his rights. Rights secure other principles and goods as well: deserved honors, deserved punishment, and payment owed. In another Hohfeldian dimension, rights make possible the exercise of authority in institutions and organizations and the good that this authority brings about. General Buyoyo's expectation that his troops will carry out his orders is not subject to their assessment of the balance of good and bad that each order will bring about. Immunities, by contrast, protect people from the harm that some exercises of authority bring about. Rights as claims secure the dignity of the person and dimensions of dignity that ought not to be

[26] I have benefitted here from Wolterstorff's example of a piano competition in Wolterstorff, *Justice*, 289-291.

violated and always to be honored. This was the insight underpinning the human rights revolution after World War II, especially the Universal Declaration of Human Rights in 1948. Life, bodily integrity, the exercise of speech, the good of religion, property, and many other goods are ones that ought not be violated in the pursuit of allegedly higher principles or the overall balance of utility. An army may not deliberately kill civilians in order to hasten victory; a government may not torture its citizens in order to transform a country into a worker's paradise. From high international politics down to ordinary life, rights enable people to reap the benefits of contracts, exercise political authority to promote urban renewal projects, order people into battle, demand that an abuser of children be brought to account, authorize townspeople to use a public park, protest that a prisoner of war is wrongly being tortured, attain honors commensurate with what they have achieved, and make legion other claims about justice. Invoking what is due, or that to which people have a right, in a strict sense expresses and enables many kinds of attainments. In the most general sense, rights secure goods the rightful pursuit, conferral, or protection of goods.

A strict notion of due, one synonymous with rights, likewise helps define those obligations that are not due. If we do not know what it is to fulfill a right, a debt, an entitlement, or what is owed, we would not know what it is to exceed or forgo what is due in practicing mercy, generosity, gift, forgiveness, care, hospitality, beneficence, and other obligations. Those obligations that go beyond due also bring about certain characteristic achievements. Most of them, broadly speaking, perform the work of mercy in the realms of primary justice and rectifying justice. They alleviate, transform, build, create, renew, regenerate, rehabilitate, repair, and bind.

My characterization of how each sort of obligation brings about good is a broad one and involves no rigid distinction. Obligations that fulfill rights serve to secure goods and their rightful realization; obligations that do not correspond to rights – imperfect duties, forgiveness – bring about healing. In fact, aspects of each can be found in the other. The two sorts of obligations and the work that they do, though, are important for the moral life of persons and communities in all of the dimensions of right relationship, not least in political orders. Both sorts of obligations, then, are entailed in the justice of right relationship.

The next two chapters, Six and Seven, will argue that a hybrid of both sorts of obligations is found in the justice of the Bible. Chapter Six takes up God's justice.

Chapter Six: Giving Justice More Than Its Due: Divine Justice

Justice in the Bible involves debt, ransom, redemption, payment, and acquittal as well as gift, forgiveness, gratuitousness, and mercy. I have argued that the justice of the Bible means comprehensive right relationship and argue now that this justice involves both obligations that render others what is their due as well as obligations that are not due to others. Having sought to explain this distinction in the last chapter, I now seek to demonstrate its presence in the Bible. Parallel to Chapters Three and Four, which explicated the biblical justice of comprehensive right relationship with respect to divine justice and then human justice, this chapter and the next aim to show that both due and not due also make up biblical justice. The present chapter takes up justice enacted by God, the next chapter, justice that humans enact.

Divine Primary Justice: Debt Makes Good on Gift

Justice in the Bible, I argued in Chapter Three, involves cosmic acts that burst the bounds of ordinary contemporary conceptions of justice, namely God's establishment and sustaining of moral order in the world. This is divine primary justice, that of the upper left-hand quadrant in Table 2-1. It is nothing other than God's creation of the "heavens and earth," through which God manifests his goodness, according to his nature. Divine primary justice creates, sustains, and forms human justice. Divine rectifying justice, restoring the order that is broken by human injustice, is continuous with divine primary justice. Again and again, and eventually once and for all, God restores the creation that he first established.

This justice is profoundly one that is not due. Unlike human justice, its foundational acts are not obligations; still less are they obligations that are due to

anyone. God's creation of the world, and of moral order, and of human beings, brings being out of nothingness, and thus good out of the lack of good – a work of mercy. This creation, and the establishment of covenants with human beings through Noah, Abraham, Moses, David, and ultimately Jesus Christ, is a conferral of goodness to human beings who are not owed it and do not have a right to it – a gift.[1]

Is there also a sense in which God in his justice renders due? The idea seems blasphemous. Considering God's sovereignty, God's freedom, and God's complete and sole initiative in bringing about his creation and his covenants, how can God owe anything to anyone? Yet, God possesses a certain obligation, one to which humanity has a claim: that which God has promised.[2]

A promise is a freely willed commitment that one party makes to another party to perform an act. Promises create an obligation on the part of the promiser and an entitlement on the part of the promisee. Such is the nature of a promise. Promises depend upon truth – the promiser genuinely wills the promise and resolves to go through with it – and upon trust – the promisee believes the promiser and bases her own acts and plans on this belief. A promise is a form of right relationship.

God makes promises in the form of the covenants that he makes through Abraham, Noah, Moses, David, and, ultimately, Jesus Christ. With whom does he make these covenants? The ones of the Old Testament are with the Israelites but destined for "all nations," whereas the New Covenant is made with all of humanity. Creation, while not strictly a covenant, can be understood as God's initial and founding promise,

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[1] Chapter Three considers Thomas Aquinas's discussion of justice and mercy in God's creation in the *Summa Theologica*, see ST I, q. 21.

[2] I have benefitted here from Eleonore Stump, "God's Obligations," *Philosophical Perspectives*, 6, *Ethics*, 475-491.

committing God to uphold the goodness that he created and to the human beings whom he created. This is how St. Anselm of Canterbury understood things in his work, *Cur Deus Homo?*, of the eleventh century. "[I]f it is recognized that God has made nothing more precious than rational nature, whose intended purpose is that it should rejoice in him, it is totally foreign to him to allow any rational type of creature to perish utterly" Anselm wrote. God "put himself under an obligation," one similar to that which a person makes to a live a monastic life, Anselm explained, and by this obligation God made himself a debtor to humanity.[3]

A debtor to humanity? The idea again emits irreverence. But it need not. God has undertaken this promise, this obligation that is due, with complete freedom. "[S]uppose you promise today that you will give a present tomorrow and tomorrow make a gift of your own free will," Anselm reasons.[4] God's obligation follows from his gift; He wills to sustain and eventually to bring to completion the goodness that he created. It is in God's character to keep this promise. It is "totally foreign" to God, Anselm continues, to do otherwise. Frequently, the Old Testament describes God through the quality of *hesed*, or faithfulness to his covenant. The Book of Numbers writes, "God is not man that he should speak falsely, nor human, that he should change his mind. Is he one to speak and not act, to decree and not fulfill?" (23:19). And the Apostle Paul: "For however many are the promises of God, their Yes is in him; therefore, the Amen from us also goes through him to God for glory" (2 Cor 1:20).

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[3] Anselm, "Why God Became Man," in *Anselm of Canterbury: The Major Works*, edited by Brian Davies and G.R. Evans (Oxford University Press, 1998), 317-319. I am indebted to Francesca Murphy for this reference.

[4] Anselm, "Why God Became Man," 318.

The justice through which God establishes and sustains comprehensive right relationship with humanity, then, involves a combination of gift and promise, that which is not due and that which is due.[5] Gift and mercy, offered freely out of love, are prior, initiating, and foundational. From them flows God's promises and the claims that these promises elicit, none of them contradicting God's freedom or sovereignty.

Divine Rectifying Justice

The combination of due and not due also characterizes divine rectifying justice, that of the upper right-hand quadrant of Table 2-1. Both express something important about God's restoration of comprehensive right relationship – his repair of the primary justice of his creation, in response to sin, climaxing in the cross and resurrection, culminating in a general restoration at the end of time.

God's rectifying justice, and the place of due in it, conforms to the task of what God is rectifying: sin. Sin is an injustice, a violation of the laws that define right relationship, or the order of justice. More complex but also definitive for God's task of repair is the condition that sin brings about. I have described this condition as wounds. They consist of the standing victory of injustice, which persists as a moral fact, as well as other wounds, ones as multifarious as the persons, relationships, and circumstances involved in sin. Now let us add to the upshot of sin the concept of due. The person who has sinned is obliged to render others their due. In the language of the Bible, the sinner is in a state of debt.

The Debt of Sin

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[5] On the close relationship between gift and justice in God's creation, I have benefitted from Matthew Levering, *Engaging the Doctrine of Creation Cosmos, Creatures, and the Wise and Good Creator* (Baker Publishing Group, 2017), 290-295.

Bible scholar Gary A. Anderson carefully studied the Bible's metaphors for sin, or, more precisely, the predicament that sin creates, in his book, *Sin: A History*.[6] Wrongful deeds leave behind some sort of "thing," Anderson observes. What sort of thing? The Bible employs three main metaphors: burden, stain, and debt. Anderson discovers that the Bible's dominant metaphor for sin shifts over the course of its history. "I argue that the term *sin* does not have the same meaning in the book of Genesis as it does in the book of Daniel or the Gospel of Matthew," he writes. From around the time of Israel's exile in Babylon in the 6th century BCE on forward, the word debt commandeers the Bible's expression of sin. "Forgive us our debts, as we forgive our debtors," reads the Lord's Prayer in the Gospel of Matthew (6:12).[7]

The authors of the Bible, Anderson explains, borrowed the term debt from Aramaic, which influenced the Hebrew language during the time of the Jewish exile and afterwards.[8] Yet, while the concept of debt as a consequence arises at a particular point in biblical history, it also spans time and place. It is a basic idea, known by reason. A basic, or self-evident, idea is one that the mind grasps readily through reflection on human experience. It is axiomatic and not dependent on prior arguments, logical steps, or demonstrations.[9] Every philosophy of morality contains basic ideas, ones that rest on no prior steps of reasoning: the fact of freedom in the thought of Immanuel Kant, the

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[6] Gary A. Anderson, *Sin: A History* (Yale University Press 2009), 3-39.

[7] Anderson, *Sin*, 6. I hold that "debt" is better than "trespass" as an English translation of Matthew 6:12, the Greek word (root) being *opheiléma*, meaning that which is owed, a debt, or a moral offense.

[8] Anderson, *Sin*, 7.

[9] I will discuss self-evident ideas further in Chapter Eight. The mind grasps them through human experience, while they are corroborated by the grasp of other minds and defended dialectically, shown to be undeniable through a response to any particular objection.

law of utility in that of Jeremy Bentham, the first principle of practical reason in that of Thomas Aquinas, and, I argue, the debt of sin.

What does it mean to say that sin creates debt? Debt is a metaphor, a term borrowed from financial affairs to describe a moral state of affairs.[10] Financial debt alone involves no inherent wrong. If Alice borrows fifty dollars from Clement and agrees to pay him back in three months, she has done him no wrong, that is, unless and until she culpably defaults on the loan. When debt describes the predicament wrought by sin, though, it acts as a metaphor for moral wrong and means that the perpetrator of a wrong owes something to those whom he has wronged – to God, to the people against whom he sinned, and, in instances where sin is a crime, or a violation of public law, to his fellow citizens, to whom he is bound in relationship according to the public law.

Why does the wrongdoer owe something to those she has wronged? Because she has caused wounds to right relationship with them. Right relationship here is important. As argued in Chapter Three, her victims are not simply wounded. Rather, she has wounded them through an act that has violated the norms that properly bind them. Unlike the wounds caused by an impersonal force, say, an earthquake or an accident, these are "marked" by the injustice. Having inflicted the wounds freely, by her wrong, she is responsible for them. She incurs a duty to perform acts that repair relationship, ones that negate the standing victory of injustice and that salve the other wounds to right relationship, insofar as this is possible. She holds this duty towards the human persons whom he has wronged and towards God, and has a duty to repair her soul. What she owes are acts that repair, which might include apologizing for the injustice as

[10] Anderson, *Sin*, 4-6.

well as accepting some form of punishment as an expression of penance, paying restitution, and performing other forms of repair, more and less, depending on the deed, effects, and circumstances. Through these actions, she pays her moral debt.

The wronged, in turn, become creditors. They have a right to demand that the wrongdoer undertake remedial acts as well as to perform retaliatory acts of their own, ones that negate the standing victory of injustice. Teddy's mother in Chapter Three rightly insists that Teddy apologize, make restitution, and accept the appropriate punishment for stealing from and hurting Patrick. People who have been lied to, insulted, cheated, swindled, or cuckolded rightly insist on apology and other remediation and justly retaliate by severing or suspending their friendship, making known the wrongs, or otherwise communicating their protest. When wrongs are crimes, citizens justifiably expect a just punishment administered by the authorities. While not all sins are performed against other humans, they are always performed against God, and God rightly demands repentance and penance and sometimes inflicts retaliation. The wronged in each case rightly perform these acts because the wrongdoer acted against them, violating the right relationship by which they flourish. Just as wrongdoers incur responsibility, the wrong invokes a right – an entitlement to take action, on account of the wrong, against the wrongdoer, to restore the justice of right relationship.

Yet right and retaliation are not debt's full story. Moral debt merits but does not require a retaliatory response. Debt creates a predicament – a "thing," in Anderson's words – in which the wrongdoer has a duty to take remedial action and the wronged have a right to take retaliatory action.[11] Yet the wronged do not commit a moral wrong

[11] In Hohfeldian terms, the wronged possess a claim right to the wrongdoer's remedial action and a power right to take retaliatory action against the wrongdoer. The latter is a form of authority.

should they refrain from retaliation. True, in some settings – public law and the norms of organizations – the integrity of norms demands that officials apply punishment consistently and fairly and not omit it where it is warranted, yet even here punishment sometimes rightly yields to alternative forms of remediation or is defensibly foregone, as in a pardon.[12] Generally, though, the justice of right relationship has no global balance sheet on which the debt of every sin requires a credit of retaliation. What this justice seeks rather is that both, wrongdoers and those wronged, act to repair the rift in right relationship that the debt of sin creates. Nor does the Bible include a plenary balance sheet, a measure for measure accounting. Recall from Chapter Three that God's rectifying justice involves variously punishment, punishment then restoration, a relinquishment of punishment, and forgiveness. The central event of salvation, the Cross and Resurrection, is one in which God forgives humanity of its sins, an act that Paul describes as a gift, bestowed "while we were still sinners" (Rom 5:8). Were morality to require a balancing payment against the wrongdoer for every wrong, the Bible's message of salvation would be immoral. In the totality of the Bible's story, sin incurs debt but is not balanced with an equal portion of punishment.

Due and Beyond Due in the Old Testament

Debt, a condition of owing, became the Bible's chief metaphor for the predicament that results from sin, Anderson finds, in three texts whose composition can be dated from the fifth to the second century BCE, including Second Isaiah, parts of Leviticus, and the Book of Daniel.[13] It was Aramaic that applied the commercial term,

[12] These arguments are ones that I elaborate on further in Chapters 11 and 12.
[13] Anderson, *Sin*, 43-94.

debt, to the moral life and ushered the term into Hebrew, in which these books were written.[14] Debt, I add, describes sin not just in Aramaic, Second Temple Judaism, or the New Testament, but rather, presupposing a moral law, freedom, and responsibility for sin's damage to others, characterizes all sin everywhere.

At least two other Biblical metaphors, Anderson explains, describe the "thingness" of sin's legacy, or the range of ways that sin sunders right relationship to God, to others, and within the self. One is burden, meaning that the sinner labors under a crushing load. Exemplary is Psalm 38:4: "Like a heavy burden, [my guilty deeds] weigh too much for me." In Leviticus (16:22), a goat carries the burden of Israel's sins away, while in other verses, sinners plead for God to bear their sins away.[15] The other is stain. Among many instances, Jeremiah (2:22) uses the phrase, "the stain of your guilt," while the classic penitential Psalm (51:4) conceives sin as stain when it pleas, "[t]horoughly wash away my guilt; and from my sin cleanse me." All three of these metaphors – and still others – work together to convey that sinners owe something, that sin wounds persons and relationships and that these wounds consist of indebtedness as well as other wounds.

The central place of due in God's justice is clear in passages in the Pentateuch in which God promises to reward people who keep his commandments (who do justice) and to punish people who break them. In both Leviticus and Deuteronomy, long lyrical litanies of blessings for obedience and curses for disobedience appear after God's

[14] Anderson, *Sin*, 7-8, 27-29
[15] Gen 50:17; Exod 10:17; Ps 103:12; Isa 1:2-4.

issuance of the Ten Commandments to Moses on Mt. Sinai.[16] Moses then summarizes in Deuteronomy Chapter 30:15-20:

> Here, then, I have today set before you life and prosperity, death and doom. If you obey the commandments of the Lord, your God, which I enjoin on you today, loving him, and walking in his ways, and keeping his commandments, statutes and decrees, you will live and grow numerous, and the Lord, your God, will bless you in the land you are entering to occupy. If, however, you turn away your hearts and will not listen, but are led astray and adore and serve other gods, I tell you now that you will certainly perish; you will not have a long life on the land which you are crossing the Jordan to enter and occupy. I call heaven and earth today to witness against you; I have set before you life and death, the blessing and the curse. Choose life, then, that you and your descendants may live, by loving the Lord, your God, heeding his voice, and holding fast to him. For that will mean life for you, a long life for you to live on the land which the Lord swore he would give to your fathers Abraham, Jacob, and Isaac.

Numerous verses in the Old Testament teach that "you render to each of us according to our deeds," as Psalm 62:13 puts it, and set forth both the positive and negative kinds of payment.[17] Paul writes in his *Letter to the Romans* of "the just judgment of God, who will repay everyone according to his works" (Rom 2:5-6).[18] Rewards, which include both natural consequents of virtue and the blessings that God bestows directly, follow from good action. Punishment, which includes both the natural consequences of vice and the deprivation that God inflicts – the banishment of Adam and Eve, sentencing Cain to be a wanderer, the Great Flood, the scattering and confusion of the builders of the Tower of Babel, the plagues upon the Egyptians, the destruction of Sodom and Gomorrah, the destruction of the Canaanites, the exile of Israel, and many others – always takes place

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[16] The books, Leviticus 26 and Deuteronomy 28, are entirely taken up with these litanies.

[17] A few instances of many examples pointing to people receiving due from God, including for goodness, for evil, or for both include Ps 18:20; Ps 18:24; Ps. 37:9; Ps. 58:12; Ps. 62:13; Ps 72:10; Prov 2:9; Prov 3:33; Prov 10:16, Prov 11:5; Prov 11:6; Prov 11:8; Prov. 24:12; Eccl. 12:14; Isa 3:10-11; Isa. 59:12; Jer 17:10; Jer 25:14; Jer 32:19; Lam 3:64; Hos 4:9.

[18] See Rom 2:5-10 more generally.

in response to wrongful acts and presumes guilt and debt, the fundamentals of retribution. "The Lord has a grievance against Israel; he shall punish Jacob for his conduct, for his deeds he shall repay him," Hosea declares (12:3). "I, in turn, will give you your deserts," God warns in Leviticus (26:16).

One Bible scholar, Klaus Koch, doubts that God calls in the debt of sin by punishing its doers. He provocatively argued in a 1983 article that the Old Testament lacks the "western" concept of retribution and instead teaches the connection between action and consequence, involving both sin-disaster and good action-blessing. When people violate God's law, they and the people around them suffer resulting harm – disaster, ruin, injury – and when they follow God's law, they experience blessing. God creates and upholds the moral law and superintends the connection between act and consequence, but God does not render punishment, meaning judgment of sin and deliverance of a penalty in response, Koch thinks. Is he right? The Old Testament evidences act and consequence munificently, as Koch rightly observes, yet the Bible contains ample verses and passages in the Old and New Testaments such as the ones just noted above that describe a divine punishment that God determines and delivers as a response to sin. Punishment for sin includes both its natural consequences and God's deliberate action of judgment.[19]

The book of Isaiah, in its account of Israel's return from exile in Babylon, is one of the portions of scripture that Anderson identifies as first describing sin as debt. Exile is Israel's payment of the debt it has accrued for centuries of idolatry, pride, corruption, and mistreatment of the poor under its kings. God inflicts this payment as a

19 Klaus Koch, "Is There a Doctrine of Retribution in the Old Testament?" in *Theodicy in the Old Testament*, ed. James L. Crenshaw (Fortress Press, 1983), 57-87, 59.

punishment, contrary to Koch. This is a punishment, though, that God anticipates coming to an end. The word redemption, occurring 22 times in Isaiah, more than in any other book, describes God's release of Israel from debt slavery, the condition that an entrapped debtor incurs.[20] Chapter 40 opens Second Isaiah with an announcement of Israel's return: "Comfort, give comfort to my people, says your God. Speak tenderly to Jerusalem, and proclaim to her that her service is at an end, her guilt is expiated." Israel's "service" is its exile, a form of debt slavery through which Israel has paid for its sins. Recompense, expiation, service, debt – all of these words in Second Isaiah imply a payment that Israel has rendered, a debt that it has paid. Now, it may be free.[21]

Yet due does not tame, limit, or exhaust God's rectifying justice in the Old Testament. Due implies that justice is fulfilled and completed when sinners endure a proportionate punishment that pays off their debt. God does not stop there, though. God performs justice, and exercises a mercy, that restores comprehensive right relationship superabundantly, that is, in generous excess of what is due. Retribution rightly describes the indebted predicament of sinners but it does not describe the width of God's

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[20] *Sin: A History*, 46. Anderson comments on the same page that "[n]o other book of the Bible, aside from Leviticus (which details the laws for redeeming a slave), comes close to this usage."

[21] Anderson argues that a better translation of "guilt is expiated" is "[the debt owed for] her iniquity [*'âvôn*] has been satisfied [*rasah*]." *Sin: A History*, 49. Anderson cites a similar interpretation in Joseph Blenkinsopp, *Isaiah 40-55* (New York: Doubleday, 2000), 180. On ransom (in Greek, *lytron*) as money-price paid to redeem slaves, see Eubank, *Wages of Cross-Bearing and Debt of Sin: The Economy of Heaven in Matthew's Gospel* (De Gruter, 2013), 152. Verses in Isaiah implying a payment rendered (including "redeem" and "ransom") include Isa 1:27; 29:22; 35:9; 35:10; 40:10; 41:14; 43:1; 43:14; 44:22; 44:23; 44;24; 47:3; 48:17; 48:20; 49:4; 49:7; 49:26; 50:1-2; 51:10; 51:11; 52:3; 52:9; 54:5; 54:8; 59:20, 60:16; 62:12; 63:4; 63:9; and 63:16. See elsewhere in the Old Testament, Exod 6:6; Exod 15:13; Deut 7:8; Deut 9:26; Deut 13:6; Deut 15:15; Deut 21:8; Deut 24:18; Ruth 3:12; 2 Sam 7:23; 1 Kgs 1:29; 1 Chr 17:21; Esth 4:17; 1 Macc 4:11; Job 6:23; Ps 19:5; Ps 25:22; Ps 26:11; Ps 316; Ps 34:23; Ps. 44:27; Ps 49:16; Ps 55:19; Ps 69:19; Ps 71:23; Ps 72:14; Ps 74:2; Ps 77:16; Ps 78: 35; Ps 78:42; Ps 103:4; Ps 107:2; Ps 119:154; Ps 130:8; Ps 146:1; Prov 13:8; Prov 21:8; Prov 23:11; Jer 31:11; Jer 50:34; Lam 3:58; Hos 7:13; Hos 13:14; Mic 4:10; Zech 10:8.

rectifying justice, which does not require and sometimes does not involve a requiting payment of debt.

In Second Isaiah – where *sedeq(ah)*, or saving justice, intensively describes God's restorative acts – Israel incurs debt for its sins, God imposes a payment of debt, but then God restores mercifully, beyond what is due. Just after Isaiah declares that Israel's debt is paid in verse 40:2, the next clause reports superabundance: "Indeed, she has received from the hand of the Lord double for all her sins." The following sentence turns exultant:

> A voice cries out: In the desert prepare the way of the Lord! Make straight in the wasteland a highway for our God! Every valley shall be filled in, every mountain and hill shall be made low; The rugged land shall be made a plain, the rough country, a broad valley. Then the glory of the Lord shall be revealed, and all mankind shall see it together; for the mouth of the Lord has spoken (40:3-5).[22]

Over the next eight or so chapters, Isaiah recounts the return of the Israelites to Judah and the rebuilding of Jerusalem and the Temple in terms of lush nature, prosperity, peace, justice, triumph over enemies, and the uplift of the poor and the dispossessed.[23] This is the justice of comprehensive restoration, a healing of the wounds of sin, not only its debt, but also the stain and the burden that mar right relationship between people and God, among people, and within people. It is a justice realized in part through the Israelites' return but also prophesied in Third Isaiah, Chapters 55-66, as a messianic restoration, destined eventually to include all nations. Ultimately, God promises to "make justice and praise spring up before all the nations" (61:11) in the maximally and undeservedly intimate form of spousal love:

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[22] On God's superabundant restoration, see Isa 61:7; Zech 9:12.
[23] On the rebuilding of Jerusalem and the Temple, see Isa 44:28.

> No more shall men call you "Forsaken," or your land "Desolate," But you shall be called, "My Delight," and your land, "Espoused." For the Lord delights in you, and makes your land his spouse. As a young man marries a virgin, your Builder shall marry you; And as a bridegroom rejoices in his bride so shall your God rejoice in you (62:4-5).

Accounts are settled uncustomarily.[24]

Certain other passages of the Old Testament depict God restoring sinners through acts of mercy and forgiveness that forego the payment of debt. One of the most recklessly unretributive is Psalm 103:8-13:

> Merciful and gracious is the Lord, slow to anger, abounding in kindness. God does not always rebuke, nurses no lasting anger, Has not dealt with us as our sins merit, nor requited us as our deeds deserve. As the heavens tower over the earth, so God's love towers over the faithful. As far as the east is from the west, so far have our sins been removed from us. As a father has compassion on his children, so the Lord has compassion on the faithful.

Sins merit punishment and deeds deserve to be requited, but the Lord forgives. In instances such as one in Exodus, people merit punishment – here it is the Israelites for worshipping a Golden Calf – but God spares them in response to Moses's plea for mercy.[25]

In still other places, sin is ever debt and God's response is a combination of forgiveness and punishment. Compare the Psalm passage above to Exodus 34:6-7, where God is also slow to anger and abundant in kindness but punishes:

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[24] The following passage from Sirach also describes superabundance: "For the Lord is one who always repays, and he will give back to you sevenfold. But offer no bribes, these he does not accept! Trust not in sacrifice of the fruits of extortion, For he is a God of justice, who knows no favorites. Though not unduly partial toward the weak, yet he hears the cry of the oppressed. He is not deaf to the wail of the orphan, nor to the widow when she pours out her complaint; Do not the tears that stream down her cheek cry out against him that causes them to fall?" (Sir 35: 10-15).

[25] Exod 32: 11-14; Exod 34:6-7; Neh 9:30-32; 2 Chr 30:9; Tob 3:2-3; Tob 11-12; Tob 8:16-17; 1 Macc 4:24; Ps 103:3; Wis 15:1; Sir 2:11; Isa 54:7-8; Jer 31:20; Ezek 33:11; Hos 11:7-9; Mic 7:18. Passages that reveal God's thinking better of punishment are: Jer 30:11; Hos 11; Amos 5; and Jonah 3:10.

> The Lord, the Lord, a merciful and gracious God, slow to anger and rich in kindness and fidelity, continuing his kindness for a thousand generations, and forgiving wickedness and crime and sin; yet not declaring the guilty guiltless, but punishing children and grandchildren to the third and fourth generation for their fathers' wickedness!

Isaiah recounts God as saying, "[t]hough I struck you in my wrath, yet in my good will I have shown you mercy" (60:10), telling again of a mixture of punishment and forgiveness. In Isaiah, too, even as God is restoring Israel he vows to punish Israel's foes and take vengeance on Babylon.[26] In the case of King David in the Second Book of Samuel, God forgives him for his sin of killing Uriah the Hittite and sleeping with Uriah's wife, Bathsheba, but also punishes David and Bathsheba by taking the life of their child.[27] A final example comes in Leviticus, when, after the Lord chastises an obstinate Israel with a series of punishments, he says "[t]hen, when . . . they make amends for their guilt, I will remember my covenant with Jacob, my covenant with Isaac, and my covenant with Abraham." God then says, though, "[b]ut the land must first be rid of them, that in its desolation it may make … good the debt of their guilt for having spurned my precepts and abhorred my statutes" (26: 41-43). Mercy and punishment are mingled.[28]

Even after Israel returns from exile and the temple is rebuilt, prophets pronounce that sin persists. Zechariah prophesies a further restoration: "[T]he Lord, their God,

[26] Isa 41:2-3; Isa 41:10-11; Isa 47:1-15; Isa 49:26; Isa 59:18.

[27] 2 Sam 12:1-25.

[28] Jeremiah's account of Israel's restoration could be added: "[F]or I am with you, says the Lord, to deliver you. I will make an end of all the nations among which I have scattered you; but of you I will not make an end. I will chastise you as you deserve, I will not let you go unpunished . . .. Thus says the Lord: See! I will restore the tents of Jacob, his dwellings I will pity; City shall be rebuilt upon hill, and palace restored as it was: (Jer 30: 11, 18).

shall save them on that day, his people, like a flock. For they are the jewels in a crown raised aloft over his land" (9:16). God's rectifying justice is not yet complete.

Due in the New Testament

Jesus Christ performs divine rectifying justice by paying the debt that humanity's sin has incurred through his death on the Cross. The Gospel of Matthew portrays sin as resulting in moral debt and Jesus as the one who releases people from this debt. In the first portion of this gospel, explains Bible scholar Nathan Eubank, where Matthew presents Jesus's genealogy and the events of his birth, he writes that Jesus "will save people from their sins" and in seven places quotes verses from the Old Testament referring to the end of Israel's exile, an exile that was a form of debt-slavery from which God would release Israel. Two of these verses, Jeremiah 31:15 and Isaiah 40:3, are part of passages that directly express debt payment.[29]

Later in the Gospel of Matthew, Jesus speaks of sin in terms of debt and of himself as the payer of the debt. In Matthew 6, Jesus teaches his hearers to ask God to forgive their debts just as they forgive their debtors. In Matthew 18, Jesus tells a parable in which a slave (a servant in some versions) who is under a crushing debt is brought to his master, a king, who commands that the slave, his wife, and his children be sold, implicitly into debt-slavery, so that the slave can repay the debt. When the slave pleas for mercy, the king has compassion and forgives him. Yet, the same slave then refuses to forgive the debt of a fellow slave who begs for mercy and throws him into prison. The master, enraged, hands this slave over to torturers until the slave repays his mammoth debt. Jesus concludes: "My heavenly Father will also do the same to you, if each of you

[29] Eubank, *Wages of Cross-Bearing*, 109-114.

does not forgive his brother from your heart" (Matt 18:35). The parable summarizes the way that debt functions in the Gospels: sin is debt; if it is not forgiven, it results in imprisonment; God will show mercy and forgive the debt of sin to those who are repentant; and people who are forgiven are expected to forgive others in like manner and not seek to consign their debtors to debt-slavery.

Debt expresses sin's condition elsewhere in the gospels, too. The Gospel of Luke (7:36-50) tells of a "sinful woman" who shows up at the house of a Pharisee where Jesus has been invited to dine. When the Pharisee objects that the woman is wiping and anointing Jesus's feet, Jesus explains: "Two people were in debt to a certain creditor: one owed five hundred days' wages and the other owed fifty. Since they were unable to repay the debt, he forgave it for both. Which of them will love him more?" This parable, like the one in Matthew, shows how the debt of sin is central to the gospel. Sin is debt; the debt is more than sinners can repay; Jesus is willing to forgive this debt; and sinners respond with gratitude, in this case proportionate to the debt forgiven.

In Chapter 20, the Gospel of Matthew uses a different image to convey that humanity owes something for its sins that Jesus will pay: "[T]he Son of Man did not come to be served but to serve and to give his life as a ransom for many" (20:28). A similar verse appears in the Gospel of Mark (10:45). The Greek word for ransom, *lytron*, is used several times in the Septuagint to translate Hebrew words meaning the price for release of something captive (slaves, prisoners of war, and land, for instance).[30] "Many" is a term meaning the collectivity of those in exile. Jesus, then, says that he will make a payment to release people from what they owe for their sins. Eubank argues that it is

[30] Eubank, *Wages of Cross-Bearing*, 150-151.

God to whom sinners owe a ransom and that Jesus, the son, pays the ransom to God the Father.[31] Ransom expresses Christ's death again in Paul's First Letter to Timothy: "For there is one God. There is also one mediator between God and the human race, Christ Jesus, himself human, who gave himself as ransom for all" (1 Tim 2:5-6). And again in the First Letter of Peter: "[Y]ou were ransomed from your futile conduct, handed on by your ancestors, not with perishable things like silver or gold but with the precious blood of Christ as of a spotless unblemished lamb" (1:18-19).[32]

Expressing that Jesus liberates humanity from debt-slavery is also the word redemption, which the Old Testament uses frequently to mean a payment that frees a slave. "I am carnal, sold into slavery to sin," Paul writes in his *Letter to the Romans* (7:14). Describing Jesus's justice in Romans 3:24, he writes that "[all] are justified freely by his grace through the redemption in Christ Jesus." In Paul's letter to the Galatians (3:13), he writes that "Christ redeemed us from the curse of the Law," this curse being the result of sin, which is also enslavement. Shortly thereafter in Galatians (4:4-5), Paul writes, "[b]ut when the fullness of the time came, God sent His Son, born of a woman, born under the Law, so that He might redeem those who were under the Law."[33] In the Letter to the Colossians (1:14), Paul writes of Christ, "in whom we have redemption, the forgiveness of sins."

Elsewhere in the New Testament are other metaphors that depict a version of payment. The Second Letter of Peter (2:1) refers to "false teachers . . . who [deny]

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[31] Eubank, *Wages of Cross-Bearing*, 150, 153, 154.

[32] In both of these verses, from 1 Timothy and 1 Peter, as with the verses in Matthew and Mark, the word that translates to ransom is *lytron* or a close grammatical variant of it.

[33] In both of these verses from Galatians, I quote from a translation in a version of the New American Standard Bible that is different from the New American Bible translation used in this book, which uses the term "ransomed" rather than "redeemed." The result for the argument is the same: Jesus Christ makes a liberating payment.

the Master who bought them."[34] "You have been purchased at a price," Paul states twice in 1 Corinthians (6:20, 7:23). A passage in the Letter to the Colossians (2:13-14) reads, "he brought you to life along with him, having forgiven us all our transgressions; obliterating the bond against us, with its legal claims, which was opposed to us, he also removed it from our midst, nailing it to the cross." The bond here is a bill by which the sinner owes payment for his transgressions.[35] Many passages describe Jesus's act of atonement through the language of his shedding of blood, a sacrifice that both achieves forgiveness and renews.[36] Sometimes the word expiation denotes this sacrifice.[37]
In the Letter to the Romans, Paul uses the term acquittal for Jesus's act of atonement, implying that Jesus paid the price of punishment in order to free humanity from punishment for sin (Rom 5:16; 5:18; 8:33).

Debt and these other metaphors convey the retributivism of the Bible. Debt is the sinner's condition of guilt, her duty to pay for sin by renouncing the injustice, and the right of those who are wronged – creditors – to retaliate, or collect on the debt. The debt of sin, committed against God, who is infinite, is too great for sinners to repay, as it was for the master's slave in the parable in Matthew 18. The wages of sin is death, writes Paul in his Letter to the Romans (6:23). While retaliation is a right, though, it is not a duty. God, in an initiative of love, chooses to send his Son to pay the debt and forgive humanity's sins, thereby releasing humanity from the bondage of debt slavery, its exile. Payment re-emerges in Jesus's teaching about humanity's response. The ones who

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[34] Here again, I use a translation of the New American Standard Bible that uses "bought," whereas the translation generally used in this book uses "ransomed." Again, either term makes the argument.
[35] I have benefitted here from Anderson's interpretation in *Sin*, 111-114.
[36] See Levering, *Engaging the Doctrine of Creation*, 287. Verses include Mark 14:24; Rom 3:23-25; Rom 5:9; 1 Cor 11:25; Eph 1:7; 2:13; Col 1:20; Heb 13:20; 1 Pet 1:19-19; Rev 1:5; 5:9.
[37] Rom 3:25; Heb 9:5; 1 John 2:2; 1 John 4:10.

accept forgiveness, repent, and live justly will be rewarded.[38] Those who refuse will suffer the punishment of a debtor's prison from which "you will not be released until you have paid the last penny," as Jesus teaches in the debt-laced Gospel of Matthew (5:26).[39] In the New Testament, retributive punishment can be avoided but is not voided.

Debt and Its Critics

Descriptions of salvation through debt and its sibling metaphors have known centuries of critics, who view it is "stock-exchange divinity," as one theologian put it – harshly retributive, transactional, legalistic.[40] There are two versions of this criticism. One is that the debt metaphor erroneously makes God's salvation conditional upon human payment, thus erasing God's loving initiative, mercy, and grace, shown "while we were still sinners," as Paul writes in his Letter to the Romans (5:8). Second, debt fails to account for God's actual restoration of sinners, implying that money changes hands over the heads of slaves released from bondage and that defendants are acquitted of their crimes apart from the slave or the defendant being healed, restored, and changed.

The criticism dates back to reactions to St. Anselm, who, a thousand years into Christianity's history, undertook in his classic, *Cur Deus Homo?,* to describe Christ's

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[38] Examples of verses where divine reward is promised for just behavior are Matt 5:10; Matt 5:12; Matt 6:1; Matt 6:16-18; Matt 16:27; Matt 19:29; Matt 25:46; Luke 6:22-23; Luke 6:35: Luke 14:13-14; Luke 16:19-31; John 5:28-29; Rom 2:6; 2 Cor 9:6; Jas 1:12; 1 Pet 5:4; 1 Thess 2:19; 2 Tim 4:8; and Rev 22:12, 18-21.

[39] Examples of verses where divine punishment is promised for unjust behavior are Matt 5:22; Matt 5:28-30; Matt 7:23; Matt 10:28; Matt 11:22; Matt 12:37; Matt 13:40-43; Matt 16:27; Matt 22:13; Matt 23:35; Matt 25:46; Mark 9:43; Luke 12:5; Luke 13:24-28; John 5: 29; Acts 24:15 Rom 1:27; Rom 2:1-16; Rom 3:5-8; Rom 6:23; Rom 14:7-12; 1 Cor 3:1-17; 1 Cor 1:17 1 Cor 5:3-5; 1 Cor 6:9-11; 1 Cor 11:27-34; 2 Cor 5:10; Gal 5:19-21; Gal 6:7-10; Col 3:6; Col 3:25; Eph 6:8; 1 Tim 5:24; 2 Tim 4:14; 1 Thess 5:3; 2 Thess 1:8-9; Heb 2:2; Heb 9:27-28; 1 Pet 2:14; 2 Pet 2:9; 2 Pet 2:11-16; Rev 20:14-15; Rev 21:8.

[40] The term is that of Edward Irving, whom Colin Gunton quotes in *The Actuality of Atonement: A Study of Metaphor, Rationality and The Christian Tradition* (T & T Clark, 1988), 100. In Gunton's important book, he treats Anselm, who is charged with being overly transactional, in balanced fashion, defining Anselm's justice as restorative yet insufficient in describing salvation. See 87-93.

atonement in terms of the repayment of debt, and fashioned a depiction that would remain influential over the next thousand years. Demurral arose soon thereafter from Peter Abelard and has continued through centuries of Eastern Orthodox theology on through feminist and liberation theology in recent decades, yet has been countered since by a resurgent enthusiasm for Anselm, including that of Orthodox theologian David Bentley Hart.[41]

What is Anselm's debt-laced argument? Debt for Anselm is closely associated with the justice that renders another his due.[42] Writing in Latin, Anselm adopts this definition of justice from Roman law. Humans live justly by following God's commands, which brings about their happiness and renders God the honor that is due to Him (316). What does Anselm mean by God's honor? Some have thought that Anselm was trucking in medieval feudalism. By God's honor, though, Anselm means God's dignity, or the high place that God merits as creator and governor of the universe and its order, beauty, and design. He calls this order "supreme justice," meaning much the same as what I have called primary divine justice (286).

Sin, or injustice, Anselm reasons, is a failure to render to God the honor that is due to him by besmirching the right order that God has created (283, 289). Justice requires that the sinner repay the debt incurred for this sin, rendering what is due. It

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[41] D. Bentley Hart, "A Gift Exceeding Every Debt: An Eastern Orthodox Appreciation of Anslem's *Cur Deus Homo*," *Pro Ecclesia* Vol 7, 3 (1998), 333-349. Anderson treats Anselm's account of debt sympathetically in *Sin*, 189-202.

[42] Here I draw from *Anselm of Canterbury: The Major Works*, ed. Brian Davies and G.R. Evans, trans Brian Davies and G.R. Evans (Oxford University Press, 1998). Page references in this passage are in parentheses. Following the discussion in Chapter Two, this English translation uses the term righteousness to render the term *justitia* (or close conjugation) in Anselm's text. Here, I use the term justice in faithfulness to Anselm's original words. In a note on translation at the beginning of the volume, the editors explain, "[a]nother term which presents huge difficulties is *iustitia"* and comment that it means both "justice and righteousness." The text then follows the practice of English translators of rendering *iustitia* through both terms (xxiv-xxv).

would be unfitting, Anselm reasons, for God simply to forgive this sin absent the sinner's recompense, for God would fail to regulate his order to uphold his honor, which God does justly (284, 286). A sin against God, though, is a debt that humans cannot repay. Already owing God everything, they have nothing left with which to pay what they owe and are liable to be punished (306). Yet, it also would be unfitting for God to destroy and not to finish what he has begun – the creation of humanity to enjoy him (317). For Anslem, God is faithful to his creation.

The necessary solution, then, is for God to become incarnate through his Son. Fully human, Jesus can pay humanity's debt, incorporating humanity into himself (348). Fully divine, Jesus is capable of paying a debt that man cannot pay. He owes nothing and, giving his infinitely valuable life on the Cross, he pays humanity's debt and far more (349). The Father rewards the Son abundantly and the Son shares the reward with humanity. For Anselm, God's justice is that he paid humanity's debt and God's mercy is that he paid it on humanity's behalf (354).

Can the metaphor of debt, in Anselm, in the Bible, withstand the objections of debt's critics? Let us take the first criticism, that debt wrongly makes salvation conditional on sinners paying up. Imagine 18-year-old Alphonse, a prodigal son of sorts, whose wealthy Aunt Alexa loans him $100,000 to pursue his idea for a business and launch his life. Alphonse, though, squanders the money through dissolute trips to the Caribbean and Giorgio Armani suits. Broke and broken, he takes a job sweeping floors to begin paying back the money. Hearing of his plight, Alphonse's uncle Raymond, Aunt Alexa's brother, is moved with pity, decides to give Alphonse a second chance, and agrees to pay Aunt Alexa back the full sum on Alphonse's behalf. Alexa accepts the

payment and forgives Alphonse, and Alphonse apologizes and pledges to learn to manage his money and affairs.

The story hinges on the payment of debt, but Aunt Alexa does not grant forgiveness conditionally upon Alphonse, the wrongdoer, paying the debt. Rather, Uncle Raymond pays the debt, and he does so on his own initiative and not in response to any of Alphonse's acts, including Alphonse's apology, or to anything that Alphonse deserves or has earned. Uncle Raymond does not act to earn Aunt Alexa's approval, either. She loves him from the beginning and accepts his generosity without changing her view of him or his status. In this story, as in Anselm and in the Bible, the concept of debt itself does not necessitate that a debtor must pay what he owes in order to be forgiven. In the Bible's account of Jesus Christ's act of atonement, humanity does nothing to earn God's love, nor does Jesus Christ earn the love of God the Father. Rather, Jesus Christ, whom God the Father loves infinitely from the beginning, embarks on a mission of salvation to rescue and restore humanity, offers his sacrifice to the Father, and the Father accepts it. The debt metaphor for salvation survives the first objection. There is nothing conditional about the love that pays the sinner's debt.

What of the second objection, that the debt image fails to account for the sinner's restoration? In one critical sense, the paying of debt brings about a real restoration. The sinner who owes debt has created a rift in right relationship with God, just as Alphonse has sundered his good graces with Aunt Alexa as long as his squandering her money has not been remedied. This rift, which debt describes, is the standing victory of injustice. If one person is wrongly indebted to another – as is true insofar as economic debt is a metaphor for the moral debt arising from sin – then their relationship is, in this sense, broken. The sinner is responsible for it because he has done damage to the right

relationship, or the justice, that God has established in the universe and that elicits happiness and flourishing. Through Uncle Raymond's payment, Aunt Alexa's acceptance of it and her forgiveness of Alphonse, and Alphonse's repentance and resolve to reform, enmity is overcome and the relationship is restored. Debt is a real rift, and its payment is a real restoration. In this way, debt survives the second objection.

More than Due in the New Testament

Yet, although debt may be redeemed, the concept of rendering due, which the Bible depicts through debt, redemption, ransom, the payment of a price, and acquittal, is not enough to describe the divine rectifying justice of the New Testament. The restoration of right relationship that the cross and resurrection accomplish is wider and fuller than the justice of rendering due. Atonement mingles the payment of debt with something more. This is true in three respects.

The first respect resides in a point made earlier in the argument about due and may now be lifted up: The debt of humanity is paid as a gift. A gift is by definition something that is not due, a benefit that one party gives to another party that is for the recipient's good but to which the recipient has no right, or entitlement. That Jesus Christ pays humanity's debt on the cross vicariously and prior to any payment on the part of humanity, reinforces the giftedness of this payment.[43] Vicariousness eludes retribution, whose essential tenet is that the one who performs a wrong is the one who pays the debt or is punished. Nothing in the logic of rendering due allows that what is due either be foregone or paid by someone other than the debtor. Pope Benedict XVI observed in his Lenten message of 2010:

[43] On God loving humanity first, see 1 John 4:10 and 1 John 4:19.

> What kind of justice is this where the just man dies for the guilty and the guilty receives in return the blessings due to the just one? Would this not mean that each one receives the contrary of his "due"? In reality, here we discover divine justice, which is so profoundly different from its human counterpart.[44]

Divine justice exceeds due.

Paul stresses this vicarious gift in his Letter to the Romans. In the pivotal passage 3:21-26, Paul describes God's justice in terms of "redemption," "expiation," and "by his blood" – terms of payment – but also as involving "forgiveness" and "forbearance," the canceling of humanity's payment. In Chapter Five, he refers several times to Christ's death as a "gift," even a "gracious gift," which Christ bestowed "while we were still sinners" and "while we were enemies," that is, estranged from God.[45] Through this gift, the "many" received "acquittal" and were freed from their sins (Rm 5:16, 5:18). "Thanks be to God for his indescribable gift," he writes in 2 Corinthians 9.

As we have seen, Anselm holds that Christ paid the debt of sin as a gift. A century and a half later, Thomas Aquinas wrote on Christ's passion in the Third Part of the *Summa Theologica* in many of the same terms as Anselm: Humanity incurred debt on account of its sins; Christ's sacrifice redeemed humanity from this debt; and this redemption is justice. In other ways, though, Aquinas strays from retribution even further than Anselm. He disagrees with Anselm that it was necessary that humanity pay its debt of sin in order for God to forgive its sin. Much like a person who waives the penalty for a wrong committed only against himself, God rightly could have saved

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[44] Benedict XVI, "Message of His Holiness Benedict XVI for Lent 2010," The Holy See, October 30, 2009, https://www.vatican.va/content/benedict-xvi/en/messages/lent/documents/hf_ben-xvi_mes_20091030_lent-2010.html.

[45] Paul's references to gift in Romans 5 are Rom 5:8; Rom 5:10; Rom 5:15; Rom 5:16; Rom 5:17; Rom 5:20; Rom 5:21.

humanity apart from Christ's sacrifice on the Cross. Still, Aquinas argues, Christ's death was a fitting way to restore humanity, even if it was not necessary.[46]

The second respect in which God's justice in the New Testament is wider than due is one that we have seen in the Old Testament: God pays humanity's debt superabundantly, or in a quantity far more than what is owed. In the Gospel of Matthew (20:1-16), Jesus tells a parable of workers in a vineyard some of whom receive the same wage for working all day as others do for working one hour at the end of the day. Jesus explains that the vineyard owner was not unfair, paying all workers what they agreed to, but rather was generous, choosing to give some of them more.[47] Similarly, Paul teaches, "where sin increased, grace overflowed all the more" in Romans 5:20. On this point, Anselm and Aquinas agree, Aquinas arguing that "by suffering out of love and obedience, Christ gave more to God than was required to compensate for the offense of the whole human race."[48]

The third way in which God's rectifying justice exceeds what is due is its comprehensive restoration of right relationship. This restoration is the end, or purpose, of Christ's saving work through the cross and resurrection.[49] It involves fulfilling both what is due and what is beyond due.

In bearing humanity's sin on the cross, Jesus does not merely pay its debt but also takes upon himself, and frees humanity from, all of the wounds of sin, which are expressed by the metaphors stain and burden. He does not become a sinner, one who

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[46] ST III, q. 46, a. 2, ad 3; q. 46, a. 3.
[47] Eubank argues for this interpretation in Eubank, *Wages of Cross-Bearing*, 96-97.
[48] ST III, q. 48, a. 2, resp.
[49] I noted in Chapter Three Michael J. Gorman's insight that the atonement is best understood through its end or its purpose, not its mechanism.

has committed sin through free acts. He bears the wounds of sin, not responsibility for sin, and bears these wounds by identifying with humanity, incorporating humanity into himself. Philosopher Eleonore Stump, in her book, *Atonement*, interprets Jesus's cry of dereliction on the cross – "My God, my God, why have you forsaken me?" (Matt 27:46) – as the abandonment that Jesus experiences in his own humanity on account of the crushing pain he feels from bearing the rest of humanity's sin, a burden that Jesus's divine nature enables him to assume.[50] In taking on all the wounds of sin, Jesus takes on not only humanity's debt but also all of the wounds that embody humanity's estrangement from God, from others, and in their persons, including the wounds of victims.

Jesus becomes fully restored to life in his resurrection and invites humans to share in this restoration. In accepting this offer, humans realize for themselves freedom from their sins and are given the grace that begins restoring full right relationship – with God, with one another, and within themselves. This holistic restoration – freed from the debt of the sin, granted the grace to begin healing every wound – is the justification and the reconciliation that God wills to bring about. It is destined to be accomplished "as a plan for the fullness of times, to sum up all things in Christ, in heaven and on earth" (Eph 1:10).

This comprehensive restoration also exceeds the sense of due entailed in the rewards and punishments that Jesus promises for heeding or not heeding his commandments – that is, for living justly or unjustly. As argued in Chapter Four, these payoffs are not merely extrinsic to humans, as if they receive a gargantuan cash payment

[50] Eleonore Stump, *Atonement* (Oxford University Press, 2018), 143-175.

or endless term in debtor's prison that has no bearing on their relationships or their souls, but are rather intrinsic, continuous with their earthly condition of fulfillment.[51] The happiness that is realized through living justly is incomplete in this life but is made complete in heaven through union with God, friendship with other humans, and the purification of the soul (or, conversely, perpetual separation). Union with God in heaven, the Bible describes in filial terms. The Gospel of Matthew repeatedly calls "father" the God who gives rewards (6:1, for instance).[52] In Romans 8:16-17, Paul writes, "[t]he Spirit itself bears witness with our spirit that we are children of God, and if children, then heirs, heirs of God and joint heirs with Christ"; and in Galatians 4:5, he describes Christ's "ransom" as bringing about "adoption," explaining in verses 6 and 7 that "[a]s proof that you are children, God sent the spirit of his Son into our hearts, crying out, 'Abba, Father!' So you are no longer a slave but a child, and if a child then also an heir, through God." Asymmetry attends ultimate rewards and punishments: Whereas hell is a punishment, heaven is a reward merited by deeds of faith and works, but ones performed in thanksgiving for a merciful gift that is unmerited.

Is God obligated to restore the world comprehensively? Earlier, quoting Anselm, I argued that God will be faithful to his covenants with humanity, which includes the one that he made with Noah, that he would not destroy the earth. God made his promise freely, as a gift, and, in keeping with the nature of a promise, binds himself to keep it. Is God's comprehensive restoration of relationship, his rectifying justice, therefore entirely described as due? No. While God has promised to restore, this restoration might take a

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[51] See Mattison, *The Sermon on the Mount and Moral Theology*, 21-45; Grisez, *The Way of the Lord Jesus: Christian Moral Principles*, 807-830.
[52] Eubank, *Wages of Cross-Bearing*, 85

variety of forms – and in this sense is a wide obligation. The form that God chose was one in which God rendered humanity both its due as well as far more than what is its due. Holding that God renders both, my account differs from ones that omit or reject due or that envision God's justice only as a matter of what is due.

Does a reason exist for this blended justice? The end of divine justice – God's creation, redemption, and eventual complete restoration of his creation – is God's *hesed*, or faithfulness to his creation. God created the universe in order to increase his love and acts continually to sustain and complete what he created. This justice is holistic. Through the Cross and Resurrection, God acts to restore persons and relationships with respect to all of the wounds that mar them. Since the debt of sin is itself a wound, a rift in right relationship, the paying of this debt is central to God's restorative justice. It is central because the act of sin is the basic choice to act against God's moral order and is thus central. The Cross and Resurrection presupposes that this injustice leaves a standing wound, for if sin left no legacy, nothing that required to be set right, then the saving events would make little sense. Yet the wounds of sin go beyond the standing victory of injustice alone and include all of the diminishments that sin causes – between persons, including their treatment of the natural environment, between persons and God, and within the soul. The Cross and Resurrection is a fitting means of salvation because through this event, Jesus Christ takes on all of the wounds of sin – the debt of sin and all other wounds – in order to restore the entire world. Every person is invited then to participate in this restoration through acts of human justice, the subject of Chapter Seven.

Chapter Seven: Giving Justice More Than Its Due: Human Justice

People who are conformed to God's justice live a justice that also blends what is due and exceeds what is due. This composite justice is the human justice of the Bible, this chapter argues. Human justice corresponds to Quadrant Three and Quadrant Four, the lower two quadrants, in Table 2-1.

In the Bible, human justice is the comprehensive right relationship that people enact and that obligations define. People perform justice toward God, toward others, and in cultivating their souls. The Bible bestows content and lucidity to human justice through its many obligations, which Aquinas schematized. To recall, the Old Testament contains the moral precepts and their corollaries, which reasons grasps as the natural law, as well as two other sets of precepts that are determinations of the natural law – ceremonial precepts, governing worship, and judicial precepts, governing conduct within the people of Israel. In the New Testament, Jesus affirms the moral precepts, which are enduringly valid, fulfills the ceremonial and judicial precepts so as to render them no longer binding, and commands some additional actions of worship and conduct between people, though far fewer than the precepts of the Old Testament.

The argument of this chapter is that all of the obligations of the Bible under which people continue to be bound are ones that combine what is due with what is more than due. This is true both for human primary justice and human rectifying justice, which serve as this chapter's two parts.[1]

Human Primary Justice

Obligations That Render Due

[1] Chapters Ten through Twelve elaborate this human justice and place it in the context of politics.

What is the place of rendering due in the actions through which a person seeks justice – right relationship with God, other persons, and within the self? Let us begin with actions towards God. All of a Christian's actions are due to God, and thus, God has a right, or an entitlement to these actions on the part of the Christian. This is true in two senses, corresponding to Jesus' two commandments; love God and neighbor (Matt 22:37-40).

The first pertains to acts of religion, ones through which a person directly pursues right relationship with God. Worship is the most quintessential of these, and they also include prayer and participation in sacraments – reconciliation, communion, anointing of the sick, and others. Aquinas considers acts of religion analogous to the honor and obedience that a person owes his parents. One gives what is due to those who have created and provided for him – his parents, the leaders of his country, and God.[2]

A second manner in which actions are due to God involves actions toward a person's neighbor. Since a Christian, infused by grace, now directs all of her acts toward God, she directs her acts of love for his neighbor further towards love of God.[3] "[W]hatever you do, whether in word or deed, do it all in the name of the Lord Jesus, giving thanks to God the Father through him," Paul writes in his Letter to the Colossians (3:17). Volunteering at a homeless shelter, playing tennis with a friend, or working at a factory, a Christian directs her actions to God as God's due.

Both kinds of acts are due to God because a person owes God unending thanks for creating him, giving him life and all that is good, and for saving him, rescuing him

[2] See ST II-II, a. 80, resp.
[3] In Chapter Eight, I will discuss further the relationship between natural ends and the end of serving God.

from sin and death and restoring him back to life. These are all gifts. Theologian John Barclay, in his major study of 2015, *Paul & The Gift*, argues that Western antiquity, exemplified by Seneca, and many non-Western cultures, have understood gift as the giving of benefit or favor in an expectation of reciprocity and for the promotion of right relationship. By contrast, the modern West developed a new and different concept of gift, pioneered by Martin Luther, taken up by Immanuel Kant, as being purely gratuitous, given without any expectation. The gift of God's salvation in Christ that Paul describes, though, is like the gift of the classical version, inviting a response that brings the recipient into right relationship with God.[4] This response is the Christian's entire life, all that he does, which he owes to God in thanksgiving.

If all of the acts that a Christian directs to God are due to God, though, due here does not wholly carry the strict sense for which I argue in Chapter Five. This is true in two senses. First, recall that the concept of a right, a synonym of what is due, derives its force in part from being dischargeable – the obligation of others toward the holder of the right may be completed and it is clear what it means for it to be completed. A Christian's efforts to direct all of her actions to God out of gratitude, though, never ends, or is discharged, during her earthly life. A second departure from strict due is the imperfect, or discretionary, character of religious acts – worship, prayer, and the like. While churches prescribe some acts as obligatory in a strict sense – the Catholic Church requires Sunday mass, for instance – how often one performs these acts is otherwise open-ended. Religious acts are what I have called imperfect duties nested within a

[4] Barclay's argument that gift in the Bible is not "non-circular," or given without expectation, is part of a larger and more complex argument about the qualities of gift in Paul's letters. See John M.G. Barclay, *Paul & the Gift* (Eerdmans, 2015), 183-188, 562-574.

perfect duty. A Christian owes God worship and prayer but carries discretion in determining how often. So, in these two senses, everything is due to God but not according to due's strict definition.

Let us turn to a person's actions toward other persons. What role does rendering due play in this dimension of justice? Many of the obligations in the Bible are ones in which a person is required to perform or refrain from an action that is due to a recipient, an action to which he has a right. In some passages in some English Bibles, translators use the word right to express the meaning of the Hebrew or Greek text. For instance, Proverbs 29:7 reads, "[t]he just man has a care for the rights of the poor." Paul, in 1 Corinthians 9 (1-18), names his right to be supported materially by the Christian community, which he says he has foregone.[5]

Rights have a far larger presence in the Bible, though, than can be found in the explicit word, rights. Many obligations in the Bible implicitly correspond to rights. These are duties that may be specified and discharged. All negative duties, or prohibitions, are of this sort. Many of the Bible's enduring obligations are negative ones, including its commandments against lying, murder, adultery, theft, idolatry, and taking the Lord's name in vain as well as their many corollaries, prohibiting, for instance, cheating in weights and measures, disproportionate retaliation and slander. Most of the negative duties in the Bible that Christian teaching affirms are ones that belong to the natural law. To be sure, many of the ceremonial and judicial precepts of the Old Testament, which reason alone cannot know, are also negative duties, but these are no longer

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[5] The translation here is the one that I have been citing by default, The New American Bible. See Exod 21:8; Exod 21:10; Lev 25:29; Lev 25:48; Deut 24:17; Prov 29:7; Prov 31:5; Prov 31:9; Isa 5:23; Isa 10:2; Jer 5:28; Lam 3:35; 1 Cor 9:12; 1 Cor 9:15; 1 Cor 9:18; 1 Thess 4:6. On the foregoing of rights, see Gorman, *Becoming the Gospel*, 240-243; Grisez, *The Way of the Lord Jesus: Christian Moral Principles*, 670-671.

binding on the Christian. What remains are the Ten Commandments and their corollaries, many of which are negative duties. The duty not to lie corresponds to the right not to be lied to, the duty not to kill to the right not to be killed, and the duty not to commit adultery to the right not to be cuckolded, among many other pairings of negative duties and rights.[6]

Certain positive duties, ones requiring the performance of an action, also correspond to a right. The duty to keep a promise, including fulfilling contracts, for instance, corresponds to the right of the promisee to receive what has been promised. The Bible affirms this duty in several places, for instance, Psalm 15:4, which describes a just person as one who "keeps an oath despite the cost."[7]

Other positive duties are ones of provision. In Matthew 25, for instance, Jesus commands provision to six categories of people in need – with whom he identifies himself – including the hungry, thirsty, sick, stranger, naked, and imprisoned, a command that has inspired hospitals, orphanages, soup kitchens, assistance to immigrants and refugees, and programs for prisoners over the centuries. These duties of provision, as I have argued, are largely imperfect, or beyond due – unspecified in their recipients and never discharged. To some extent, though, duties of provision correspond to rights. International law, for instance, enumerates certain economic and social rights, for instance rights to education, safe working conditions, and health care. To the extent

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[6] The following chapter will treat the natural law and its place in the Bible far more extensively and will also point to a grounding of rights, which is human dignity, or worth. Here, the point is that many obligations correspond to rights. Others who argue for duties that correspond to rights include Finnis, *Aquinas,* 135-140*;* Williams, *Who is My Neighbor?* 292-299; and Jacques Maritain, *Christianity and Democracy: The Rights of Man and The Natural Law*, trans. Doris C. Anson (Ignatius Press, 1986), 106-109; and Wolterstoff, *Justice*, 311-322, 342-361.

[7] See also Matt 5:37; Num 30:2; Eccl 5:5.

that provision of these goods fulfills rights, these rights require the definition of a minimum threshold that sets forth the amount and kind of goods to be provided: What constitutes an adequate education? Safe working conditions? Health care? Once such a threshold is defined, it can be held that people have a right to education, health care, and so on. Absent such a definition, the duties would not be specified and dischargeable, their fulfillment could not be assessed or completed, and they do not qualify as rights. Beyond the defined threshold, these duties of provision are imperfect ones.

Obligations Beyond Rendering Due

Other obligations that make up human justice do not correspond to what is due.[8] They are either imperfect duties, ones that are either discretionary in their performance, or ones such as forgiveness that are neither imperfect duties nor owed.[9] These include mercy, generosity, gift, sacrificial love, care, hospitality, reconciliation, forgiveness, and loving one's enemy. Jesus commands these actions; Paul and other New Testament writers follow suit. Again, some of these commandments, to some extent, render to others what is their due, or that to which they have a right. Mercy, for instance, as I will argue in Chapter Ten, is like this. All of these commandments, though, enjoin actions

[8] In Chapters Ten through Twelve, I will take up a more extended discussion of what "beyond due" obligations, virtues, and practices involve and what their implications for politics are. Here, I seek to identify some biblical obligations and show how they go beyond due.

[9] I explain this characteristic of forgiveness in Chapter Five.

that vastly exceed what is due. All of them belong to the justice of *tsedeq* and *dikaiosune*, which consists of the entirety of commandments in the Bible.[10]

Commonly in the Bible, this sort of commandment acquires its shape from the character of God's actions, which humans are to imitate. Divine justice shapes human justice. Consider a few examples:

Lev 19:34: "You shall treat the alien who resides with you no differently than the natives born among you; have the same love for him as for yourself; for you too were once aliens in the land of Egypt."

Luke 6:36: "Be merciful, just as [also] your father is merciful."

Luke 9:23: "If anyone wishes to come after me, he must deny himself and take up his cross daily and follow me."

John 13:14-15: "If I, therefore, the master and teacher, have washed your feet, you ought to wash one another's feet. I have given you a model to follow, so that as I have done for you, you should do also."

John 13:34: "I give you a new commandment: love one another. As I have loved you, so you should also love one another."

1 John 4:11-12: "[I]f God so loved us, we also must love one another. No one has ever seen God. Yet, if we love one another, God remains in us, and his love is brought to perfection in us."

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[10] Important for the distinction between due and beyond-due in the Bible is the important verse, Romans 13:8: "Owe nothing to anyone except to love one another; for the one who loves another has fulfilled the law." The word "owe" is translated from the Greek word, *opheilete,* a cognate of the Greek word, *opheiléma*, which means debt. The two words for "love" in the verse are translated from a cognate of *agape*. So, it may seem from the verse that all human actions should consist of love and that love involves only what is owed, or that to which others may claim a debt, or are due – a contradiction of my claim that love, or justice, involves a combination of actions that are due and that are beyond-due. I argue that Paul is using the term owe (or pay one's debt, or render what is due) in the sense of "fitting" rather than strictly that to which others have a right (See Chapter Five for this distinction). Certainly, love would involve obligations that are due. In the previous verse, Romans 13:7, Paul enumerates injunctions that are due: "Pay to all their dues, taxes to whom taxes are due, toll to whom toll is due, respect to whom respect is due, honor to whom honor is due." In the next verse, Romans 13:9, Paul enumerates four of the Ten Commandments, all of which, I have argued, render due. In that same verse, he writes that the commandments are summed up in the saying, "You shall love your neighbor as yourself." It is this broader love commandment that I argue includes obligations that render others beyond what is due in the strict sense: mercy, generosity, and so on. So, love involves "owing" – or rendering what is fitting to – others what is due and what is beyond due.

1 Peter: 1: 15-16: "[A]s he who called you is holy, be holy yourselves in every aspect of your conduct, for it is written, "Be holy because I [am] holy."

1 Peter 2:21: "Christ also suffered for you, leaving you an example that you should follow in his footsteps."

"Be imitators of God," in Paul's expression, is what all of these acts prescribe.[11]

The commandment that gives shape to Christian love – and justice – most distinctly is "take up [your] cross" (Matt 10:38, Matt 16:24, Mark 8:34, Luke 9:23), calling for an imitation of the supreme, suffering, and sacrificial love of Jesus on the Cross. In the Gospel of Mark, Jesus calls his followers to be a "servant" and a "slave" and explains "serving" through his own passion and death (Mark 10:43-45). In the Gospel of John, Jesus explains his "new commandment" to "love one another" in terms of "laying down one's life" and "washing one another's feet" (John 13:14-15, 34; 15:13). "Bear one another's burdens," is how Paul describes the way to "fulfill the law of Christ" in his Letter to the Galatians (6:2). The resulting Way of the Cross is an open-ended obligation. It includes prohibitions but does not end there. It does not specify what is to be sacrificed or for whom apart from "one's life" for "others"; it is never discharged in the Christian's life on earth; and it varies in form according to situation and calling. Involving even more than an example, imitation is enabled by grace.

Taking up one's cross is synonymous with what Pope John Paul II called the commandment of the gift. Giving one's life as a gift to others imitates God's gift to humanity on the cross. Horizontal right relationship is defined and motivated by the restoration of vertical right relationship. "Christ's blood," writes John Paul II, "reveals to

[11] Eph 5:1. For accounts of Christian ethics that stress imitation or pattern, see Alan Verhey, *Remembering Jesus: Christian Community Scripture, and the Moral Life* (Eerdmans, 2002); and William Spohn, *Go and Do Likewise* (Bloomsbury Academic & Professional, 1999).

man that his greatness, and therefore his vocation, consists in the sincere gift of self." [12] Paradoxically, holds *Gaudium et Spes*, the Second Vatican Council's pastoral constitution, a person "cannot fully find himself except through a sincere gift of himself."[13] Gift, too, is an open-ended commitment with respect to the other persons to whom it is directed.

Some imperfect obligations are directed to a certain class of recipients. Hospitality is directed to the stranger and reconciliation to the estranged, for instance. Prominent in the Bible is the commandment to give alms, or care for the poor materially. Giving to the poor is an imitation of God. The Lord "hears the cry of the poor" and promises to liberate them, heal them, and vindicate them in the Old Testament, and in the New Testament practices yet a more intimate justice in being born poor, "[lifting] up the lowly," and coming to inhabit the poor (Matthew 25).

Giving to the poor is justice. Almsgiving is closely associated with *tsedeq(ah)* in the Book of Tobit (12:8-9). Psalm 112 describes the just (*tsaddiq*) as those who are gracious in lending and give to the poor lavishly (4-6, 9). The hendiadys, right and just (or, sometimes, justice and judgments) is often associated with a king and commands him to protect the poor. The king in Isaiah 11:4 "shall judge the poor with justice, and decide aright for the land's afflicted."[14] In Ezekiel 18:5-7, the one who does what is "right (*mishpat*) and just (*tsedeqah*)" is one who "gives food to the hungry and clothes the naked" among other good deeds. In the Sermon on the Mount, among the three "just

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[12] See Pope John Paul II, *Evangelium Vitae*,, sec. 52,

[13] Pope Paul VI, *Gaudium et Spes*, December 7, 1965, sec. 24, https://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_const_19651207_gaudium-et-spes_en.html.

[14] See also Ps 72: 1-4.

deeds" (*dikaiosune*) that Jesus teaches his followers to practice with interior sincerity and not in order to be seen be others, one each directed to God, others, and self, almsgiving is the one directed to others (Matt 6: 2-4). Later in the Gospel of Matthew, it is the just (*dikaios*) people who merit eternal life for having seen Jesus in the poor (Matt 25: 37, 46). Paul associates justice (*dikaiosune*) with giving to the poor in 2 Corinthians (9:9).

The authors of the late books of the Old Testament consider giving to the poor to be so important that they use the term *tsedeq(ah)* itself to mean almsgiving. They sometimes also use *tsedeq(ah)* to mean mercy, which means broadly alleviating distress, or they pair it up with *hesed*, which means mercy, in a hendiadys, indicating *tsedeq(ah)*'s close association with mercy.[15] In the book of Tobit, the Angel Raphael teaches:

> Prayer and fasting are good, but better than either is almsgiving (*tsedeqah*) accompanied by righteousness (*tsedeq*). A little with righteousness (*tsedeq*) is better than abundance with wickedness. It is better to give alms (*tsedeqah*) than to store up gold; for almsgiving (*tsedeqah*) saves one from death and expiates every sin. Those who regularly give alms (*tsedeqah*) shall enjoy a full life; but those habitually guilty of sin are their worst enemies (12:8-10).

Jesus expresses just deeds towards others as almsgiving in the Sermon on the Mount (Matt 6:2-4) and summarizes what the rich young man must do to gain eternal life as selling his goods to the poor, exceeding the commandments that the man has kept (Mark 10:21). Almsgiving even comes to serve as metonymy for the commandments

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[15] Anderson, *Sin*, 142; Gary A. Anderson, *Charity: The Place of the Poor in the Biblical Tradition* (Yale University Press, 2013), 33-34. Weinfeld, *Social Justice*, 19, 29. The English word alms is indeed a corruption of eleēmosynē, the Greek word for mercy. See also Susan Holman, "Healing the world with righteousness? The language of social justice in early Christian homilies," in Miriam Frenkel and Yaacov Lev, eds., *Charity and Giving in Monotheistic Religions*. Studien zur Geschichte und Kultur des islamischen Orients (De Gruyter, 2009), 89–110.

when *tsedeq(ah)* connotes it. "Giving alms is equal to keeping all the commandments in the Torah," Anderson quotes a rabbinic text.[16] Almsgiving and mercy are integral to the justice of right relationship.

These obligations exceed what is due. In Jesus's instructions to serve him in the hungry, the thirsty, the stranger, the naked, the ill, and the prisoner in the Gospel of Matthew, it is anyone who fits these descriptions who is to be served and there is no limit to the service. This duty is neither specified nor dischargeable and is therefore imperfect. Anyone following the teaching must make choices about where to direct her finite resources and abilities. Likewise, the several teachings to give alms just cited in Matthew 6, Tobit, Daniel, Psalm 112, and 2 Corinthians all leave open the recipients, amount, and kinds of alms to be given, and prescribe no closure to this giving, all in contrast to obligations that meet debt, fulfill rights, and are owed. The passage in Psalm 112 characterizes justice in terms of being "gracious in lending" and giving "lavishly" to the poor, both synonyms for generosity, while the passage in 2 Corinthians 9 quotes Psalm 112 and associates giving to the poor with both justice and generosity. Justice is generous, which, by definition, exceeds rights.[17]

Another parable of Jesus, found in the Gospel of Luke, defies the logic of payment of debt even further, teaching that his followers not only ought to give to the poor beyond what is owed but also to give to those who cannot repay them:

> Then [Jesus] said to the host who invited him, "[w]hen you hold a lunch or a dinner, do not invite your friends or your brothers or your relatives or your wealthy neighbors, in case they may invite you back and you have repayment. Rather, when you hold a banquet, invite the poor, the crippled,

[16] Anderson, *Charity: The Place of the Poor in the Biblical Tradition*, 17.
[17] On justice and generosity See Timothy Keller, *Generous Justice: How God's Grace Makes Us Just* (Dutton, 2010).

> the lame, the blind; blessed (*makarios*) indeed will you be because of their inability to repay you. For you will be repaid at the resurrection of the righteous (*dikaios*)" (14:12-14).

Just, of course, can translate *dikaios*, and the just are the ones who invite the poor (and the crippled, the lame, and the blind) to their banquet. The passage does not say which poor nor that hosting is ever to be completed. Still more, the host cannot expect to be paid by his guests and will be blessed (*makarios*), or happy, for it. Jesus ends the parable by saying that the host will be repaid at the final resurrection. The poor may not repay the giver, but God will reward him.

God's reward for giving to the poor also finds expression elsewhere in the Bible. Anderson argues that in the Second Temple period, giving to the poor becomes a way for a person to seek atonement for his sins and accompanying reward from God. This can be seen in the passage from The Book of Tobit cited just above (12:8-10). Earlier in the book, Tobit tells his son, Tobiah, "do not hesitate to give alms; you will be storing up a goodly treasure for yourself against the day of adversity. Almsgiving frees one from death" (4:8-10).[18] The Prophet Daniel tells King Nebuchadnezzar to "atone for your sins by good deeds, and for your misdeeds by kindness to the poor" (Dan 4:24). Proverbs 19:17 likewise reads, "[h]e who has compassion on the poor lends to the Lord and he will repay him for his deed." Jesus closes his teaching to give alms in the Sermon on the Mount with "your Father who sees in secret will repay you" (6:4).[19] In giving to the poor, a person gives beyond rights and might not be repaid by the poor, yet draws down the

[18] See also Tob 12:9.
[19] See also Ps 9:5.

debt for his sin with God and receives a still more abundant reward from God. Such is God's justice.[20]

Preaching the Bible's message that giving to the poor is justice, a justice that meshes with mercy, and adopting Matthew 25 as a core text, were the Cappadocian Fathers – Gregory of Nyssa, Basil of Caesarea, and Gregory of Nazianzus – and their protégé, John Chrysostom, in the late fourth century. They, like previous and later church leaders, led the Christian Church to found hospitals, orphanages, hospices, and shelters to assist the poor. In the decades after the Emperor Constantine's conversion, the state supported such efforts. Historian Peter Brown contends that the conversion of the wealthy in the Roman Empire in 370 was an important moment in the creation of Christendom and its practices of charity. Now, these influential members of society would promote the Bible's teachings.[21] Brown and scholar of religion, Susan Holman, each argue that this promotion was not prevalent in Greek and Roman civilization, in which the community was the boundary of assistance and the society did not extend deliberate and systematic help to the poor. What enabled this practice was the Bible's commands to aid the poor and its teachings that Christ inhabits the poor, that each and every person bears the image of God and that the wounds of every person are the concern of Christians. The Christian Church has continued to teach that giving to the

[20] Eubank holds that almsgiving is the Bible's quintessential, though not only, way for humans to merit heavenly treasure, in *Wages of Cross-Bearing*, 51, 105. See Anderson, *Charity*, 83-110.
[21] Peter Brown, *Through the Eye of the Needle: Wealth, the Fall of Rome, and the Making of Christianity in the West, 350-550 AD* (Princeton University Press, 2012), 527-530; Anderson, *Charity*, 15-16; Susan R. Holman, "The Entitled Poor: Human Rights Language in the Cappadocians," *Pro Ecclesia* 9, no. 4 (November 2000), 476-489; Paul Veyne, *Bread and Circuses: Historical Sociology and Political Pluralism*, trans. Brian Pearce (Penguin Books, 1992), 19.

poor is a matter of justice through the present day. “Giving alms to the poor [is a] work of justice pleasing to God,” states today’s *Catechism of the Catholic Church*.[22]

Have Christian sources expressed the obligation to give to the poor as one of rendering due or rights? English translations of the Old Testament refer to the rights of the poor several times.[23] The Cappadocians taught that the poor have rights. The *Catechism* quotes Chrysostom, “[n]ot to enable the poor to share in our goods is to steal from them and deprive them of life. The goods we possess are not ours, but theirs,” and further quotes Pope St. Gregory the Great of the 6th century, “[w]hen we attend to the needs of those in want, we give them what is theirs, not ours. More than performing works of mercy, we are paying a debt of justice.”[24] This is the justice of due. Aquinas later argued that people have a duty to give to the poor out of their *superflua* – what one does not need for other duties – and that the poor have a right to the same. If a person is desperately hungry and another person has the resources to help, the poor even have a right to take those resources and would not be stealing in doing so.[25]

In the justice of right relationship, the obligation to the poor renders rights but also exceeds rights considerably. The poor have rights to threshold amounts of food, health care, clothing, housing, and other goods. Those able to render these goods are obliged to fulfill these rights, mostly through the coordinating authority of the government. I have argued, however, that obligations to the poor much exceed the rights of recipients. Givers are, paradigmatically like Miriam in Chapter Five, possessing finite

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[22] *Catechism of the Catholic Church*, no. 2447.

[23] The term rights can be found in English translations of Bible verses that are listed above in footnote 5 [check for final manuscript]. Yet in none of these verses do the Hebrew and Greek words that most readily translate to rights appear, namely *zechut* and *dikaiomata*.

[24] *Catechism of the Catholic Church*, no. 2446. See also Holman, "The Entitled Poor”; Wolterstorff on Chrysostom in *Justice*, 60-62.

[25] ST II-II, q. 32, a. 5, a. 6.

resources and discretion in fulfilling their obligations to the poor. In a broad sense, we may say that the superfluous goods of the rich belong to the poor in the sense that it is fitting that the poor receive them from the rich. Rights – the strict meaning of due – however, at least beyond threshold entitlements, do not describe well the obligation of people commanded to give to the poor, which is real but open-ended. Most, though not all, of the Bible's commands to serve the poor lack the term rights or due, yet many are linked with justice as well as mercy and generosity. In sum, giving to the poor is a matter of the justice of right relationship, is partly an obligation that fulfills rights, but is also, to a great extent, an imperfect duty, one that exceeds due.[26]

Human Rectifying Justice

An admixture of due and more than due also resides in human rectifying justice in the Bible, that of the lower right-hand quadrant in Figure 2-1, practiced between humans in addressing past wrongs.

Rectifying Justice That Is Due

The Bible's entirety of teachings about how people ought to respond to the wrongs of other people both presuppose and state what reason can also know: that when a person sins against other people, she incurs a debt to them and to God. In this fundamental sense, human rectifying justice in the Bible involves due. What people owe, I argued in Chapter Three, arises from their responsibility for creating wounds in right relationship, an injustice that continues to stand following the act. Such debt is

[26] This last section discusses the place of due and beyond-due in human primary justice with respect to a person's relationship with God and with other persons but not with respect to the parts of the self. Broadly, my position is that a person has an obligation to bring right order to his self but that this obligation does not involve due. One does not have a right vis-à-vis one's self; one's actions are not due to oneself.

presupposed or explicitly named in the great variety of responses to the sins of others that the Bible describes and teaches: the proportionate response – eye for an eye, tooth for a tooth – of the Torah's *lex talionis*; the reconciliation of Jacob and Esau and of Joseph and his brothers in Genesis; the restitution prescribed by the laws of the Torah; judicial punishment in the New Testament; execution as a form of judicial punishment in the Old Testament; military conquest in the Old Testament; expulsion from the Church community in the Book of Matthew or First and Second Corinthians; God's forgiveness; and human forgiveness. None of these highly variable responses to sin in divine action and in human action is intelligible apart from the debt of sin, equivalent to the principle of retribution.

One sort of response to sin is authorized in both the Old Testament and the New Testament – the punishment of crime on the part of temporal authorities: judges, kings, governors, the emperor. The Torah's laws for the community of Israel, administered first by judges and later by kings, embody the justice of *mishpat*, that of right judgment, and prescribe punishments for wrongdoers. These laws presuppose, and thus reinforce, this justice in decrying punishment that is unfair, inequitable, exploitative, and disdainful of the rights of the vulnerable. The New Testament has far less to say about the rationale for temporal authority and punishment. Most of its norms for human conduct deal with other persons in general or with conduct within the Church, the community that takes shape around Jesus and to which the Apostles Paul and Peter direct their letters. In a few places, though, letters of Paul and Peter teach that the temporal authorities are ordained by God, that they rightly punish wrongdoers, and that they merit respect, honor, and the paying of taxes. Christian tradition has regarded one passage, Chapter 13:1-7 of Paul's Letter to the Romans, as the New Testament's chief

warrant for temporal authority. Paul writes that God has "appointed" this authority as a servant "for your good," and that it rightly may "bear the sword" to "inflict wrath on the evildoer." The passage implies just retribution: the state's punishment is rightly brought to bear on the one who has done wrong on account of his wrong. Later, Peter writes that kings and governors are "sent by [the Lord] for the punishment of evildoers" (1 Peter 2:14).

A rationale for public retribution also lies in reason and concurs with the justice of right relationship. The public law, determined by the public authority (today, a legislature), provided that it is just, expresses right relationship among citizens, the duties by which they promote one another's good. The one who violates these laws bears responsibility for a rift in this right relationship, which stands not only between him and those who are wronged but also other citizens. The authority who enforces this law rightly punishes the wrongdoer in order to annul the standing victory of this wrong and to restore and uphold the right relationship that the law expresses. The punishment is due on account of the intrinsic goodness, and the value of upholding, right relationship.

Rectifying Justice Beyond What is Due

Yet, like biblical justice in the other three quadrants, human rectifying justice also exceeds due. Punishment by temporal authorities in the Torah addresses not only the wound to right relationship that the crime itself inflicts but also the range of wounds that the crime has inflicted on others, the community, and the wrongdoer himself. Here, human rectifying justice mirrors divine rectifying justice, which seeks a holistic restoration. Passages in the Books of Exodus, Leviticus, and Numbers prescribe restitution, which aims at restoring the property of victims and often demands multiple

levels of restitution – twofold, fourfold, sevenfold – through which the wrongdoer expresses contrition in addition to compensating for the wrong. In the Gospel of Luke, the repentant tax collector, Zacchaeus, pledges to restore fourfold any good that he has gained through fraud, a standard stated by the Book of Exodus.[27] The Bible teaches repentance and apology, obligations that are owed but that also serve to restore the wrongdoer's soul in addition to negating the standing victory of the unjust act. Punishment in the community of Israel was purposed to restore the life of everyone involved in the crime and indeed the entire community.[28] Holistic restoration is found again in the Christian tradition. Both Augustine and Aquinas, favored mercy in administering temporal punishment, which they hoped would bring the offender to repentance before she faced the far more consequential judgment of God.[29] This restoration does not negate retribution but exceeds it.

Departing further from retribution are teachings of Jesus that counsel foregoing it. In the Sermon on the Mount, he teaches: "[Offer] no resistance to one who is evil." The injunction is the fifth of a series of six contrasts which Jesus begins by presenting the Old Law, in this case the *lex talionis*: "You have heard that it was said, 'An eye for an eye and a tooth for a tooth'" (5:38). The *lex talionis* upholds retribution – pay back a wrong against you by rendering the wrongdoer his due, inflicting deprivation in retaliation – even as it also upholds retribution's corollary, proportionality, not allowing retaliation to become bloody revenge, as it did often in the ancient Near East. Jesus's subsequent counsel, offer no resistance, contrasts with the Old Law by expanding it, not

[27] Luke 19:8; Exod 22:1.
[28] See Marshall, *Beyond Retribution*, 125-127.
[29] This point receives elaboration on Chapter Eleven.

annulling it. He does not negate the debt of sin or the right of victims of sin to call in this debt. Rather, he teaches his followers to forego this right. Now, he teaches, do not merely keep your retaliation proportionate, but rather, forego retaliation altogether.[30] Further still, extend generosity, that which is beyond your attacker's right, to him:

> When someone strikes you on [your] right cheek, turn the other one to him as well. If anyone wants to go to law with you over your tunic, hand him your cloak as well. Should anyone press you into service for one mile, go with him for two miles. Give to the one who asks of you, and do not turn your back on one who wants to borrow (Matt 5:39-42).

Jesus continues with a sixth and final contrast that begins again with a norm of the Old Law that embodies the reciprocity of extending due – "[y]ou have heard that is was said, `You shall love your neighbor and hate your enemy'" – and again calls for a response of generosity: "But I say to you, love your enemies, and pray for those who persecute you" (Matt 5:44). He then contrasts this teaching with the language of payment: "For if you love those who love you, what recompense will you have? Do not the tax collectors do the same?" (Matt 5:46).

Once again, the Gospel of Luke recounts Jesus exceeding the norm of due payment a step further, this time in the matter of human rectifying justice. He uses the concepts of credit, payment, and reward to teach his followers not only to avoid collecting the debt of sin but also to refrain from expecting compensatory repayment from their enemies:

> For if you love those who love you, what credit is that to you? Even sinners love those who love them. And if you do good to those who do good to you, what credit is that to you? Even sinners do the same. If you lend money to those from whom you expect repayment, what credit [is] that to you? Even sinners lend to sinners, and get back the same amount. But rather, love

[30] The teaching is repeated in the Letters of Paul and Peter, see Rom 12:17, 1 Thess 5:15, and 1 Pet 3:9.

> your enemies and do good to them, and lend expecting nothing back; then your reward will be great and you will be children of the Most High, for he himself is kind to the ungrateful and the wicked (Luke 6:32-35).

This positive obligation, like others, is grounded in the imitation of God.

Jesus' teaching on forgiveness both presupposes due and calls for foregoing due. While the Old Testament tells of God's forgiveness of humans many times, it contains only a single passage that explicitly teaches humans to forgive one another, appearing in Sirach 28:2-5:

> Forgive your neighbor's injustice; then when you pray, your own sins will be forgiven. Should a man nourish anger against his fellows and expect healing from the Lord? Should a man refuse mercy to his fellows, yet seek pardon for his own sins? If he who is but flesh cherishes wrath, who will forgive his sins?

Written in the second century BCE, Sirach comes late in the Old Testament. The Old Testament contains earlier passages that teach forgiveness in a more implicit sense and that describe it as foregoing what is owed. The Book of Leviticus, Chapter 25, contains the Lord's command to the Israelites to celebrate the Jubilee Year, a time of setting slaves free and returning property to its original owner, both acts that call for foregoing what is due on the basis of sales and contracts. "The precepts of the sabbatical and jubilee years . . . show how the principles of justice and social solidarity are inspired by the gratuitousness of the salvific event wrought by God," reads the *Compendium of the Social Doctrine of the Church*.[31] In two instances, the Book of Genesis approvingly recounts forgiveness, first between Jacob and Esau, and then between Joseph and his brothers. The New Testament contains far more commands to forgive, issued by both

[31] *Compendium of the Social Doctrine of the Church* (United States Conference of Catholic Bishops, 2005), 13. Italics removed from original.

Jesus and Paul. In the Sermon on the Mount, Jesus teaches people to pray, "forgive us our debts, as we forgive our debtors," and immediately follows the prayer with the admonition, echoing Sirach, "[i]f you forgive others their transgressions, your heavenly Father will forgive you. But if you do not forgive others, neither will your Father forgive your transgression" (Matt 6: 14-15). His teachings of forgiveness appear in several other places in the Synoptic Gospels, the most dramatic of them in Matthew 18:22, where he instructs Peter to forgive seventy-seven times.[32]

Forgiveness foregoes what is due. This is clear in Jesus's injunction, "forgive us our debts as we forgive our debtors." The Greek word for debt here is *opheílēma*, which means a legal debt, and reflects the Bible's use of debt as a metaphor for sin. In using this term, Jesus affirms that the sinner is indebted, the insight of retribution. His command, though, affirmed in the sentence just after his prayer, is to forego this moral debt. Later in the Gospel of Matthew (18:21-35), Jesus follows up his instruction to Peter to forgive seventy times seven times with the stark parable of the unforgiving servant, whose metaphor for sin is financial debt and whose closing moral is forgiveness of this debt. He teaches that forgiveness is foregoing debt also in two places in the Gospel of Luke (7:43-44; 11:14). Forgiveness, then, is a dimension of the Bible's justice of right relationship that is not due. The wronged have a duty to perform it, but the wrongdoer does not have a right to it. It is a duty, but not an imperfect duty, for it is clear who performs it (the one who is wronged), who receives it (the wrongdoer), and what is given (the release of moral debt), and it is dischargeable (an act of the will that takes place in a certain moment and is thereby completed). It involves a commandment to give a gift.

[32] Mark 11: 25; Luke 6:37; Luke 11:14; Luke 17:3-4.

In forgiving, a person not only releases a wrongdoer from the debt of sin, but also wills the restoration of the wrongdoer – her repentance and her reform. This combination of release and will toward regeneration follows from forgiveness being enacted on the cross, which is joined to the resurrection and brings about a justification, a reconciliation, that not only liberates but also restores. A definition of forgiveness emerges: An act through which the victim of a wrong forgoes the moral debt due to him and rejects the accompanying emotion of resentment towards the wrongdoer, and wills the restoration of the wrongdoer's character and the restoration of right relationship with the wrongdoer. Chapter Twelve will take up forgiveness in greater depth, asking whether forgiveness is conditional upon apology, how forgiveness is related to temporal punishment, and how forgiveness takes place in politics.

Jesus' Call To The Rich Young Ruler

A story about a young man's encounter with Jesus appears in each of the Synoptic Gospels. Here is the version in the Gospel of Matthew:

> Now someone approached him and said, "Teacher, what good must I do to gain eternal life?" He answered him, "Why do you ask me about the good?" There is only One who is good. If you wish to enter into life, keep the commandments." He asked him, "Which ones?" And Jesus replied, "'You shall not kill; you shall not commit adultery; you shall not steal; you shall not bear false witness; honor your father and your mother'; and 'you shall love your neighbor as yourself.'" The young man said to him, "All of these I have observed. What do I still lack?" Jesus said to him, "If you wish to be perfect, go, sell what you have and give to [the] poor, and you will have treasure in heaven. Then, come follow me." When the young man heard this statement, he went away sad, for he had many possessions (19: 16-22).

The story can be understood in terms of the justice that entails rendering due and more than due. The young man appears impressed with Jesus and wishes to gain his wisdom. He asks the ultimate question, "[w]hat must I do to gain eternal life?" Jesus's first

answer is “keep the commandments,” which he illustrates by naming the commandments of the Decalogue pertaining to relations between people, the ones forbidding killing, adultery, stealing, and lying. These commands correspond to others’ rights and protect aspects of human dignity. The next command, to honor one’s father and mother, is one that entails negative prohibitions, forbidding various forms of disrespect, as well as some open-ended positive duties such as contributing to one’s household. These commandments can also be understood as containing their corollaries. Finally, Jesus names the commandment, “you shall love your neighbor as yourself,” one that appears in Leviticus (19:18) and that he names elsewhere as one of the two greatest commandments, on which the law and prophets depend (Matt. 22:34-40). This commandment entails all of the previous commandments toward other people and, on the natural level, a general beneficence that is an imperfect duty. So, the commandments begin with what is strictly due and widen out to something more open-ended, exceeded by what Jesus will teach next.

When the young man replies, “[all] these I have observed. What do I still lack?” Jesus calls him to justice in full. “If you wish to be perfect,” Jesus begins, implying that he calls for a striving toward perfection, and continues, “go, sell what you have and give to [the] poor,” invoking the Bible’s most common command that goes beyond negative prohibitions and that results in “having treasure in heaven.” Selling to the poor is an open-ended command -- which poor shall he give to? – and is a command without a due date, to be practiced throughout his followers’ earthly life. Selling to the poor, as I have argued, represents all of the commands that involve an open-ended following of Jesus. In calling the man to “come, follow me,” Jesus teaches that these commands are pursued by the one who makes Jesus his end and now lives this supernatural life,

infused by grace. The young man walks away sad. Jesus's command to him calls for his interior commitment, one that would involve him abrogating what his heart is set on – his possessions – and giving his heart to Jesus. Whereas the young man may have obeyed the previous commandments in an exterior sense, this can be true no longer.

This is the character of Christian justice: heeding what is due while pursuing the good of others, especially the poor, without limit, empowered by, aiming to serve and glorify Jesus Christ. The next chapter takes up the question: How is this justice justified?

Chapter Eight: Justifying Justice

Is the justice of right relationship truly just? The preceding chapters have sought to retrieve this justice from the Bible, define it, and describe it. Now, what commends it for human affairs, including politics? Why ought people to practice it? What makes its obligations obligatory? What grounds its normativity? The chapter at hand takes up these questions.

Christians might recoil. Is not justice from God? Isn't human justice based on divine justice? Is it not obvious that justice should be practiced and blasphemous to suggest otherwise? The reaction is too hasty. It insufficiently answers why norms of justice bind. Is it solely because God has commanded justice that people should enact it? What is it about God's commands that makes them obligatory? God's power? The rewards and punishments that accompany the commands? Or is it because humans find the commands intelligible? As a way to happiness? If so, why? But if we find the commands obligatory on our own lights, then why do we need God's commands?

In this chapter, I consider three answers to the question of how the obligations that make up the justice of right relationship are grounded. First, I ask whether God's will alone is the source of these obligations. Second, I consider that reason alone can apprehend that obligations are justified because they promote human goodness: happiness, fulfillment, flourishing. Third, I consider that still other obligations are determinations, or specifications, of obligations that reason can apprehend, and that they derive their authority from the command of God. I reject the first answer and argue for a combination of the second and third answers. Reason and revelation collaborate in grounding the obligations that justify the justice of right relationship. These obligations consist of some that render others their due and some that exceed what is due, and of

some that are justified through natural law and some that are justified supernaturally by God's commands.

Does God's Will Establish Justice?

Without a doubt, commandments make up the justice of right relationship that the Bible depicts. Unexplained, though, is why commandments are obligatory for humans. The best known articulation of this question is that of Socrates in Plato's *Euthyphro*: "Is the pious loved by the gods because it is pious, or is it pious because it is loved?"[1] Slightly adapted, are commandments obligatory because God commanded them, or did God command them because they are obligatory? What is known as the divine command theory adopts the first response; God's commandments are obligatory solely by virtue of God having commanded them. This answer zeroes in on God's will. Only God's will – and not God's goodness, wisdom, or justice – establishes the binding character of God's commandments. God's justice is just solely because God declared it just.

The divine command theory, more broadly known as voluntarism, finds its classic expression in medieval thinkers Duns Scotus and William of Ockham, was taken up by Martin Luther in the sixteenth century, and has found voice in the writings of Soren Kierkegaard, Karl Barth, Robert Merrihew Adams, and Stephen Evans over the past two centuries. Whether each of these thinkers adheres to the purest form of the theory – God's will alone creates obligation – is a matter of debate. For Adams and Evans, God's commandments depend on God's love and goodness for their authority. Yet the pure

[1] *Four Texts on Socrates*, trans. Thomas G. West and Grace Starry West (Cornell University Press, 1984), 52.

form finds expression, too.[2] The task at hand, though, is not to interpret these thinkers but rather to assess the pure claim: God's will alone establishes obligation. Why? First, its motivating intuition merits consideration, namely that God is free, sovereign, and must not be bound by anything, including moral laws. Second, isolating the purest form of the theory allows a separate assessment of the case for reason and for other dimensions of divine command as sources of obligation.

The fallacy of divine command theory is one of non-sequitur. It does not follow from the fact that one party commands another party to perform an act or comply with a norm that the other party is obligated to perform. The mistake obtains whether the commanding party is God, a human being acting alone, or one acting in the name of an organization. One party's command creates obligations for others, rather, only when the issuer of the command possesses authority. Authority, which Hohfeld called a power, is

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[2] Divine Command Theory, an account of moral obligation, is a subset of voluntarism, which appeals to God's will also to explain entities such as virtues and values. For Adams's work see his Robert Merrihew Adams, *The Virtue of Faith and Other Essays in Philosophical Theology* (Oxford University Press, 1987); and Robert Merrihew Adams, *Finite and Infinite Goods: A Framework for Ethics* (Oxford University Press, 1999). For C. Stephen Evans, see his Stephen Evans, *God and Moral Obligation* (Oxford University Press, 2013). On the pure form of the theory, Scotus seems to express it in writing, "[t]he divine will is the cause of the good, and so a thing is good precisely in virtue of the fact that he wills it," in John Duns Scotus, *The Examined Report of the Paris Lecture: Reportatio I-A, Latin Text and English Translation*, vol. 2, *Distinctions 22–48*, ed. and trans. Allan B. Wolter and Oleg V. Bychkov (Franciscan Institute Publications, 2008), lib. I, d. 48, q. 1. Political philosopher Paul R. DeHart quotes Martin Luther as writing in *Bondage of the Will*, "God is He for Whose will no cause or ground may be laid down as its rule and standard; for nothing is on a level with it or above it but it is itself the rule of all things . . .. What God wills is not right because he ought, or was bound, so to will; on the contrary, what takes place must be right, *because He so wills it*." Quoted in Paul R. DeHart, "Reason and Will in Natural Law," in Jesse Covington, Bryan McGraw, and Micah Watson, eds., *Natural Law and Evangelical Political Thought* (Lexington Books, 2013), 125; Italics in original. Karl Barth wrote, "When God confronts man with his command . . . what he wills is purely ad hoc actions and attitudes which can only be thought of as historically contingent even in their necessity, acts of obedience to be performed on the spot in a specific way, pure decisions the meaning of which is not open to discussion, because they do not point to a higher law, but is rather contained in the fact that God has decided in this way and spoken accordingly, so that human decisions can only obey or disobey the divine decision," in Karl Barth, *Church Dogmatics*, vol. II/2 (T. & T. Clark, 1957), 674. For Barth, God's command is given substantive content in being God's revelation of himself in Jesus Christ, to whose grace human acts are to correspond. For an excellent appreciation and critique of Barth, see Gerald McKenny, *Karl Barth's Moral Thought* (Oxford University Press, 2021).

a standing right to issue a command that binds others. Human authority – heads of state or of any other organization – derives its moral legitimacy from its effective promotion (enforcement and coordination, as I will argue in Chapter Nine) of justice – the principles that justice entails and the goods that the principles promote. The validity of an authority's commands does not emerge from the will of the commander alone. Rather, it rests on the reasons that authorize the commands of the commander.

Command theory's mistake appears in ordinary affairs. Susan, convinced that her friend Margaret ought to wed a suitor, Joseph, jettisons subtlety and implores Margaret: "Marry Joseph!" Though Susan's passion and charisma prompt Margaret to pause, Margaret then reflects that Susan's hortatory will alone places her under no duty and she declines Joseph's entreaty.

Command theory, of course, usually envisions that the issuer of commands is not merely a peer such as Susan but rather a superior in a collectivity: a boss, a parent, a teacher, a military officer, a president. Does the superior's position fortify the force of her command so that her will alone confers obligation? It is hard to see how. Why obey the boss? Simply because she is the boss? Such a tautology says nothing about why the boss's authority is obligatory. Perhaps it is because the boss declared that his decisions are authoritative, or because her superior in turn conferred the boss's authority. These answers, though, beget a regression: Why obey *that* will?

That the will of a superior alone does not create obligation becomes clearer still when an ambitious father tells his daughter to cheat on her school exam, or a boss orders his underling to accept a bribe, or a lieutenant orders a corporal to commit a war crime, or a president tells lower officials to cover up his crimes. These acts of a commanding authority's will create no obligation, in contrast to ones in which, say, a

father institutes a rule that his young children must be in bed by 8:30 pm, or a teacher assigns his students homework, or a boss assigns an employee to a new project, or an officer orders his troops into combat or a president orders his staffer to write a speech. These latter assertions of will create obligation because they are consistent with the rationale that confers standing authority upon the superior: raising virtuous and healthy children, educating students, achieving military victory, and so on. It is only when the will of the holder of authority acts consistently with the reasons that authorize his authority, not when he exercises will alone, that his commands are obligatory.

Do rewards and punishments fortify the obligatoriness of a superior's commands and thereby boost the voluntarist's case? Say that the daughter believes that her father will scorn her lack of career success if she does not cheat, or that the lieutenant threatens to execute the corporal for disobeying his order, or that the boss promises his employee a promotion for accepting the bribe. Such consequences, even if the superior poses them credibly, add nothing to the obligatoriness of the action she commands. They alter the subordinate's incentives, but that is all they do. The corporal may reason that killing civilians is normally wrong but that her execution would leave herchildren without a father to care for them, and so he complies. Or, she may reason that he cannot carry out an order to kill civilians under any circumstance, so she refuses the order and prepares to accept the consequences. In both scenarios, the corporal responds to prospective consequences but the consequences do not create his obligations. In the scenario in which he complies, he does so for instrumental reasons despite his moral obligation not to kill civilians. In the scenario in which he refuses, he does so out of moral obligation despite the consequences. Either way, rewards and punishment do not alter his obligations, which rather reflect the moral norms that make up justice. It is

upon these norms that the lieutenant's authority and the validity of his commands rest. As much as she may be able to force his way by creating incentives, his exercise of will cannot foist obligation into his actions.

The divine command theorist might rejoin that things are different with God. These human examples, he might object, fail to invoke some quality of God that makes God's will the source of obligations. What might this quality be? The most plausible candidate on a voluntarist view is the maximal superiority of God's will to human wills: God is all powerful. Does this superiority rescue divine command theory and make God's will alone the source of human obligations?

No, the logical problem remains. The sole assertion of a commandment does not establish its binding character. Like other superiors, but infinitely more so, God can create incentives, not just life or death, as the lieutenant can place in the balance, but rather eternal bliss or punishment. Even these incentives, though, do not elicit normativity. Even still, a person who complies with a commandment solely to gain reward or avoid punishment is not moved by the obligatoriness, or the rightness, of the command. She may comply to gain heaven or avoid hell, but, like the soldier, she is responding to incentives, not acting out of duty. Maximal power alone cannot confer rightness. If it could, then, as philosopher Paul DeHart observes, even the commands of a divine fiend would be valid, a fiend who might command cheating, bribing, and adultery.[3]

In the teaching of Aquinas, God's will as well as God's goodness, wisdom, and love all belong to God's essence. These qualities are differentiated in the human mind

[3] See DeHart, "Reason and Will in Natural Law," 140.

but not in the reality of God. So it is impossible that God's will would operate apart from his goodness, wisdom, and love. Aquinas stated in his "Disputed Questions on Truth" that "to say that justice depends simply upon the will is to say that the divine will does not proceed according to the order of wisdom, and that is blasphemous."[4] To reject the divine command theory, as we will see below, is not to reject God's revelation as a source of obligation, but rather to say that obligation is conferred by more than God's will alone. It is God's goodness – his reason, his wisdom, his justice – that establishes his authority and confers obligatoriness upon his commands. Further, God has endowed humans with reason so that they would understand the justice that he has revealed. How, then, does reason apprehend justice?

How Reason Apprehends The Justification of Justice

Human reason can apprehend justice and its commandments, what they mean and why they bind. The Bible testifies to this truth in many passages, most directly in the Apostle Paul's Letter to the Romans 2:14-16:

> For when the Gentiles who do not have the law by nature observe the prescriptions of the law, they are a law for themselves even though they do not have the law. They show that the demands of the law are written in their hearts, while their conscience also bears witness and their conflicting thoughts accuse or even defend them on the day when, according to my gospel, God will judge people's hidden works through Christ Jesus.

The passage appears in a portion of the Letter to the Romans in which Paul teaches that God will judge both Jews and Gentiles for keeping or failing to keep the law. By "the Gentiles who do not have the law," Paul means peoples other than Jews, to whom God

[4] Thomas Aquinas, *De Veritate*, q. 23, a. 6, resp, find at https://isidore.co/aquinas/english/QDdeVer23.htm#6.

revealed his law through Moses.[5] The Gentiles have the law "by nature," it is written on their hearts, and they know it through their conscience, which is their awareness of the law. This law, whose meaning and binding character humans can understand through reason, is known in the Christian tradition as the natural law. Psalm 119, the longest of the Psalms, meditates on law through twenty-two stanzas that employ nine words to describe law – ones translated as law, edict, command, word, precept, utterance, way, decree, and teaching – and speaks of this law as known through wisdom, knowledge, light, understanding, and insight. Describing law again and again as just, the Psalm leaves no doubt: Reason can fathom justice, and justice is the totality of law.[6]

Misleading, then, is a distinction found in some Christian analyses, explicitly and implicitly, between the Bible and natural law as separate sources of knowledge about ethics.[7] More soundly, the Bible testifies to the capacity of human reason to grasp the intelligibility of God's commandments. Widely affirming natural law, its presence in the Bible, and the doctrinal importance of the Romans passage have been Early Church fathers, Augustine, Thomas Aquinas, the magisterial teaching of the Catholic Church up through this day, and, until the past century, most major Protestant theologians.[8] The major break with natural law among major Protestant theologians came in the middle twentieth century through the thought of Swiss theologian Karl Barth, who, in the

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[5] Gentile is derived from the Latin root, *gentilis*, which means belonging to a *gens*, or race or clan – that is, a collective people. The Hebrew equivalent word for nation or people is *goy* and the Greek word, *ethnos*.

[6] For this insight into Psalm 119, I have relied on *The Catholic Study Bible*, 728.

[7] For views of justice that turn to the Bible for the exclusion of natural law, see Chapter Fifteen.

[8] See *Catechism of the Catholic Church*, no. 1954-1960. On Protestant thought and natural law, see the excellent collection of essays in Jesse Covington, Bryan McGraw, and Micah Watson, eds. *Natural Law and Evangelical Political Thought* (Lexington Books, 2013). The opening essay by J. Daryl Charles, "Burying the Wrong Corpse: Evangelicals and Natural Law," 3-34, offers a helpful overview of the historical commitment to natural law among Protestants as well as the break with natural law in the twentieth century.

1930s, retorted "Nein" to theologian Emil Brunner's argument that natural law had not been effaced by the Fall and could still serve as a source of ethics, and who, over the course of his career, denounced natural law and natural theology as advance guards of an autonomous, secular ethic detached from the Word of God and the Lordship of Christ.[9] Subsequent Protestant theologians have sidelined or spurned natural law in their ethics, including John Howard Yoder, Stanley Hauerwas, George Hunsinger, and Richard Hays.[10] Reinhold Niebuhr, the American mid-twentieth century Christian ethicist, thought that natural law norms are mostly refracted by power and interest in any time and place and he left a legacy of skepticism of natural law among mainstream ethicists and politicians.[11] Today, lamented Protestant ethicist J. Daryl Charles in an essay published in 2013, "[d]espite its bewildering diversity, there exists across Protestantism a broad consensus that rejects the natural law . . .. Alas, one is hard-pressed to identify a single major figure in Protestant theological ethics who has developed and defended a theory of natural law."[12] Yet, recently some Protestant

[9] Theologian Jesse Couenhoven makes the case for a more nuanced assessment of Barth's skepticism of natural law in his essay, Jesse Couenhoven, "Karl Barth's Eschatological (rejection of) Natural Law: An Eschatological Natural Law Theory of Divine Command," in *Natural Law and Evangelical Political Thought* ed. Jesse Covington, Bryan T. McGraw, and Micah Watson (Lexington Books, 2013), 35-56. He argues that Barth's skepticism was aimed most directly at the concept of nature deployed by eighteenth and nineteenth century European philosophers and by liberal Christian theologians and not at the purposive notion of nature offered by Thomas Aquinas. Even if Couenhoven's argument is conceded, though, traditional natural law in Barth's work remained undeveloped and overshadowed by his strident skeptical statements, in my view.

[10] For further analysis of these thinkers, see Chapter Sixteen on radical Christianity.

[11] For more on Niebuhr, see Chapter Fifteen on Christian Realism.

[12] J. Daryl Charles, "Burying the Wrong Corpse," in *Natural Law and Evangelical Political Thought,* ed. Jesse Covington, Bryan T. McGraw, and Micah Watson (Lexington Books, 2013), 3.

scholars have sought to revive natural law and to blend it with the Bible and divine revelation.[13]

It is Thomas Aquinas whose exposition of natural law, especially in his *Summa Theologica*, has influenced Christian thought more than any other philosophical treatment. A tradition of several centuries of "scholastic" thought on morality and politics ensued from Aquinas's thought. Pope Leo XIII commended Aquinas to the Catholic Church in his encyclical of 1879, *Aeterni Patris*. Catholic scholars in the twentieth and twenty-first centuries have drawn upon Aquinas to defend human rights and constitutional democracy, including Jacques Maritain, Heinrich Rommen, Yves Simon, John Courtney Murray, John Finnis, and Martin Rhonheimer. Modern popes and the contemporary *Catechism of the Catholic Church* have taught about morality and politics in terms that Aquinas set forth. Protestant thinkers such as John Calvin who affirmed natural law have drawn upon Aquinas's thought as well.

Aquinas assiduously situated his analysis of natural law in the Bible and did not detach it from God. Thomist philosophers sometimes term natural law "unaided" or "common" reason to mean that a person can apprehend it without the help of the sanctifying grace that a person receives through baptism or absolution from one's sins. Natural law is indeed apprehensible in this way, a benefit of which is a basis for reasoning about morality and politics between Christians and non-Christians. Yet natural law is not separated from God. Aquinas taught, and all of his faithful followers

[13] The volume, *Natural Law and Evangelical Political Thought*, is itself an effort to support the revival of natural law in Protestant ethics. Charles supports this effort. In the editors' introduction, page xi, they cite as Protestant defenders of natural law Carl Braaten, David VanDrunen, Paul DeHart, Nigel Biggar, Rufus Black, Michael Cromartie, Steven Grabill, Arthur Holmes, Susan Schreiner, and Daniel Westberg. Two recent books written by Protestants are excellent defenses of the natural law and its compatibility with the Bible, see Andrew T. Walker, *Faithful Reason* (B&H Academic, 2024); and Watson, Covington, and McGraw, *Hopeful Realism: Evangelical Natural Law and Democratic Politics* (InterVarsity Press, 2025).

have understood, that natural law is a participation in the eternal law, or God. It is a person's knowledge of God and of God's moral order through the capacities that God created in her. Sin clouds this knowledge and weakens a person's will to act on it, but the Fall did not eradicate these.[14]

Reason apprehends the natural law; the law is reasonable. In the portion of the *Summa Theologica* known as the *Treatise on Law*, Aquinas defines law as follows: "an ordinance of reason for the common good, made by him who has care of the community, and promulgated."[15] Reason belongs to Aquinas's definition of law. Contrary to the view that stipulation by a legislature, judiciary, or social custom is sufficient for a norm to be law, Aquinas holds that a lack of conformity with reason detracts from a norm's character as law. He followed Augustine in this view and was followed later by thinkers such as Martin Luther King, Jr., who quoted Augustine and Aquinas on the point in his *Letter From Birmingham Jail*. God promulgates the natural law such that all human beings can apprehend this law through natural capacities.[16]

Reason apprehends not only the intelligibility of the natural law, the meaning of the actions that it prescribes or forbids, but also why it is binding. To the question of why it is binding, the Bible contains an answer that Chapter Four introduced and is now elaborated. It is that commandments (or obligations, or principles, or precepts, or laws, and so on) that constitute justice bring about the good of human beings – their well-

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[14] See John Paul II, *Veritatis Splendor*, encyclical letter, The Holy See, August 6, 1993, secs. 12, 40, and 42.

[15] ST I-II, Q. 90, a. 4, resp.

[16] For a subtle and helpful view of the claim that an unjust law is not a law, see John Finnis, *Natural Law and Natural Rights* (Oxford University Press, 1980), 351-368. The view that I take issue with here is what is broadly called legal positivism. See Finnis, *Natural Law and Natural Rights*, 234-237.

being, their fulfillment, their flourishing, their happiness.[17] Psalm 119 (1-2) opens with two beatitudes:

> Happy those whose way is blameless,
> who walk by the teaching of the Lord.
> Happy those who observe God's decrees,
> who seek the Lord with all their heart.[18]

Happy translates the Hebrew *'ašrê*, a word that blessed can also translate, and means flourishing or fulfilled.[19] Psalm 119 (40, 88) also holds that the precepts "give me life." The second half of Psalm 19 (8-11) states the fulfilling character of the law:

> The law of the Lord is perfect,
> refreshing the soul.
> The decree of the Lord is trustworthy,
> giving wisdom to the simple.
> The precepts of the Lord are right,
> rejoicing the heart.
> The command of the Lord is clear,
> enlightening the eye.
> The fear of the Lord is pure,
> enduring forever.
> The statutes of the Lord are true,
> all of them just;
> More desirable than gold,
> than a hoard of purest gold,
> Sweeter also than honey
> or drippings from the comb.

Refreshing, giving wisdom, enlightening the eye, sweeter than honey – the law that produces these fruits is not a mere exercise of the Lord's will. Rather, the law of the Lord is eudaimonistic, Greek philosophy's term for well-being.[20] That principles of justice are

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[17] I use these terms synonymously.

[18] The wording here is correct, reading "Happy those" rather than "Happy are those." The translation is the book's default one, *New American Bible*.

[19] See Chapter Four.

[20] *Eudaimonia* is most strongly associated with Aristotle, see Aristotle, *Ethics*, 3-17.

grounded in and ordered to fulfillment is one of Aquinas's most important arguments about morality. "We call those legal matters just, which are adopted to produce and preserve happiness and its parts," he argues in the opening sections of the Treatise on Law in the *Summa Theologica*.[21] Thomist philosophers since have adhered to this synthesis of principles and well-being – let us call it principled eudaimonism – whatever differences may exist among them, and thus avoid dissevering principles from happiness. Such a severance has taken place in modern moral philosophy, which has splayed between followers of Kant, who espouse a "deontological" or duty-based approach to morality, and utilitarians or consequentialists, who judge morality by the net good that actions bring about.[22] The Thomistic synthesis of principles and fulfillment, principled eudaimonism, is also found in earlier Christian thought and was originally a biblical synthesis (as Chapter Four argued). The synthesis merits a closer look, beginning with goods, the components of well-being.

Goods

How does well-being justify the principles that constitute justice? An auspicious answer lies in what has come to be known as the New Natural Law school of thought, founded by the philosopher and theologian Germain Grisez and developed over the past half-century. Plumbed here are neither many of this school's themes nor its robust debate with its critics, but rather its account of how human fulfillment grounds moral principles, that is, its justification of justice.[23]

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[21] ST I-II, Q. 90, a. 2, resp.

[22] On the oscillation between Kantian and utilitarian morality, see Alasdair MacIntyre, *After Virtue*, 2nd ed. (University of Notre Dame Press, 1984), 51-78. "Virtue theory" is sometimes mentioned as a third alternative.

[23] An excellent introductory account to the New Natural Law theory is Melissa Moschella, *Ethics, Politics, and Natural Law: Principles for Human Flourishing* (University of Notre Dame Press, 2025). The

"A sound account of normative existential principles must show how they are grounded in human goods. If they are not so grounded, there is no answer to the question, 'Why should I be morally good?'," declares Grisez, continuing, "[t]he answer is not that God commands this, for the moral obligation to obey divine commands, although rightly accepted by believers, is not self-evident. Indeed, nothing clarifies the force of moral norms except the relationship of morality to human goods."[24] Grisez follows his tradition. The Bible names many basic human goods – peace, justice, truth, beauty, friendship, worship – as elements of flourishing, as does Thomas Aquinas.[25] Pope John Paul II's encyclical on morality of 1993, *Veritatis Splendor*, identifies goods as the point of the Bible's commandments.[26] Goods are also central to the thought of contemporary Thomist scholars who are not identified with the New Natural Law school such as MacIntyre, philosopher Mark Murphy and sociologist Christian Smith. Goods find a central place in the thought of certain prominent non-Thomist moral philosophers, too.[27]

Goods are forms of human fulfillment.[28] Aristotle explained that human acts are oriented toward goods and distinguished between goods that people seek as instrumental to other ends and goods that they seek for their own sake.[29] People seek money, for instance, as an instrument to other goods, except perhaps if they are

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school's name is not one that its members adopted but came from one of its constructive critics, Russell Hittinger, *Critique of the New Natural Law Theory* (Notre Dame Press, 1988).

[24] Germain Grisez, *Christian Moral Principles*, 115.

[25] For an argument for the basic goods in the Bible, see Andrew T. Walker, *Faithful Reason: Natural Law Ethics for God's Glory and Our Good,* 200-201. On the goods in Aquinas, see Finnis, *Aquinas*, 79-86.

[26] Pope John Paul II, *Veritatis Splendor*, 13, 47, 50. In paragraph 13, he writes, "[t]he commandments . . . are meant to safeguard the good of the person, the image of God, by protecting his goods."

[27] Examples are Sabina Alkire, James Griffin and Martha Nussbaum.

[28] See Grisez, *Christian Moral Principles*, 115-140.

[29] Aristotle, *Aristotle's Nicomachean Ethics*, trans. Robert C. Bartlett and Susan D. Collins (University of Chicago Press, 2015), 1-25.

collecting coins. Basic human goods, by contrast, are ones that people seek for their own sake. Goods theorists often list the basic goods and their lists admit of variation. I adopt Grisez's list: life, health, knowledge, aesthetic appreciation, play, work, and certain forms of harmony: harmony within the self (among one's inclinations, judgments, and actions); harmony between persons (which includes friendship, marriage, and many forms of community, including political society); and, harmony between a human being and a superhuman power, or religion.[30] These goods are intrinsically beneficial and constitutive of human flourishing. Each realizes a distinct dimension of human fulfillment. A person realizes knowledge through studying physics, beauty through viewing a sunset, play through a soccer match, and friendship through sharing a meal. Most goods can be both instrumental and basic; knowledge, for instance, is both valuable in itself and can be a means to an academic degree or career.

Basic goods are incommensurable, meaning that no common measure or single objective hierarchy exists by which goods can be compared in value, weighed against one another, or quantified. Each is a distinct form of fulfillment and none can be reduced to or subsumed in another. That is, one good is not superior to another in the sense that it contains all that another contains as well as a remainder. Such incommensurability distinguishes natural law accounts of goods from utilitarianism,

[30] I presented this list in Chapter Two in my discussion of right relationship.

whose criterion, the greatest good of the greatest number, depends precisely on weighing and balancing things of value. [31]

Goods are reasons for action. They provide an intelligible answer to the question: Why are you doing that? They are sufficient reasons for action, requiring no further reasons. If Miguel were asked, "why are you baking a cake" and answers, "because I love to make and decorate cakes," he appeals to the basic good of play or satisfying work. He might add that he is hoping to sell the cake so that he can feed his family, in which case baking is additionally a means to the basic good of family and to all of the goods that his family furthers such as the life and health of his wife and children. Alternatively, were Miguel to explain that he is baking a cake because he works at a bakery, has no love for baking, has no need to feed his family, and simply wants to earn cash, or were he to confess that baking is a mindless activity that he drifted into performing, then he is not acting for a basic good, one that he chooses for an intelligible reason.[32]

As Chapter Two notes, three of the basic goods take the form of harmony. One of these, harmony in the self, consists of two forms of integration – an integration of reason and emotions and an integration of judgments and actions that is called practical reasonableness, or authenticity. Harmony between persons is friendship, a mutual relationship between people who will one another's good, taking the form of personal friendship, marriage, family, business, civic association, religious community, and

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[31] Germain Grisez, Joseph Boyle, and John Finnis, "Practical Principles, Moral Truth, & Ultimate Ends," *American Journal of Jurisprudence* 32 (1987), 103-110. For an excellent summary of the meaning of incommensurability in New Natural Law Theory, see Moschella, *Ethics, Politics and Natural Law*, 32-34. Utilitarianism faces this objection: According to utilitarianism, the sole principle by which an action is to be judged is its elicitation of the greatest good (classically defined by Jeremy Bentham as the quotient of pleasure over pain). But any comparison of goods or pleasure depends upon a criterion that is not itself subject to an assessment of goods, and thus violates utilitarianism's core principle.

[32] Aquinas, ST I-II q. 94, a. 2. On human goods as a reason for action, see Robert P. George, *In Defense of Natural Law* (Oxford University Press, 1999), 32-48.

political community.[33] Harmony with God, or with a superhuman power in some traditions, is religion, which the New Natural Law theorists follow Aquinas in conceiving of as a natural good, one whose reality and worth any person can understand through reason.[34] In certain respects, religion is the most important of the basic goods. While each of the goods is equal in the sense of having intrinsic value and cannot be weighed, traded off or measured against the other, religion is uniquely concerned with ultimate questions – What is the origin and destiny of human existence? Is there an answer to suffering? How is salvation to be found? – and is integral in directing the pursuit of the other goods.[35]

All of the basic goods add depth to the meaning of the justice of right relationship. The three goods that take the form of harmony correspond to the three dimensions of right relationship that are the object of justice: harmony between persons and God, harmony between persons, and harmony within the parts of the self.[36] Each of these forms of relationship is itself an intrinsic good. The mutual collaboration in friendship, for instance, forms a bond that is more than the sum of each person's acts and has a worth of its own. Right relationship with God, especially when infused by grace, as in a Christian understanding, involves a closeness of being, an indwelling of

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[33] These are very different forms of friendship, or interpersonal harmony. All are forms of relationship in which people will the good of one another and good for one another, and this relationship is itself an intrinsic good. Both political community and its relationship to other forms of community that bring about friendship are discussed in Chapter Nine, following this one.

[34] I discuss religion as a basic good and defend the principle of religious freedom on this basis in Daniel Philpott, "Why Religious Freedom is a Human Right," *American Journal of Jurisprudence*, 68 (2023), 177-194.

[35] For a discussion of basic goods arguing that their incommensurability does not preclude one being more important than others in certain respects, see Moschella, *Ethics, Politics and Natural Law*, 34, 62-67.

[36] On reflexive goods, or ones that involve harmony, see Grisez, *Christian Moral Principles*, 123-24, 135-136

the Spirit that leads to union with God in heaven. The other basic goods, though they are not forms of harmony, are usually the fruit of harmony. Flourishing through the basic goods is pervaded by dependence.[37]

How do people apprehend the basic goods? As objects of action, goods are "to be done," that is, realized, promoted, or respected. Grasping basic goods is an exercise of what Aristotle and Aquinas called practical reason, the sort of reason by which humans deliberate about what actions to undertake and what possibilities to bring about through acts of their will. Each basic good is a form of Aquinas's First Principle of Practical Reason: "Good is to be done and pursued, and evil is to be avoided." This principle, these goods, are known *per se nota*, or self-evidently, and are not demonstrated from prior premises. Rather, they are apprehended through acts of the intellect that reflect on human experience. People ask of their own behavior or that of another person, "why are you doing that?," and "why that?" until they arrive at some goods that are intrinsically worthy. Once the goods are apprehended, their status as basic can then be defended against skeptics, showing that "denying them leads to absurd conclusions, is inconsistent with our actions and judgments, rests on theoretical errors about human nature, or makes it difficult to account for the overwhelming anthropological and sociological data supporting them," as philosopher Melissa Moschella explains.[38]

Some critics of the New Natural Law school take its scholars to task for not grounding goods and principles in human nature. Yet, while New Natural Law thinkers insist that basic goods are self-evident reasons for action, apprehended without prior

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[37] On dependence in morality, see MacIntyre, *Dependent Rational Animals*; Carter Snead, *What It Means to Be Human: The Case for the Body in Public Bioethics* (Harvard University Press, 2020) 88-96.
[38] Moschella, *Ethics, Politics, and Natural Law*, 23; on self-evident reasons, see also Finnis, *Aquinas*, 87-88.

premises, they do not ignore human nature. Basic goods are realized through human action, which is in turn enabled by human capacities, which, taken together, make up human nature.[39] The grasp of basic goods, then, presupposes human nature. The being who pursues basic goods is one who possesses reason and intelligence, who can understand that the goods are intrinsically worthy of pursuit; who can reflect upon his many emotions and desires and act upon ones that are rightly integrated into his actions; who has free will, the ability to choose and act upon one good rather than another good or desire; who is an integrated substance of mind and body; and is the sort of being who possesses inclinations, or attractions, to the intelligible goods of work, play, knowledge, beauty, friendship, religion, and the like. Basic human goods are not an external commodity such as a basket of fruit that a person clutches but rather are fulfilling of humans with respect to the kind of beings that they are. Human beings do not derive goods by reasoning from this human nature; rather, they exercise the capacities in their nature when they apprehend the basic goods. Human nature here is thick and robust.

Not only do basic human goods presuppose human nature but they also manifest the surpassing worth of this nature, or human dignity. Classically, dignity means either high station or intrinsic worth. In the case of the human being, these definitions may be combined: The human being possesses infinite worth because of the transcendent capacities that make him superior to other animals and to plants. Reason and will are the core capacities that distinguish human beings as being "made in the image of God," the term in the Book of Genesis for the human person's reflection of God's nature. It is

[39] See John Finnis, *Aquinas*, 90-94; and Moschella, *Ethics, Politics, and Natural Law*, 36-37.

reason, or intelligence, that grasps the basic goods as reasons for action, and actions from free will that realize or respect the basic goods. Because goods are intrinsically valuable forms of human fulfillment, they manifest the person's worth, or dignity. Implications for justice follow. To violate a person's basic goods is to disrespect his dignity. To abet another person's realization of basic goods is to honor his dignity.

Yet, people sometimes do not pursue goods well. In the pursuit of one good they might destroy or damage another good and thus violate a person's dignity. A student lies that he is sick in order to skip class one day. An air force pilot bombs civilians, violating their lives, in order to break enemy morale and hasten military victory. A regime persecutes Christians, violating their practice of religion, in pursuit of a secular utopia. Or, people might attain or promote goods unfairly. When the U.S. Congress passed the Social Security Act and the G.I. Bill in the 1930s and 1940s, it included provisions that excluded massive financial transfers from African Americans.[40] Or, people might succumb to emotions that incline them away from achieving an important good. The foreman of No Squirrels Roofing Company neglects to work on the roof that he has contracted to install because he decides to go to the lake on a beautiful day. Or, people may fail to positively promote the good of others. Hence, the need for principles that direct the pursuit of goods.

Principles

While the basic goods are intelligible forms of human fulfillment and in this sense are "to be done," they do not entail moral principles, which take the form of norms: "A

[40] See Ira Katznelson, *When Affirmative Action Was White*: *An Untold History of Racial Inequality in Twentieth-Century America* (W.W. Norton & Company, 2005).

person ought to perform (or refrain from) action A." Examples of principles are: Do not lie; do not commit idolatry; and provide safe working conditions for one's employees. Principles govern actions toward the basic goods, prescribing norms according to which people pursue goods and refrain from destroying, damaging, impeding, or neglecting them. Principles determine how goods are to be pursued. The justice of right relationship thus entails the synthesis of principles and goods, the principled eudaimonism, that the Bible sets forth and that the Christian tradition has maintained.

Many of the principles that make up the justice of right relationship are ones that humans can know through reason without the aid of divine revelation: the natural law. The New Natural Law theorists propose a master principle of morality: "Choose and act only in ways that are compatible with a will toward integral human fulfillment."[41] Referred to as the "first principle of morality," integral human fulfillment is "the fulfillment of all human beings with respect to all of the basic goods, within an all-embracing community."[42] It is the general, encompassing principle that governs action toward basic goods. It broadly translates to Jesus' Greatest Commandment – to love God and love neighbor (Matt 22:37-40). The translation is not complete in that Jesus' commandment encompasses all obligations – "[t]he whole law and the prophets depend" on it – and thus includes natural law obligations as well as supernaturally defined ones, which I discuss in the next section of this chapter.[43] Natural law

[41] I adopt this statement of the principle from Moschella, *Ethics, Politics, and Natural Law*, 35.
[42] See Moschella, *Ethics, Politics, and Natural Law*, 35.
[43] Grisez develops the notion of integral human fulfillment in Jesus, arguing that the modes of responsibility "must be transformed in the light of faith into modes of Christian response to God's gifts," Grisez, *Christian Moral Principles*, 611. See also 459-476, 627.

obligations, though, make up a large portion of love of God and love of neighbor, or justice.

The New Natural Law theorists then offer a set of "intermediate principles" that are consistent with, but more specific than, the master principle of human fulfillment.[44] They set forth more concrete manners in which actions bear upon the basic goods. Yet, they are not as specific as the Ten Commandments and their corollaries, which further specify the intermediate principles. I identify four intermediate principles, though others exist.

One is, "never intentionally to damage or destroy a basic human good."[45] Because the basic goods are distinct forms of human fulfillment and cannot be outweighed by other goods or values, one ought never act to destroy or damage one of these goods in a person. People act to destroy a human good either out of emotion, for instance they might seek revenge against a person by killing, injuring, or committing adultery against him, or because they reason that protecting one basic good requires acting against another basic good, for instance, they lie in order to prevent losing their job, in which they realize the good of skilled work and earn money to secure other goods. To refrain from damaging a good in a person is to respect a person's dignity. In political and social life, the most familiar forms of such damage are the sorts against which international human rights protect. *Gaudium et Spes* presented a list of these violations:

> [W]hatever is opposed to life itself, such as any type of murder, genocide, abortion, euthanasia or wilful self-destruction, whatever violates the integrity of the human person, such as mutilation, torments inflicted on body or mind, attempts to coerce the will itself; whatever insults human

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[44] This term is that of Moschella, *Ethics, Politics, and Natural Law*, 36, who adapts Grisez's notion of "the modes of responsibility" found in Grisez, *Christian Moral Principles*, 225-28.
[45] Moschella, *Ethics, Politics, and Natural Law*, 33.

> dignity, such as subhuman living conditions, arbitrary imprisonment, deportation, slavery, prostitution, the selling of women and children; as well as disgraceful working conditions, where men are treated as mere tools for profit, rather than as free and responsible persons; all these things and others of their like are infamies indeed. They poison human society, but they do more harm to those who practice them than those who suffer from the injury. Moreover, they are supreme dishonor to the Creator.[46]

All of these actions violate human dignity.

A second principle that guides the pursuit of goods is fairness, which counsels against arbitrarily prioritizing the dignity or goods of one person over another. Fairness is based on the equal status and inclusion of every human being in the principle of integral human fulfillment. It is expressed by the Golden Rule: "Treat others as you would want to be treated." It is the principle that underlies norms against cheating, stealing, favoritism, breaking promises without adequate reason, bribery, embezzlement, unjust discrimination, racial injustice, and fraud.

A third norm for pursuing the basic goods is what Moschella terms the Vocational Principle. The basic goods are found in cultures around the world and across human history, yet the combination of goods that a person aims to realize in a single day or over the course of a lifetime, or that communities seek together, are infinitely diverse. Even a single good admits of unlimited forms of pursuit. Think only of the global variety of music, dance, or drama. The widely diverse manners in which a person may pursue the basic human goods raises the question: How to prioritize the goods in one's life? Through a vocation, an integrated plan that orders, integrates, and prioritizes the pursuit of goods. Choosing what course of study or job training to pursue, whether, when, and whom to marry, where to live, and other major decisions depends on a plan

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[46] John Paul II, *Gaudium et Spes*, sec. 27. John Paul II repeats the list in *Veritatis Splendor*, sec. 80.

by which one seeks to develop certain goods over others. Vocational choices are shaped by financial and other circumstances, abilities, and opportunities and may change over the course of a life, yet remain everyone's to make. The principle that one ought to pursue a vocation governs how a person integrates and prioritizes the goods in his life.[47]

Is a justice governed by reason and intelligibility cold and emotionless? Do not compassion, pity, eros, affection, hunger, thirst, sorrow, anger, attraction to beauty, and a desire for God as well as lust, pride, shame, hatred, resentment, revenge, fear, and gluttony lead people to act? Emotions, desires, and passions propel both good and evil in the Bible: "As the deer longs for streams of water, so my soul longs for you, O God" (Psalm 42:2). A fourth principle governs the integration of emotions into action.

Philosopher Robert C. Roberts maintains that emotions are not mere feelings or passions but also entail moral assessments. Anger, for instance, is more than an instinctive upsurge of fury but also involves a person's judgment that another person committed a wrong, is responsible for the damage, and merits retribution. Roberts defines an emotion as a concern-based construal founded on a proposition that construes a person or situation in a certain manner and favors a response. Emotions involve a matter that a person cares about, and are, thus, a construal.[48]

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[47] Moschella, *Ethics, Politics and Natural Law*, 38-40. The principle of vocation is important in New Natural Law Theory. See Grisez, *Living a Christian Life*, 113-129; and Finnis, *Natural Law and Natural Rights*, 103-105. At this portion of the argument, I focus on vocation as it is apprehended through reason. One's personal vocation is also revealed by God, as the same theorists hold. On the natural level, similar ideas to vocation can be found in Immanuel Kant's duty to develop one's talents and in the "pursuit of happiness" in the Declaration of Independence, whose framers understood in the classic sense as pursuit of goods according to virtues, not as self-definition.

[48] Robert C. Roberts, *Emotions: An Essay in Aid of Moral Psychology* (Cambridge University Press, 2003), 60-64, 75. A potential objection is that toddlers have emotions yet do not make moral assessments. Yet, this is not clear. A toddler has his toy snatched from him and he cries furiously. His anger is an assessment that the toy was his and was wrongly taken. The assessment and the emotion may be primitive, but are yet present.

Emotions, though, do not determine action. Reason is not their spy or slave (as Hobbes or Hume would have it) but rather may judge emotions and decide whether and how to act upon them. An angry person may ask further whether his anger is a justified construal and whether retributive action is wise. A person ought not to ignore emotions but rather to integrate them into judgments and actions that realize and respect goods according to principles.

This integration takes place through virtue. Virtue ethicists rightly insist that ethics is incomplete without virtue, which answers the question, "what kind of person ought I to be?," and not simply, "what ought I to do?" Virtue, a matter of character, is a disposition to make sound judgments and to act well upon them, and reflects a rightly ordered self. Reciprocally, though, virtue cannot be severed from principles that express what it means to act well. This bond is vivid in the virtue of justice, which is governed by obligations that one ought to be disposed to perform, as well as the virtue of prudence, by which a person judges the right course of action according to principles in a given situation. Other virtues, such as courage, are also bound to principles, as is noted in Chapter Two. The Bible, Aristotle, Aquinas, and the Catholic magisterium all describe courage as acting rightly, not simply acting, in the face of obstacles and risks. Virtue converges with the human good of harmony within oneself, involving integrity (of reason and inclinations) and authenticity (harmony of judgments and actions) – what I have called right relationship in the self. The emergent principle is: One ought to cultivate virtue, an integrated or rightly ordered self, which leads one to judge and act justly.

These four intermediate principles are, again, not the only such principles, yet are especially important as sources of specifying a further set of principles: the Ten

Commandments. That the Ten Commandments are principles of natural law, knowable by reason, is a longstanding claim in the Christian tradition, and one with which I concur.[49] Like the intermediate principles and the master principle, the Ten Commandments have the promotion of basic human goods as their purpose and point.

The first three commandments, which direct people's actions toward God, rest on the premise, which is also strongly lodged in the tradition, that reason can know that God exists and attendant truths: God is benevolent; God is omniscient; God is omnipotent; God is creator of the heavens and earth; God is glorious and worthy of worship and gratitude; God has created order in the universe; and God sustains the moral order and responds to human deeds with blessings and punishment.[50] The basic good of religion, or the practice of right relationship with God, arises from this knowledge.[51] The first two commandments, to have no gods before the true God and not to take the name of God in vain, arise from natural knowledge of God and are versions of the principle to avoid violating a basic good, the good of religion. The third commandment, to keep the Sabbath holy, calls for practicing the good of religion and, through rest, for furthering the goods of health and right relationship within one's self.[52]

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[49] See *S-T*, I-II. q. 100, a.1; II-II, q. 122, a. 1; *Catechism of the Catholic Church*, no. 2070-2071; see also John Calvin, *Institutes of the Christian Religion*, trans. Henry Beveridge (Eerdmans, 1989), Bk. 2, Ch. 8, sec. 1315.

[50] Walker summarizes the qualities of God that reason can know in *Faithful Reason*, 103. "Natural theology," the claim that reason can know the existence and basic qualities of God, is found in the Catholic tradition, much of the historical Protestant tradition, and in Eastern Orthodoxy. Barth rejected natural theology in the 20th century and was followed by other Protestant theologians.

[51] See Philpott "Why Religious Freedom is a Human Right."

[52] The third commandment contains an element of determination insofar as it prescribes the Sabbath as Sunday. Its basic goods, though worship and rest, are knowable by reason. See Aquinas, *S-T*, I-II, q. 100, a. 3, ad 2.

The fourth commandment, to honor one's father and mother, promotes the good of harmony in the family and of gratitude and honor, an expression of this harmony.[53] The fifth through eighth commandments each involve a prohibition of certain behaviors between people – of killing, adultery, stealing, and bearing false witness, or lying. Three of them express the principle of avoiding the violation of a basic good – life, marriage, and truth. The seventh commandment, do not steal, protects ownership, whose basis is the stable possession of property, which enables one to realize other basic human goods. Owning a house, for instance, allows one to pursue life, health, right relationship in the family, and several other goods. To steal the property of another violates the norm of fairness. The ninth and tenth commandments, forbidding coveting one's neighbor's wife (and lust more generally) and coveting one's neighbor's goods, are directed toward other people but more fundamentally counsel the pursuit of virtue, or right relationship within the self.

Each of the Ten Commandments corresponds to corollaries, principles that are logical expressions of the commandment and that are known by reason, belong to the natural law and in many cases appear in the Bible. Not all biblical precepts are grasped by reason alone. As the next section of this chapter will show, the Bible also contains principles that are supernatural determinations of the Ten Commandments. Reason, though, can know many of the Bible's precepts.

All of these principles, master, intermediate, the Ten Commandments and their corollaries, all belong to the justice of right relationship and consist both of ones that are due to others and ones that exceed what is due. The principles that are due are ones that

[53] The fourth commandment by extension includes patriotism, or the honoring of one's fatherland.

correspond to rights, or entitlements on the part of the recipient of action. Like all principles, they direct the pursuit of basic human goods. What is distinct about them is that they are specifiable and dischargeable.

All negative norms, or prohibitions, correspond to a right. Several of the Ten Commandments and their many corollaries are prohibitions. Some rights protect basic human goods directly – for instance, the right to life (life), the right not to be tortured (health, integration of mind and body), the right not to be lied to (knowledge, friendship), and a nation's right not to be invaded (community life, a form of the good of interpersonal harmony). Other rights protect institutions or practices that promote or protect the pursuit of goods. The right to private property, correlative to the seventh commandment, is this kind of right. Some rights confer privileges – one of Hohfeld's types – that allow for the realization of goods, say, the right to use a public park during certain hours, which promotes health, play, and aesthetic appreciation. Some rights confer powers, or authority – another of Hohfeld's types – say, the right of the head of an organization to direct the common good of that organization, which in turn furthers basic goods (as I shall argue in Chapter Nine). Certain positive duties also correspond to a right and involve the provision of basic goods, as in the right to health care, subsistence, or education, or of goods such as money that are instrumental to basic goods, for instance, a living wage or the promised payment on a contract.

This justification of rights contributes to modern debates over the basis of rights. Consider human rights, which have risen to global prominence beginning with the Universal Declaration of Human Rights in 1948, but whose foundation secular scholars as well as Christian theologians and philosophers have disputed. Human rights implies entitlements that anyone, anywhere possesses by virtue of her humanity. What aspect of

humanity merits rights? The dignity of the human person, which human goods manifest, I argue. This dignity and these goods give rise to principles (or duties) that obligate every person to honor them – to refrain from violating them, or to promote them. When these principles can be discharged and specified, then the recipient of the principles, the person who possesses dignity and is fulfilled by goods, is entitled, or has a right, to them. So, every person has a right to life, bodily integrity, freedom from slavery, and many other forms of treatment. Such a justification contrasts with rationales for rights rooted not in human dignity, goods, and attendant principles, but rather in contracts, rational self-interest, or social conventions. The dignity justification also offers an answer to traditional-minded skeptics of rights, who claim that ethics consists only of what is right, that is, principled actions, and not of rights, that is, entitlements.[54] On the dignity argument, performers of actions have obligations not merely on account of the purity of their soul but also because of the intrinsic worth of other persons and of the goods that constitute their fulfillment. Fred is obliged not to lie not only because speaking truthfully realizes his integrity but also because true knowledge is an intrinsic good for others and because friendship or harmony with others depends upon communicating truth. The worth and good of others generate entitlements that they rightly assert towards Fred. Obligations that fulfill rights are inherently relational.[55]

One other point about the principles that render what is due: Some of them are moral absolutes, admitting no exception. All of these are negative rights, or

[54] Chapter Five lists such skeptics.
[55] The argument here resonates with that of Stephen Darwall's concept of "relational" duties and of the second-person standpoint. See Stephen Darwall, "Bipolar Obligation," in *Morality, Authority, and Law: Essays in Second-Personal Ethics I* (New York: Oxford University Press, 2013), 20–29.

prohibitions.[56] The proscriptions among the Ten Commandments, for instance, of worshipping idols, taking the Lord's name in vain, killing, stealing, adultery, and lying, along with many of the corollaries of the commandments, including prohibitions of torture, slavery, slander, bribery, sexual acts outside of marriage, and many other actions are wrong without exception. Most absolute principles specify the principle not to act to destroy a basic good. To take an example of one of Aristotle's commentators, it would not be justifiable for a man to commit adultery with the wife of a tyrant for the purpose of overthrowing him.[57] Even allowing that rebellion is sometimes justifiable, an act that deliberately violates the good of marriage is never an acceptable means. By contrast, other negative duties are not absolute. They admit exceptions on further specification. A favorite example of Plato, Aristotle, and Aquinas is the duty to keep a promise, a specification of the norm of fairness, whose fulfillment is normally due to the promisee yet may sometimes be foregone. One should not return a gun borrowed from a person who has gone mad or whom one has discovered to be plotting murder. Albert may break his lunch date if he suddenly must take his friend Louis to the hospital when Louis has had a seizure. Because Albert not showing up for lunch is not arbitrary – he does not prefer a person on grounds apart from objective goods – he does not violate the principle of fairness that underlies promise keeping. Albert's duty toward Louis's health further specifies the principle of promise-keeping so as to justify the exception. The distinction between absolute and non-absolute principles is important for the portion of the justice of right relationship that corresponds to due.

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[56] That is, all moral absolutes are both negative prohibitions and principles that correspond to rights.
[57] John Finnis discusses the example in John Finnis, *Moral Absolutes: Tradition, Revision, and Truth* (CUA Press, 1991) pp. 34-35.

Can reason, apart from supernatural definition, also apprehend certain principles that exceed what is due? Recall that these are mostly imperfect duties, ones whose recipients and content are unspecified and are not dischargeable. Indeed, certain beyond-due principles can be known by reason alone and thus belong to the natural law. The most important of these is beneficence, a duty generally to promote the good of others. Beneficence is a positive duty, not a prohibition. By definition it is an obligation to provide to others beyond that to which they have a right.[58] It is quite wide, encompassing an extensive range of actions. A long tradition of philosophers espousing beneficence includes Cicero, Aquinas, Kant, Mill, W.D. Ross, and William Frankena.[59] A corollary of the general commandment to love one's neighbor or of the master principle of integral human fulfillment, beneficence is justified by the dignity of persons, which a person enacts by providing others with goods that increase their fulfillment.[60] Beneficence might involve, say, volunteering to provide the poor with food, medical care, education, or housing. It is open-ended, though, with respect to how and towards whom it is practiced.

These principles along with the obligations that are due constitute that portion of the justice of right relationship that reason can know: natural law.

Table 8-1: The Natural Law

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[58] Beneficence is a principle, whereas benevolence is the attendant virtue, or disposition to act according to this principle. Beneficence should not be confused with an obligation corresponding to a positive right. Rather, beneficence is a principle that is a positive, or open-ended, duty.

[59] Aquinas recognizes beneficence as a virtue of charity. Aquinas's and Aristotle's liberality (generosity) are similar to beneficence here – a natural virtue that goes beyond due.

[60] How is beneficence related to the Ten Commandments given that most of the commandments appear to be negative prohibitions, "thou shall not"? Recall that the Ten Commandments are metonymy, meaning that each trunk commandment is related to many corollaries. Some of these corollaries take the form of positive duties. For instance, the duty, "give to the poor," an expression of beneficence, is a corollary of "thou shall not steal." See *Catechism of the Catholic Church*, no. 2443-2449.

<table>
<tr><td colspan="2">Principles Known By Unaided Reason

1. Principle of Integral Human Fulfillment, or the portion of Jesus' Greatest Commandment, to love God and neighbor, that reason can know unaided by supernatural definition.

2. Intermediate principles.

3. The Ten Commandment and their corollaries, insofar as they can be known through unaided reason.</td></tr>
<tr><td>Principles that correspond to what is due, or rights

1. All negative prohibitions (some of which are absolute).

2. Obligations to fulfill positive rights.</td><td>Principles that call for providing others beyond what is due to them, or their rights

1. Beneficence is the most important of these.</td></tr>
</table>

Natural principles work closely with basic goods and natural virtues, all three of which are crucial for ethics, MacIntyre teaches. Virtues dispose a person to follow principles, which give direction to the pursuit of goods. Goods are the purpose and point of principles, which direct one to pursue goods rightly. Principles, virtues, and goods are three legs of a stool that teeters when one of them is absent.[61]

How God's Revelation Justifies Justice

The chapter thus far has considered two answers to the question of what justifies justice, that is, why a person is obliged to follow the commandments that constitute the

[61] Alasdair MacIntyre, "Plain Persons and Moral Philosophy: Rules, Virtues, Goods," *American Catholic Philosophical Quarterly* 66 (1992): 3-19. I am indebted to Melissa Moschella for this reference.

justice of right relationship. One of these answers, solely because God commanded these commandments, fails. The second of these answers, because reason apprehends that these commandments are obligatory, merits endorsement.

It would seem strange, though, for a Christian account of justice to rely solely on reason and not at all upon God's revelation. Several intuitions underlie this strangeness. God's promulgation of his law is proclaimed in scripture and is included at the tail end of Aquinas's definition of law.[62] God reveals his law to Moses amidst thunder and lightning, fire and smoke, on a mountaintop, while Jesus, the new Moses, taught the new law on a mount. Further, God teaches that justice is a pathway to an ultimate justice, a consummated comprehensive right relationship. To the Israelites, this justice is a fulsome promised land; to Jesus' hearers, it is union with God in heaven.[63] When Jesus instructs, "[u]nless your righteousness (*dikaiosune*) surpasses that of the scribes and Pharisees, you will not enter into the kingdom of heaven," he teaches that justice is the way to heaven (Matt 5:20). Finally, justice is participation in God and conformity with Christ. These intuitions point to the dependence of justice on divine communication other than reason alone.

The intuitions are sound. Revelation in concert with reason is indispensable for knowledge of justice, not because justice is the will of God alone, as (pure) divine command theory would have it, but because justice manifests God's character, purposes, and promises, which God discloses to prophets, by means of events, and through becoming human. Divine revelation reveals justice in three broad respects.

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[62] Again, Aquinas defines law as "an ordinance of reason for the common good, made by him who has care of the community, and promulgated." See ST I-II, q. 90, a. 4., resp.

[63] Yet, some verses in the Old Testament suggest eschatological fulfillment. See, for instance 2 Sam 7:12-13; Isa 2:2-4; Isa 9:6-7; Isa 25:7-8; Isa 65:17; Jer 31:33-34; Ezek 36:26-27; Dan 7:13-14; Mic 5:2; Zech 14:1-9.

1. *Revelation Clarifies and Heals Knowledge of Justice*

If humans can apprehend justice through reason, they are also prone to be mistaken about it. Revelation brings clarity.[64] In the *Treatise on Law*, Aquinas reasoned that people apprehend principles of the natural law in three ways. First, some principles people grasp readily such as the commandments of the Decalogue, "do not kill," "do not steal," and "honor your father and mother." Second, some principles reason knows through the training of the wise. Aquinas gives the example of the duty to rise up in the presence of the elderly, a corollary of the fourth commandment, honor your father and mother. This kind of knowledge is common in ordinary life. A person can understand high school algebra or assemble a lawnmower through reason but usually only upon the instruction of a teacher or a manual. The third sort of principles, Aquinas argues, are ones that a person can know through reason but only with the assistance of divine revelation. Such principles should not be confused with ones that can be known only through revelation but are rather a variant of the second category of principle in which God is the wise instructor. In all three of these cases, reason benefits from the stabilizing clarity of divine revelation.[65]

Even more than ignorance or error, it is sin that occludes knowledge of justice. "For as time went on sin gained a greater hold on man, so much so that it clouded man's reason, the consequence being that the precepts of the natural law were insufficient to make man live aright," Aquinas writes in Part Three of the *Summa Theologica*.[66] He

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[64] See Aquinas ST I, q.1, a.1; ST I-II, q. 91, a.4.

[65] See Aquinas, ST I-II, q. 100, a.4, resp.; J. Budziszewski, *Commentary on Thomas Aquinas's Treatise on Law* (Cambridge University Press, 2014), 102-112.

[66] Aquinas, ST III, q. 61, a. 3, ad 2.; Budziszewski, *Commentary on Thomas Aquinas's Treatise on Law,* 102.

argues earlier in the *Summa* that sin wounds not only knowledge but also the will, the person's capacity for justice, as well as the person's dispositions, the capacity to govern desires to act contrary to reason and to overcome obstacles to right action.[67] Aquinas completes the sentence just quoted by writing, "and it became necessary to have a written code of fixed laws, and together with these certain sacraments of faith."[68] He thus points to two ways in which revelation counteracts sin. First, God's revelation of his law conveys its truth and its divine origin to humans wounded by sin. Second, God's revelation and performance of his will in Jesus' death and resurrection yields grace that heals human reason, will, and disposition. In the Catholic and many other Christian traditions, humans access this grace through the sacraments, such as the Eucharist and reconciliation.

The obstruction of reason wrought by finiteness and sin, and the rescue of reason by revelation, also take place on the level of societies. Perennially confronting natural law is the question: If humans apprehend morality through their reason and according to their nature such that principles are valid across time and place, then why do some societies widely approve and practice slavery, infanticide, concubinage, and other practices that contravene the natural law? To be sure, natural law is buttressed by substantial evidence for convergence. Prohibitions of lying, stealing, adultery, murder, the defilement of religion, and other deeds, the principle of beneficence, and basic

[67] Aquinas, ST I-II, q. 85, a. 3, resp .
[68] Aquinas ST III, q. 61, a. 3, ad 2.

human goods obtain widely in cultures and religions across time and place.[69] Divergence is substantial, too, though. Why?

Sin and misapprehension are magnified when norms contrary to natural law attain prominent social legitimacy. How they do so, how social reality is constructed, is difficult to generalize about and takes place through economic, technological, cultural, and intellectual influences.[70] Once enshrined and shared, norms exert influence through sanction, education, social pressure, and persuasion. Members of a society labor to think outside them.

Divine revelation can restore a society's knowledge of justice, bringing it into conformity with natural law, through its clarifying and healing influence. Classicist Kyle Harper argues that Christian thinkers introduced into antiquity the concept of human dignity, or the incomparable worth of the human person, along with freedom of the will, equality, responsibility, and the universality of all these qualities. Harper documents carefully the absence of dignity (in the sense of intrinsic worth) in Greek and Roman thought.[71] It was instead from the Bible that Christians drew these ideas, especially from

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[69] See C. S. Lewis, *The Abolition of Man* (HarperOne, 2001), 83-89; Ronald Michael Green, *Religion and Moral Reason: A New Method for Comparative Study* (Oxford University Press, 1988). The argument in this section addresses the place of divine revelation in buttressing a society's adherence to the natural law. It does not address two important related questions. One is the interpretation of scriptures in the Bible, particularly in the Old Testament, that appear to stand in tension with the natural law. The other is doctrinal development, a concept pertaining to the magisterial teaching of the Catholic Church.

[70] The judgment regarding the difficulty of generalization is fortified by a rejection of one-dimensional explanations of social reality such as Marxism, which views principle as emanations of relations of production and class. For an excellent account of the "construction of social reality" see Christian Smith, *What Is A Person? Rethinking Humanity, Social Life, and the Moral Good From the Person Up* (University of Chicago Press, 2010), 119-219, 317-383.

[71] As I argued earlier in this chapter, dignity can either mean high station or intrinsic worth. Certainly, Roman thought, the writings of Cicero, for instance, contained the concept of dignity, which is derived from the Latin concept, *dignitas*. Classicist Kyle Harper argues, though, that in Cicero it meant high station rather than intrinsic worth. See Kyle Harper, "Christianity and the Roots of Human Dignity in Late Antiquity," in *Christianity and Freedom*, vol. 1, *Historical Perspectives*, ed. Timothy Samuel Shah and Allen D. Hertzke (Cambridge University Press, 2016), 127-128.

the image of God in Genesis; the incarnation, where God took human flesh and thereby dignified the human person; teachings on care for the poor; and teachings on marriage. During the century after the Roman Emperor Constantine's conversion in 312 CE, when Christianity became legal in the empire, Christian theologians and prelates condemned slavery, sexual coercion, and neglect of the poor. Cappadocian Father Gregory of Nyssa, for instance, condemned slavery itself on theological grounds and did not merely call for the more humane practice of it. In some respects, Christianity brought about changes in practice, especially in care for the poor. Harper does not deny the slowness of social change nor the practice of injustice in medieval Christianity, especially the coercion of religious belief. He argues, though, that the rise of human rights, equality, and social reform in the Enlightenment period centuries later – dignity was a major theme in Kant's thought – came to flower on account of seeds that Christianity had planted centuries earlier. No Kant Without Constantine, Harper quips.[72]

The ideas that Harper argues Christianity contributed to civilization – dignity and its siblings – are ones belonging to the natural law. Yet, the community of people that brought these ideas into social life was one formed, influenced, and bonded by divine revelation. What revelation does for these principles, and for the natural law more broadly, is several things. God's word in the Bible confirms that the principles are created and sustained by God and reflect his nature and goodness. God's incarnation exemplifies and gives new authority to the principles. God's blessing and punishment

[72] Similar theses can be found in Larry Siedentop, *Inventing the Individual: The Origins of Western Liberalism* (Harvard University Press, 2014); and Tom Holland, *Dominion: How the Christian Revolution Remade the World* (Basic Books, 2019). Holland makes the argument that Christian categories are so pervasive in western civilization that opponents of injustices, or reformers, usually have appealed to Christian categories – dignity, equality, freedom – in their arguments, even when injustices are supported by Christian hierarchies.

connects the principles to consequent states of affairs. Revelation confirms that human justice flows from divine justice.

The Christian Church preserves and carries forth revelation in time. Here again, churches differ over the manner in which this takes place. The Catholic Church holds that its magisterium teaches matters of faith and authority with divine authority, inspired by the Holy Spirit, and so may clarify the natural law where it is disputed. Following the terrorist attacks of September 11th, 2001, western philosophers and public officials debated the moral permissibility of torture as a method of gaining information about prospective terrorism. The Catholic Church teaches – in the paragraph from *Gaudium et Spes* quoted earlier, in subsequent documents, and in the *Catechism* – that torture is prohibited absolutely as a violation of human dignity, a corollary of the fifth commandment, "do not kill," and that this teaching is a tenet of the natural law. The magisterium, if one accepts its authority, clarifies what reason can know.[73]

Revelation, then, clarifies what humans can know through reason but are liable to misapprehend through sin and ignorance. Revelation involves not only the impartation of knowledge but also God's healing actions, and clarifies reason in certain other manners as well. It conveys that natural law is known through human capacities that God created; that the natural law is a participation in God's reason; that, through adhering to it, people may "abide" in Christ (John 15:10); and that principles of the natural law are portals to heavenly beatitude.

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[73] See *Gaudium et Spes*, sec. 27; *Catechism of the Catholic Church*, no. 2297-2298. The *Catechism* notes the Catholic Church's approval of and cooperation with torture in previous history, indicating that a doctrinal development has taken place by which a natural law precept comes to be taught clearly at a date in Church history.

What emerges is a resolution to a familiar debate among adherents to the natural law. One side holds plainly that natural law is known through unaided reason and is valid across time and place; the other that natural law is unlike to gain adherence among a people who disbelieves in God. Both sides are right. Reason knows the natural law even without knowledge of revelation, while God reveals his authorship of natural law.

2. *Revelation Discloses Justice as a Supernatural End*

Aquinas and virtually all Christians who affirm the natural law hold that beyond the natural end to which all humans are ordered, Christians are ordered to a supernatural end. The natural end is integral human fulfillment, or fulfillment in the goods of this life, directed by the principles of the natural law. These principles make up the justice of right relationship in its three dimensions – with God, with others, within the self. The supernatural end, which a Christian comes to possess upon receiving grace, is fulfillment in heaven, an end that is beyond reason. "What eye has not seen, and ear has not heard . . . what God has prepared for those who love him," Paul writes in 1 Corinthians (2:9).[74] This fulfillment, summarized aptly as beatitude, also contains the three dimensions of right relationship: each human being's union with God; perfect harmony between humans; and the purification of each human's self. Heaven is justice elevated by grace and is an end that is revealed by God, most fully through Jesus Christ.[75]

This supernatural end, beatitude, is one that Christians ought to seek in all of their actions. In the language of Aquinas, it is an infused end, one that God gives to

[74] Paul quotes Isaiah 64:3 in this verse.
[75] Aquinas holds that justice will obtain in heaven, consisting of acts subject to God, in ST I-II, q. 67, a. 1, resp. He cites Augustine in the matter.

human beings through grace. Aquinas discusses this supernatural end in the context of the virtues. The Christian, living by grace, possesses a new set of virtues that dispose him toward his supernatural end. The classical supernatural virtues in the Christian tradition are the theological virtues, faith, hope, and charity, which Paul enumerates at the end of 1 Corinthians 13. Aquinas explains that these virtues are theological for three reasons: 1) they direct the person to God as his object; 2) God alone infuses them in the person; and 3) they are known only through divine revelation, conveyed through Scripture.[76] Less well known in the Christian tradition, though receiving increased attention from moral theologians in the past generation, are what Aquinas calls the infused moral virtues.[77] These virtues, he explains, are known by reason and take the cardinal forms of justice, prudence, temperance, and fortitude. Through grace, though, they take on an "infused," or supernatural, form. Temperance, for instance, involves a mean between overeating and undereating in its natural form, but comes to include fasting – a shifted mean – in its supernatural form. Natural virtues are thus redirected to the divine, reordered through grace, and come to resemble theological virtues.[78] They direct human actions towards beatitude.

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[76] ST I-II, q. 62, a. 1, resp.

[77] A few key works in recent literature on infused and acquired virtues include David Decosimo, "Ordering Reasons, Mediating Virtues," *Studies in Christian Ethics* 36, no. 2 (May 2023), 315-43; William C. Mattison III, "Aquinas, Custom, and the Coexistence of Infused and Acquired Virtue," *Journal of Moral Theology* 8, no. 2 (2019), 1–24; William C. Mattison III, "Can Christians Possess the Acquired Cardinal Virtues," *Theological Studies* 72, no. 3 (2011), 558–85; Angela Knobel, *Aquinas and the Infused Moral Virtues* (Notre Dame Press, 2021); Jean Porter, "Moral Virtues, Charity, and Grace: Why the Infused and Acquired Virtues Cannot Co-Exist," *Journal of Moral Theology* 8, no. 2 (2019), 40–66; Harm Goris, "Acquired and Infused Moral Virtues in Wounded Nature," in H. Goris and H. Schoot (eds.), *The Virtuous Life: Thomas Aquinas on the Theological Nature of Moral Virtues* (Peeters, 2017), 21–46; Andrew Pinsent, "Who's Afraid of the Infused Virtues? Dispositional Infusion, Human and Divine," in *The Virtuous Life*, 73–96; Thomas Osborne, Jr., *Thomas Aquinas on Virtue* (Cambridge University Press, 2022), 150–57.

[78] ST I-II, q. 63, a. 3, a. 4; q. 64, a. 4. Aquinas quotes 1 Corinthians 9:27.

That the Christian, a new creation, has a new end, divine beatitude, raises the question: Does he still pursue natural ends in the sense that these are pursued prior to receiving grace? Are basic goods still forms of intrinsic human fulfillment, or are they now instrumental to the end of beatitude? Or does the Christian pursue both natural and supernatural ends? If Miguel becomes a Christian, does he now bake cakes only as means, or instrument, of glorifying God and seeking eternal beatitude? Or does the joy that Miguel takes in stirring up the cake mix, decorating the cake, completing it, and providing it to others continue to be a form of human fulfillment that is good in itself? If it is the latter, then is Miguel dividing his actions between two ends and failing to order all of his actions toward God as befits a Christian? How can supernatural and natural ends be reconciled in the life of a Christian? Moral theologians differ on the matter.[79]

A promising answer affirms that a Christian's faithful actions in this life seek beatitude as their chief end, yet continue also to seek basic goods, which remain intrinsic forms of fulfilment, and to be governed by natural law principles, which direct this fulfillment. Supernatural and natural ends are integrated in actions. How so? Mistakenly construed as mere means, natural ends are better conceived, as moral theologian David Decosimo proposes, as "mediating," "referring to," "commanded by," or, I propose, "expressing" the supernatural end.[80] Baking a cake – mixing the batter, decorating the cake, tasting a morsel – remains a naturally, intrinsically, fulfilling activity that Miguel now directs to the glory of God and to his eternal end. True, Miguel might bake the cake for additional supernaturally defined purposes. He may, for

[79] See footnote 75.
[80] David Decosimo, "Ordering Reasons, Mediating Virtues: How and Why Thomas Aquinas Affirmed the Compatibility of Acquired and Infused Moral Virtue," *Studies in Christian Ethics* 36, no.2 (2023)," 325-26.

instance, decorate the cake with an evangelistic message. Yet, in baking the cake for God, Miguel loses nothing of the intrinsic good – skillful work, aesthetic appreciation – of making the cake. He expresses his chief end, life with God, by pursuing natural ends that become folded into his chief end without losing their integrity as natural ends.

Behind this expressivist view of ends is an affirmation of creation, or divine primary justice. God created the world as good, as Genesis 1 makes clear, including human beings, whom she endowed with a nature such that they are fulfilled through goods – life, health, play, knowledge, friendship, and so on. When a Christian pursues these goods out of love for God, she pursues what God created and loves what God loves. This includes loving other people, the pinnacle of God's creation.

The film, *Chariots of Fire*, stars a historical figure, Eric Liddell, a young Christian who intends to become a missionary in China but wishes first to compete in track in the 1924 Olympics. Eric's devout sister, Jenny, worried that he is straying from his divine vocation, pleads with him not to be diverted by running and to focus on his true calling, one that is intelligible only in light of supernatural revelation. Eric responds to her, "I believe God made me for a purpose, but he also made me fast. And when I run, I feel his pleasure . . .. To win is to honor him."[81] In choosing to pursue his immediate vocational goal of running, Eric adopted a goal that he aimed to perform for the glory of God but which he did not cease to love for its natural, intrinsically fulfilling qualities – the movement of the body, the pulsating heart, the strategy in racing, all of the qualities that running entails. He ran as an expression of – not as a means or alternative to – his love

[81] *Chariots of Fire*, directed by Hugh Hudson, written by Colin Welland (1981, Warner Home Video, 2005), 59:21.

for God. After Liddell won the gold medal in the 440-yard race, he took up his vocation as a missionary in China, where he died in an internment camp in 1945.

So, it is with justice. The Christian seeks right relationship through pursuing natural goods through natural principles – integral human fulfillment – and pursues them as an expression of his love for God. Numerous illustrations obtain in the political realm. When French Foreign Minister Robert Schuman (see the introduction) advocated for European federalism in the late 1940s, he did so out of service to God and by way of economic and strategic military ends that shared in the natural common good. It is also true, though, that a Christian's actions will bear out distinctively supernatural ends and principles, ones that involve more than natural goods and principles alone. Motivating Schuman even more was reconciliation, an end defined by God's cross and resurrection. A Christian will pursue his supernatural end not only through natural ends that express it but also through principles that he knows through faith in revelation. What are some of these?

3. *Revelation Expands the Content of Justice*

The New Testament records Jesus confirming and issuing commands, the totality of which is *dikaiosune*, or justice. Certain Jesus' commands expand justice. Expand it beyond what? Perhaps beyond the Jewish law, or what came to be known as the Old Testament. But does justice in the New Testament differ from justice in the Old Testament? Scholars debate the matter. A large amount of New Testament moral teachings, some would say, all, can be found in the Old Testament, including ones often thought to be distinctive to the New Testament such as forgiveness and love of enemies, even while the New Testament also appears to develop, radicalize, and call for a greater

interior commitment to moral tenets.[82] The criterion for expansion at hand, though, is not the Old Testament but rather the natural law. Certain of Jesus' commandments expand justice beyond the principles that reason alone can know, the principles of the natural law that I outlined in the previous section of this chapter and that Table 8-1 summarizes. To be sure, Jesus confirms the Ten Commandments and their corollaries, which the Christian tradition has thought to be knowable by reason, but Jesus also issues some additional commandments whose obligatoriness reason alone cannot know.[83] The binding quality of these commandments is established by the authority of Jesus teaching them. They are known supernaturally; they were revealed. This is a third role for revelation in justifying justice – expanding the commandments.

A distinction arises here, then, between commandments that are known naturally and ones that are known supernaturally. It must not be confused with the distinction that the foregoing chapters have developed between commandments that are due and ones that exceed due. The due/beyond due distinction pertains to the content of norms of justice: Do they fulfill the rights of others, or are they imperfect duties, which do not correspond to rights? By contrast, the natural/supernatural distinction pertains to how principles are known. It corresponds to the question of this chapter: How is justice justified? Or, how can we know that principles of justice are obligatory? The two distinctions – due/beyond due and natural/supernatural – overlap but are not coterminous. All supernatural obligations are beyond-due, but not all natural

[82] For instance, the teaching to love one's enemies can be found in Prov 24:17 and Prov 25:1-2, and to forgive in Sir 28:2-7.
[83] For Jesus' affirmation of the Ten Commandments, see Matt 4:10; Matt 5:17-19; Matt 5:21-27; Matt 19:18-19; Matt 22:37-40; Mark 10:19; Luke 12:15; Luke 18:20. Elsewhere in the New Testament, see Rom 13:8-10; Jas 2:10-11; and 1 John 5:3.

obligations are due. Rather, natural obligations are both due and beyond-due. Table 8-2 illustrates.

Table 8-2

Content of obligations ➔ Mode of knowing obligation ⬇	Due	Beyond Due
Natural	All negative prohibitions Obligations to fulfill positive rights	Beneficence, natural mercy
Supernatural		Jesus' commandments that are determinations of beneficence (for example, Christian mercy, hospitality, and care)

Several of Jesus' commandments are of this supernatural sort. They are known to be obligatory because Jesus taught them. Chapter Seven discusses several of these commandments and Chapters Ten and Twelve elaborate them and explore their implications for politics.

Jesus expands the first part of his Greatest Commandment – "You shall love the Lord, your God, with all of your heart, with all of your soul, and with all of your mind" (Matt 22:37-38) – beyond the natural duty to worship God.[84] Jesus fully reveals that the God that his followers ought to seek and worship is the Trinity and is a God with whom one may attain union in heaven, and he tells his followers to receive his body and his blood, to do this in remembrance, in worshipping him.[85] Jesus does not call his followers away from their natural duty of fealty to God but rather expands it.

[84] On this duty, see above in this chapter.
[85] Matt 26:26-29.

Through certain principles, Jesus also expands the second part of his Greatest Commandment, or love of neighbor, beyond the natural law. Each of these principles is a specification of the duty of beneficence. Each adds more particular content and definition to the positive, open-ended, natural obligation to promote the good of others beyond what they are due, or have a right to. Each of them is patterned by and calls for imitation of Jesus' Cross and Resurrection, a divine action that itself exceeded what natural law norms require, exceeded what was due, and adds new content to justice, most distinctly sacrificial and restorative love. Of these principles, the most encompassing, one which several of the other principles in turn reflect, is mercy, the will to alleviate the distress of others. Others include gift of self, sacrificial love, care, care for the poor in particular, generosity, peacemaking, love for enemies, and pursuing a divinely given vocation. Another principle of love for neighbor, forgiveness, extends the principle of retribution, part of which calls for proportionate retaliation, to the point of foregoing retaliation. The command to conduct evangelization is also an extension of love of neighbor prescribed through supernatural teaching. All exceed the natural law and are commanded by Jesus.

If these commandments are obligatory because Jesus taught them, the question arises again: Should people accept them only because they are God's commands, as divine command theorists would have it? No, the norms are intelligible, sharing in the reason of the norm from which they are derived, but unlike natural law norms, are not known as binding by reason alone but rather by virtue of the command of Jesus. What makes sense out of this answer is the concept of determination.[86]

[86] Grisez refers many times to the concept of determination in presenting "integral human fulfillment in Jesus," the set of principles that arise through the teachings of Jesus. Keeping in mind that sometimes

Recall that a determination is a principle that is derived from a more general principle, but is not derived necessarily. By contrast, a corollary is a principle that is derived necessarily from another principle. Philosophers often illustrate determinations with traffic laws. The purpose of these laws is to promote the more general norms of protection of life and promoting the ends of transportation, which further the basic goods of life, health, and all other goods that transportation facilitates – principles and goods that reason alone may apprehend. It cannot be known on the basis of these principles and goods alone, though, what sort of traffic scheme, say, roundabouts or intersections with stoplights, is best. One of these schemes may well be superior; each of them enjoys surely strong rationales in the minds of their ardent proponents; and the rationale for neither of them is arbitrary or gibberish. Neither scheme, though, derives necessarily from more general principles.

Why are determinations binding upon the people who live under them? Because a rightly constituted authority stipulates them. In the case of a human law, this authority is the government. The town council possesses authority to establish roundabouts and when it does, citizens are obliged to obey the rules attending roundabouts. The authority of the government rests upon its purpose of promoting the common good, which can be known through reason and is advanced through principles knowable by reason. Citizens are obliged to obey this authority because of its purpose, not simply because officials exercise their will.[87]

Grisez uses the term "specification," or "more definite" to mean much the equivalent of determination, see Grisez, *Christian Moral Principles*, 600-601, 604-609, 611, 628, 630-631. The corresponding sections are Chapter 25: A-8,9; C-4; D-6; E-3, 4, 6, 9, 13, 14, 16; F-10; and Chapter 26: A-3; B-4, 8.

[87] Chapter Nine discusses the authority of government in detail.

Analogously, Christians live under commandments that take the form of determinations, norms that reason alone does not know and that God reveals. God is the rightly constituted authority. Recall Aquinas's scheme of Biblical precepts. In addition to the moral precepts, which reason alone can know, are determinations of these precepts which, in the Old Testament, take the form of ceremonial and judicial precepts. God revealed them to the Israelites through Moses. Jesus subsequently fulfilled these judicial and ceremonial precepts in a manner that annulled their injunctive force, rendering them no longer binding on his followers. Christians are not bound to the Jewish norms of diet and Sabbath observance and to the set of punishments stipulated for the people of Israel, for instance. By contrast, the moral precepts, known by reason alone, would remain in force, as Jesus taught.[88]

Additionally, Jesus taught certain norms that are determinations of more general norms and that remain in force. These are the norms that I just mentioned – mercy, care for the poor, forgiveness, and so on. Like all determinations, these norms are not ones that people know to be necessary, but neither are they beyond intelligibility. They are specifications, or derivations, of more general norms. They derive their authority, and are justified, by the fact that God possesses authority to command them on the basis of his goodness, truth, and wisdom. The God who is reason – the Word, or Logos, made

[88] See Chapter Four. The Cross and Resurrection are themselves God's determination. God was committed to being faithful to his creation and his covenants and, through his promise to Noah, ruled out one course of action: destroying the world again. Still, God might have responded justly to sin in several ways. He might have punished humanity widely but short of complete destruction. He might have demanded a penance or punishment from humanity before restoring it to good graces. Or, he might have waived punishment. His response, instead, though, was to take the form of a human, suffer the death of the Cross, and forgive humanity's sin in a manner that paid the debt of sin and won the grace that would restore humanity to right relationship. This response was his New Covenant. As a determination, God's act was not necessitated by the prior principle of God's faithfulness to his creation. Yet, the way he chose also manifests a profound intelligibility as an act of mercy and restoring love and reflects the merciful quality of God's being.

flesh – reveals commandments that are intelligible, derived from more general norms that are known through reason alone and that reflect the God who himself is reason (and goodness, truth, and wisdom). In this way, revelation and reason collaborate to justify these teachings. They are supernatural teachings in the sense that they are defined and authorized by the one who is divine.

Intelligible, the determinations enfold and do not negate natural principles and goods, that which reason alone knows. Grace builds on nature. These principles and goods help to define mercy, gift, and the like. To practice mercy, for instance, is to work to alleviate the suffering of others out of heartfelt compassion, and to bring them closer to wholeness, which is defined by the realization of the basic goods. Elena, a star soccer player in college, becomes a Christian and decides to dedicate herself to coaching soccer among poor children at a low salary, a work of mercy. She aims to help the kids play soccer well, love the game, play fairly, eat healthily, and develop strength as well as to study hard in school, honor their parents, and refrain from stealing and lying to others. Elena's decision and efforts to coach manifest a mercy patterned on the Cross and Resurrection, but they do not negate or replace what is natural, that which reason alone knows.

Because determinations are intelligible, non-Christians may apprehend them. Many of the principles are found analogously, if not identically, in other religions and philosophies. Islam, for instance, teaches that mercy is one of the most important attributes of Allah. Muslims may understand Christian mercy just as Christians may understand Islamic banking norms or Jewish dietary practices. There is nothing inaccessible about these practices to people who do not live under them. The mutual

intelligibility of norms assists in building consensus on them including in the public realm.

If these teachings of Jesus are widely intelligible, though, they are binding only upon the people who have accepted his authority, the authority that makes determinations obligatory. By contrast, the tenets of the natural law are binding on all people by virtue of their rational capacity to apprehend their binding force. A Christian would not counsel a Jew to forgive because Jesus forgave him on the Cross, just as a Jew would not enjoin a Christian to obey Jewish dietary law. Both the Christian and the Jew, though, are entirely within their rights to enjoin the other to pay his bills to the No Squirrels Roofing Company.[89]

Even still, reason's apprehension of all of the commandments, those that it alone knows and those that are divinely revealed determinations, does not exhaust the meaning of the commandments, which point to infinite mystery and unfathomable intelligibility. Marriage, for instance, is a basic good that commits spouses to the natural ends of begetting life and friendship yet even more so involves a gift of self that is iconic of God's love for the world and the church, a love whose depth cannot be achieved or grasped. The good of human life is the source of norms against killing and yet has a destiny in a glorified eternal life beyond understanding. As with the depth of the ocean, the expanse of the stars, or a mountain shrouded in mist, a person can see and understand a portion of reality but also know that far more exists than what she perceives.

What Justifies Justice?

[89] I come back to this matter in my discussion of public reason, Chapter 14.

What justifies justice? This chapter's question presupposes the justice of right relationship that the foregoing chapters have sought to resurrect. Expressed as *dikaiosune* in the New Testament, it is the justice that carries forth *sedeq(ah)* from the Old Testament and is fulfilled in Jesus Christ. The chapter has focused on the portion of this justice that is human justice, the entirety of commands that God sets forth for human beings. This justice is distinct from the dominant concept of justice, that which renders due, in that it consists of both obligations that render what is due and ones that exceed what is due. The chapter's question, then, is: On what basis do we know that this justice, these obligations, are true?

The chapter considers three answers to this question, each resonating with strands of the Christian tradition. First, it takes up and turns down the claim of pure divine command theory, that obligation is conferred by the will of God alone. Second, it argues that many of the commandments are ones that humans can know are binding through the unaided exercise of their reason. These commandments, directing human fulfillment in the form of basic goods, belong to the natural law. Third, it argues that still other commandments that Jesus gives – be merciful, take up your cross, forgive, be hospitable to the stranger – are determinations of natural law commandments, ones that share in the intelligibility of these broader norms and are rendered binding through the explicit teachings of Jesus. In this sense, they are supernatural. All of these commandments, ones that render due and ones that exceed due, ones that are known both naturally and supernaturally, consisting of the Ten Commandments, their corollaries, and still other commandments of Jesus, make up *dikaiosune*, or the justice of right relationship. All of the commandments participate in God, his creation and his redemption of the world. Human justice reflects divine justice.

This justice stands distinct from still other traditions of ethics. Against deontological theories, proffering principles that are binding independently of happiness and well-being, the justice of right relationship is precisely ontological, proposing principles that direct the pursuit of goods, which are forms of human fulfillment – a principled eudaimonism. This justice also contrasts with consequentialism, whose only principle is maximization of the good consequences of action, and its variant, utilitarianism, calling for the maximization of pleasure over pain. It affirms virtue but differs from some ethics of virtue in centering upon actions governed by principles. Principles of justice, in turn, stand independently of power, position, and interest, the factors that produce justice in the thought of Marx, Nietzsche, Foucault, and their legatees, and this independence enables justice to judge these factors and their place in human relationships. The justice of relationship yields principles for politics, as Chapter Nine begins to explain.

Part Two: Realizing the Justice of Right Relationship

Chapter Nine: Realizing Justice in Politics

We arrive at politics. Yet, why take up politics only after seven chapters about justice that refer to politics but intermittently? The question points to its answer and to the core claim of the remainder of the book: Politics participates in the justice of right relationship. The purpose of the political order – political authority and public law – is to promote a justice that precedes politics. Likewise, political action, undertaken by officials or employees of the government or by citizens at large, is rightly ordered to the justice of right relationship.

Politics belongs to the human dimension of the justice of right relationship, the totality of commandments that are obligatory upon humans. These commandments make up a moral order that God creates, sustains, and restores in his divine justice. They consist of those known naturally, through the reason that God has imprinted upon humans, as well as supernaturally, defined through revelation, known by faith, yet also intelligible to reason. They consist of commandments to render others their due, or their rights, as well as those that extend beyond what is due such as generosity, gift, mercy, forgiveness, reconciliation, care for the poor, and hospitality. This entire moral order governs politics.

This chapter purports to show how politics participates in the justice of right relationship. This participation contrasts with and seeks to repair the separation of politics from this justice. I identified rationales for this separation in the introductory chapter and considered several in depth in Part Three. The strongest such separations since Machiavelli and Hobbes have based political authority in willed consent, self-interest, liberation from economic exploitation, the will to power, and expressive autonomy. Some Christian political theologies have argued for a different sort of

separation based on a disjuncture between the divinely established moral order and politics – Christian realism and Christian radicalism. Other political theologies envision that either the supernatural or the natural dimension of God's moral order be separated from politics. The contention here is that politics participates in the moral order that precedes politics and is ordered to both its natural and supernatural dimensions.

One narrative of separation will object to the participation of politics in the comprehensiveness of the justice of right relationship, namely a form of liberalism that views religion as a source of unjust coercion, imposition, and violence in politics and recommends that it be sidelined. I will argue incipiently in this chapter and in greater depth in Chapter Fourteen on liberalism, that while all politics participates in the justice of right relationship, politics does not promote all of the justice of right relationship and ought to heed limits much like those found in modern constitutional liberal democracies. It respects rights, liberties, and the autonomy of associations and spheres of action. These limits, though, are justified and prescribed by the justice of right relationship, not rooted in rationales that separate politics from this justice. The political order defended here protects the freedom of people to pursue the justice of right relationship naturally and supernaturally, rendering and exceeding what is due.

What is Politics?

Politics is everywhere on certain rationales. "It's all politics," people say, declaring that in the affairs of the firm, the family, the school, or the hospital, principles and ideals shroud pursuits of position, power, and money. Perhaps unwittingly they speak for a tradition of thought postulating that power and only power moves politics and law. Thomas Hobbes reasoned much this way in the seventeenth century; Karl Marx

and Friedrich Nietzsche expanded power's meaning in the nineteenth century; legal positivists, rational choice theorists in political science, and post-modern theorists such as Michel Foucault and Judith Butler, though in different ways, have posited and widened power's explanatory ambit.

Here the rationale is different: Politics is a distinct, delimited sphere and is ordered to a purpose, the common good of a people. The Bible expresses this rationale and Thomas Aquinas and his legatees have articulated it thoroughly. Politics, or the political order, is that portion of comprehensive right relationship – the vast network of persons pursuing goods together – that is subject to the authority of public law and to the governments that make, enforce, administer, judge, and are in turn authorized by, this law. Political action properly promotes temporal ends, consisting of basic human goods, ones that comprise fulfillment, flourishing, and happiness in earthly life. In modern states this action includes domestic law enforcement; defense against external enemies; provision of infrastructure, including transportation, electricity, water, and energy; conduct of elections; provision for the poor; provision of health care and welfare; education; protection of property and regulation of the economy; provision of parks and public lands; and preservation of the natural environment. The political order is distinct from and rightfully respects the autonomy of other forms of organization, including religious communities, the family, businesses, civil society organizations, and non-governmental organizations, respecting the freedom of persons to pursue their vocations and a wide variety of pursuits. While the political order is distinct and delimited, though, there is a sense in which it is encompassing: It protects, regulates, and defines the spheres of autonomy of all other forms of community as well as the

individuals living under it, all of whom are insufficient to provide for their needs and require the coordination of law for their functioning and survival.[1]

Political orders have taken manifold forms over history: kingdoms, principalities, empires, suzerainties, tribes, and the realm of judges found in Israel before its kingship. Today, enjoying astonishing universality, having become the first political institution ever to extend its reach to virtually the entire land surface of the globe save the polar circles, is the sovereign state, a territorially bounded political order in which one holder of authority is supreme.[2] These holders of authority range among Islamist regimes, secular dictatorships, monarchies, Communist states, and liberal democracies ruled by the people. Almost all sovereign states have constitutions. Sovereign states encompass smaller political entities at the level of regions, states, provinces, counties, and towns. States carry rights and obligations towards other states as governed by international law and the international organizations to which they belong. The states of the European Union have "pooled" some of their sovereignty into common federal institutions.[3]

Political action is not only the normal participation in these institutions of the president, the judge, the middle-ranked civil servant, and the orange-vested worker for the highway commission, but is also any form of act, any performance of right relationship, that aims to influence the common good that these institutions and public

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[1] The sense in which politics is an encompassing community is similar to Aristotle's notion of the polis as a "complete community," found in Aristotle, *Politics*, trans. Carnes Lord (University of Chicago Press, 1984), 3-4. Aquinas also thought that the *civitas* is a complete or "perfect" community in the natural sense while also arguing that the Church is a superior community for its supernatural end. See Aquinas, ST I-II, q. 90, a. 3, ad 3; Aquinas, *On Kingship*, trans. Gerald B. Phelan (Pontifical Institute for Medieval Studies, 1949), 10, 58-63.

[2] On the meaning of sovereignty, see Daniel Philpott, "Sovereignty," in *The Stanford Encyclopedia of Philosophy*, ed. Edward N. Zalta, Fall 2020 ed., https://plato.stanford.edu/archives/fall2020/entries/sovereignty/.

[3] See Chapter One.

laws promote, which might include the work of the local volunteer, the voter, the protester, the lobbyist, the community organizer, the guerilla fighter, the political journalist, the blogger, or the justice advocate. Political action includes a Ugandan villager forgiving members of the Lord's Resistance Army for their crimes; the head of an NGO fighting against human trafficking in Southeast Asia; the citizen who attends a city council meeting in Münster, Germany to advocate traffic humps; the mid-level civil servant who works at a regulatory agency; the religious sister who runs a ministry to welcome immigrants at the border of the U.S. and Mexico; the Ukrainians who protested their government at Maidan Square in late 2013-early 2014; the soldier who joins the Tigray People's Liberation Front in Ethiopia, and the leader of the restorative justice program of Precious Blood Ministries in Chicago, Illinois. In these wide forms of political action can be found the wide forms of obligation that make up the justice of right relationship.

Justice is the Purpose of Politics in The Bible

The Bible attests that politics is ordered to human justice, which, as argued in Part One, is ordered to divine justice. Divine justice is encompassing and thus enfolds politics. God creates and establishes the moral order, which governs the actions of all persons in all dimensions of right relationship. God redeems the entire world, inaugurates its restoration, and promises to bring this restoration to completion. The scripture's phrase, "all things," expresses the universal character of this action. A hymn in Colossians reads, "for in him were created all things in heaven and on earth . . . all

things were created through him and for him," and shortly thereafter that God was pleased "to reconcile all things" through Christ (Col 1:16, 20).[4]

The political order is part of what the Bible calls the "world." The words that English bibles translate into world contain three meanings, theologian David Elliot explains. First are *ge* or *kosmo*s, which mean all that God has created. Second is *oikoumene*, which means the inhabited world, or civilization, or people and their affairs. Third is *aion*, meaning "epoch," "period," or "age," and usually describes the world as being in the power of the Evil One though destined to be liberated.[5] The first two of these meanings embody what God has created as good, saw become marred by sin, and now wills to restore. The well-known passage in the Gospel of John (3:16-17), "for God so loved the world (*kosmon*) that he gave his only Son . . . [so] that the world might be saved through him," teaches that God loves what he created and, because he loves it, wills to restore it. In turn, humans ought to love and seek to restore the world, including that part of the world which is the political realm. Pope John Paul II's letter on the laity, "Christifidelis Laici," explains:

> In fact the [Second Vatican] Council, in describing the lay faithful's situation in the secular world, points to it above all, as the place in which they receive their call from God: "There they are called by God." This "place" is treated and presented in dynamic terms: the lay faithful "live in the world, that is, in every one of the secular professions and occupations. They live in the ordinary circumstances of family and social life, from which the very fabric of their existence is woven." They are persons who live an ordinary life in the world: they study, they work, they form relationships as friends, professionals, members of society, cultures, etc. However, the Council considers their condition not simply an external and environmental framework, but as a reality destined to find in Jesus Christ

[4] Other important instances of "all things "are found in John 1:3-4; Rom 5:18, and Rom 11:36.
[5] David Elliot, "Passing Through the Sirens: The Trials of the Christian Wayfarer in the World," *Touchstone*, July/August 2012, find at https://www.touchstonemag.com/archives/article.php?id=25-04-034-f&amp.

> the fullness of its meaning . . .. The "world" thus becomes the place and the means for the lay faithful to fulfill their Christian vocation, because the world itself is destined to glorify God the Father in Christ.[6]

A person practices his vocation "for the life of the world," in the phrase of the Orthodox theologian, Alexander Schmemann, which includes pursuing justice in the political order. *Christifidelis Laici* explains further:

> In order to achieve their task directed to the Christian animation of the temporal order, in the sense of serving persons and society, the lay faithful *are never to relinquish their participation in "public life",* that is, in the many different economic, social, legislative, administrative and cultural areas, which are intended to promote organically and institutionally the *common good* . . .. [E]very person has a right and duty to participate in public life, albeit in a diversity and complementarity of forms, levels, tasks and responsibilities . . . . [T]he Second Vatican Council's words are particularly significant: "The Church regards as worthy of praise and consideration the work of those who, as a service to others, dedicate themselves to the public good of the state and undertake the burdens of this task."[7]

Public life belongs to the realm of divine justice and thus is a field of human justice.

While the Bible generally espouses a justice that encompasses politics, it teaches more specifically that God establishes political orders for the purpose of promoting justice. God grants the Israelites a political authority, first judges and later kings, and commands people and rulers to live justly. The Book of Deuteronomy records Moses conveying God's word to the Israelites, "[y]ou shall appoint judges and officials throughout your tribes to administer true justice (*sedeq*) for the people in all the

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[6] Pope John Paul II, "Christifidelis Laici," encyclical letter, December 30, 1988, §15, find at https://www.vatican.va/content/john-paul-ii/en/apost_exhortations/documents/hf_jp-ii_exh_30121988_christifideles-laici.html.

[7] "Christifidelis Laici," 42, italics in original. Alexander Schmemann, *For the Life of the World: Sacraments and Orthodoxy* (St. Vladimir's Seminary Press, 1973); and, more recently, Miroslav Volf and Matthew Croasmun, *For the Life of the World: Theology That Makes a Difference* (Brazos Press, 2019).

communities which the Lord, your God, is giving you" (16:18).[8] Moses' injunction appears in a long series of passages, spanning Chapters 4 through 26 in Deuteronomy, in which Moses conveys laws and instructions from God to the Israelites after they have been liberated from Egypt and are headed for their common life in the promised land. As local rulers of "communities," judges and officials have a clear purpose – to administer true justice for the people. A few verses later, Moses issues his more sweeping statement, "justice (*sedeq*) and justice (*sedeq*) alone shall be your aim," (16:20). Judges and officials, then, are to administer a justice that shares in the comprehensive justice of right relationship that God has set forth through Moses.

Some three centuries later, the Israelites became unhappy with their judges, the First Book of Samuel recounts. They demanded a king who will be above the corruption of the judges, who will be like those of other nations, and who will lead them in battle (8:4, 20). An extended colloquy ensues in which Samuel conveys to the Israelites the Lord's response that they are "rejecting me as their king" yet are to be granted their request (8:7). Samuel uses the word *sedeqah* – divine rectifying justice – to describe God's gracious mercy in restoring the Israelites by freeing them from the land of Egypt and subsequently forgiving their sins and saving them from their enemies – and takes the Israelites to task for their ingratitude and idolatry in demanding a king (8:6-9, 12:6-12). Samuel also delivers the Lord's warning to the Israelites that a king will exercise the voracity of centralized power, claiming them, their sons, and their daughters, their military service, their service to the king's court, their labor, their fields, their flocks, their wealth, their servants, and their freedom (8:10-18). Yet, God allows them their

[8] The same passage contains the term *mishpat*. Some English translations use the phrase "just judgment," indicating two separate terms.

king and anoints Saul. When the Israelites finally confess the evil of their demand, Samuel tells them not to fear, that the Lord will not abandon them, and commands them to serve the Lord with all their heart, shun useless things, and follow the good and right way – in sum, to act justly in the political realm. Should they do evil, "both you and your king shall perish" (12:19-25).

What God communicates through Samuel are the tenets of Israel's kingship. God anoints kings, establishing them in their authority, commissioning them as his agent, and even looking upon them as his son (Ps 2:7). Kings do not enjoy their authority, though, solely because God bequeathed it to them, but rather because God appointed them for the purpose of doing justice. This is *sedeq*, the justice of right relationship, entailing the sum total of God's commands, and it is *mishpat*, the justice accomplished through rendering judgment in particular cases. The hendiadys right and just, or justice and judgment, often is associated with kings, implying their duty of justice.[9] The king's authority is for temporal matters. He fights wars against enemies, upholds order in his realm, renders just judgment in disputes, secures the rights and interests of the poor, and forbids idolatry and apostasy. The people under his authority are obligated to obey him, as long as he is just. When kings and people act justly, God rewards them with flourishing, and, when they do not God punishes them.

Justice resounds in the prototypical kingship of David. An oracle of the prophet Jeremiah (22:1-5) reads:

> The Lord told me this: Go down to the palace of the king of Judah and there deliver this message: You shall say: Listen to the word of the Lord, king of Judah, who sit on the throne of David, you, your ministers, and your people that enter by these gates! Thus says the Lord: Do what is right

[9] Weinfeld, *Social Justice*, 20-22.

> (*sedeqah*) and just (*mishpat*). Rescue the victim from the hand of his oppressor. Do not wrong or oppress the resident alien, the orphan, or the widow, and do not shed innocent blood in this place. If you carry out these commands, kings who succeed to the throne of David will continue to enter the gates of this palace, riding in chariots or mounted on horses, with their ministers, and their people. But if you do not obey these commands, I swear by myself, says the Lord: this palace shall become rubble.

Several verses in historical books of the kings – including First and Second Samuel, First and Second Kings, First and Second Chronicles – describe justice as the central feature of David's rule. "David reigned over all Israel, judging and administering justice to all his people," Second Samuel observes (8:15). Speaking more generally of the Davidic kingship, Isaiah writes, "[s]ee, a king will reign justly (*sedeq*) and princes will rule rightly (*mishpat*)" (32:1). In a Psalm on kingship appears this verse, "O God give your judgment (*mishpat*) to the king; your justice (*sedeq*) to the son of kings; That he may govern your people with justice (*sedeq*), your oppressed with right judgment (*mishpat*)" (72:1-2), and in a later Psalm, "[j]ustice (*sedeq*) and judgment (*mishpat*) are the foundation of your throne" (89:15).[10]

King Solomon, David's son, asks God for wisdom at the beginning of his kingship so that he may discern justice. "Give your servant, therefore, an understanding heart to judge your people and to distinguish right from wrong. For who is able to govern this vast people of yours?," recounts First Kings (3:9). Later, the Queen of Sheba told Solomon squarely, "the Lord has made you king to carry out judgment (*mishpat*) and justice (*sedeq*)" (1 Kings 10:9). Other verses in First Kings, as well as in Proverbs and portions of Wisdom, which are written in the voice of Solomon, name justice as the

[10] On the anointing of David, see 1 Sam 16:1-13. For other verses associating justice with David or the Davidic kingship, see Jer 21:11, 23:5-6, 33:14-17; 2 Sam 8: 15; 2 Sam 23:3-4; 1 Kgs 2:2-4; 1 Chron 18:14; 1 Chron 22:13 Job 34:17-18; Ps 18:21-25; Ps 89:23; Ps. 99:4; Prov 16:12; Isa 1: 16, 21, 26, 27; Isa 9:7.

purpose of royal rule.[11] It is justice that the prophets denounce kings for lacking, whose violation leads them to warn of punishment, and that they announce God will restore.[12]

Justice is likewise the purpose and duty of kings and authorities in the many other nations who play a part in the drama whose starring role is played by Israel. Variously, God favors Israel in defeating them in battle; they are God's instruments for punishing Israel; they send Israel into exile; they liberate Israel from exile; or they engage in diplomacy or commerce with Israel, as does the Queen of Sheba. Theologian David Vandrunen shows that these governments are legitimate, accountable, and live under a common moral authority.[13] Their authority is legitimate and entitled to respect because its purpose is justice. "May all kings bow before him, all nations serve him," declares Psalm 72:11, whose theme is kings and justice. Second Isaiah teaches in several verses that "the Lord God [will make] justice (*sedeqah*) and praise spring up before all the nations" (61:11).[14] When God punishes other nations, he holds them accountable for their injustices, implying that he has bound them to act justly.[15] All nations and their inhabitants are rightly subject to the commandments of justice because these are the

[11] Wis 1:1; 6:1, 3-5; 8-10; 1 Kgs 3:14, 28; 1 Kgs 6:12; 1 Kgs 7:7; 1 Kgs 8:31-34, 58; 1 Kgs 9:4-7; Prov 1:3; 8:15-16, 16:10.
[12] See, for instance, Isa 10:1-4; Ezek 5: 5-15; 7:27; 11:12; 11:19; 45:9.
[13] David Vandrunen, *Politics After Christendom: Political Theology in a Fractured World* (Zondervan, 2020), 95-99.
[14] See also Gn 12:3; Gn 26:4-5; Ps 46:10; 86:9; Ps 96:1; 96:3; 105; Isa 42:1; 51:45; 56:7.
[15] See, for instance, the litany of oracles telling of punishments of nations in Isaiah 13-23, and the punishments of Isaiah 63-65.

natural law – as the Apostle Paul would later write, written on the hearts of the Gentiles, a term that is translatable as the nations.[16]

In the gospels, especially the Gospel of Matthew, Jesus proclaims the Kingdom of God. This kingdom contains the three essential features of any kingdom – a king, a realm over which the king reigns, and a set of laws. The king is Jesus, the realm is his followers, and its laws are justice, the entirety of ways that Jesus commands his followers to act. As the *Christos*, or messiah, Jesus is anointed in his kingship and is the ultimate successor to the Davidic kings, whom God anointed and who form a messianic line. Prophets identify Christ as this successor and render this kingship in terms of justice. Isaiah 9:6 reads, "[f]rom David's throne, and over his kingdom which he confirms and sustains [b]y judgment (*mishpat*) and justice (*sedeq*), both now and forever," and Jeremiah 33:14-16 reads:

> The days are coming, says the Lord, when I will fulfill the promise I made to the house of Israel and Judah. In those days, in that time, I will raise up for David a just (*sedeqah*) shoot, he shall do what is right (*sedeqah*) and just (*mishpat*) in the land. In those days Judah shall be safe and Jerusalem shall dwell secure; this is what they shall call her, 'The Lord our justice (*sedeq*).'

Continuous with these prophecies are Jesus' commands in the Sermon on the Mount: "[U]nless your righteousness (*dikaiosune*) surpasses that of the scribes and Pharisees, you will not enter the kingdom of heaven," and "seek first the kingdom [of God] and his

[16] Vandrunen argues that the natural law to which the nations are subject is that found in the Noahic Law, which God delivered to Noah and his sons following the flood in Genesis 9:1-7. While this law is rightly seen as the natural law, I understand the natural law to be centered on the Ten Commandments and their corollaries, as I argue in Chapter Eight, following Thomas Aquinas. If these laws are known through reason, then every person may know them, even those living prior to and outside the people to whom Moses gave the Ten Commandments. See Vandrunen, *Politics After Christendom*, 130-134; Rom 2:14-16.

righteousness (*dikaiosune*), and all these things will be given you besides." Jesus continues to associate kingship with righteousness, or justice.

It is understandable that early Christians would ask: If we are now citizens of the Kingdom of God, what loyalty do we owe earthly rulers? To Caesar? Pagan kings? Jewish kings? And that later Christians would ask: Presidents? Parliaments? General Secretaries? Sultans? And that the Christians living amidst the Jewish community in Rome to whom Paul wrote his renowned letter from Greece in the mid-50s would ask this question. The Emperor Claudius had decreed, probably about the year 49, the expulsion of Jews from Rome on account of a "Chrestus."[17] Caesar's claim to divine status reeked of idolatry. Roman and all Christians knew well that Jesus himself had been executed by a Roman governor on account of his very claim to be a king.[18] Christians would ask, too, if they were still bound by the public law given that Christ has freed them from the law, as Paul had argued earlier in Romans.[19]

Doubtless anticipating such questions, Paul penned in this letter the New Testament's most extensive warrant for the authority of temporal rulers. Consisting of seven verses in Chapter 13 (1-7), it is short, just as Jesus' injunction in the Gospel of Matthew (22:21) to "repay to Caesar what belongs to Caesar" is short, and just as a few other passages in Paul's and Peter's letters commending obedience, honor, and prayer for earthly rulers are short.[20] Far more extensive are Jesus's many invocations of his kingdom. Yet Paul is clear: "Let every person be subordinate to the higher authorities

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[17] See *The Catholic Study Bible*, 229 (in New Testament repagination).

[18] John 19: 1-16.

[19] Thomas Aquinas writes that some early Christians thought that they were not bound by the public law since they were free in Christ. See Aquinas *Commentary on the Letter of Saint Paul to the Romans*, trans. Fr. Fabian R. Larcher, O.P. (Aquinas Institute, 2018), 346.

[20] 1 Tim 2:1-2; Titus 3:1; 1 Pet 2:13-17.

(Rom 13:1)." His passage in Romans has been the text most invoked by Christians across the ages on the authority of temporal rulers.

Why does Paul think that kings and magistrates have authority? "There is no authority except from God and those that exist have been established by God," he states at the outset of the passage. Are people bound to obey this authority solely because God has willed it? This is the voluntarist position and many Christians have held it.[21] The alternative position, that of Thomas Aquinas, is that God established temporal authority through his will but for a purpose that reason can know and that reflects God's wisdom: justice. Verses 3 through 7 bear out this position. While they do not contain the word justice, they convey that authority has a purpose of promoting and securing what is good – that is, of doing justice.

Paul's use of the word "authority" – in Greek, *exousia* – is significant, for it connotes legitimate power, a warrant (or Hohfeldian power right) to act rightly. Paul teaches in verses 3 and 4 that the purpose of the ruler and his coercive power is to approve and reward good conduct and to dissuade and punish evil conduct.[22]

> For rulers are not a cause of fear to good conduct, but to evil. Do you wish to have no fear of authority? Then do what is good and you will receive approval from it, for it is a servant of God for your good. But if you do evil, be afraid, for it does not bear the sword without purpose; it is the servant of God to inflict wrath on the evildoer (Rom 13:3-4).

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[21] The interpretation of Romans 13 is closely related to the question of the right of resistance. The interpretation that all governments have authority simply because they are ordained by God leads to a prohibition of all resistance. The interpretation that just governments are the authorities that God has established leads to an allowance of resistance to tyrannical governments. Mark Riebling argues in his book, *Church of Spies,* that Catholic and Lutheran German generals held different views of resisting Hitler according to their interpretations of Romans 13. See *Church of Spies: The Pope's Secret War Against Hitler* (New York: Basic Books, 2015), 69.

[22] Paul refers to coercive power as the sword, or in Greek, *machairan*. Good conduct is translated from the Greek, *ergō*, or work.

What is good conduct? The Bible's abundant answer is doing justice, or the ways of the Lord. Paul then teaches, "be subject not only because of the wrath but also because of conscience." He had referred to conscience in Romans 2:14-15 in writing that the Gentiles have the law "written in their hearts," that they "by nature observe the prescriptions of the law," and that "their conscience also bears witness." Conscience is thus an awareness of the moral law, or justice, whose promotion is the purpose of the authorities to whom Christians ought to be subject. Paul concludes by enjoining Christians to pay authorities the taxes, tolls, respect, and honor that they are due, a command that makes little sense apart from the authorities' just purpose. In the whole passage, Paul extends the teaching of the Book of Wisdom (6:4) that God gives kings and magistrates their authority, that they will be judged for "[keeping] the law" and "[walking] according to the will of God," and that they ought to pray for wisdom, by which they may discern the meaning of justice.

The political authority that the Bible tells us that God has established is one whose basis and purpose – the justice of right relationship – reason can know. God exercises his will according to his reason and wisdom. The two sorts of principles that make up this justice – natural law principles and supernatural principles, determinations of the natural law – are intelligible. A justice that consists of these principles is the purpose of political authority.

The Basis of Political Authority in Justice

What is political authority? Authority in general is the right of a person or a body of persons – a president, a CEO, a legislature, a court, or a university board of trustees – to perform acts that create obligations on the part of other persons in order to further

justice – principles and the goods that they promote. Authority suffuses almost every organization and community – family, business, civil society organizations, schools, universities. Political authority promotes the common good of a society living under a common body of law – today, predominantly the sovereign state.

Authority is defined more precisely by rights, which take the form of Hohfeld's incidents. The form of right that defines authority most directly is what Hohfeld calls a power, his third incident. Power here is not the raw, coercive sort, the ability to make others do what they would not otherwise do.[23] It is rather an act that the holder of authority may perform legitimately, a deed that this holder is authorized to carry out. Here again is Hohfeld's definition of a power from Chapter Five (adapted by Wenar): A possesses a power if and only if A is authorized by a set of rules to alter his own or another's Hohfeldian incidents. These further incidents are the rights of those who are subject to authority and include claims (Hohfeld's first incident) and privileges (Hohfeld's second incident). A military draft illustrates how authority entails all four of Hohfeld's incidents. In passing the enabling law, legislators exercise Hohfeldian power-rights, the authority that the constitution grants them. The liberty-right of men of eligible age to pursue a job other than military service is now curtailed. Immunity rights are possessed by people who are exempt from the draft, for instance, on medical grounds. Every citizen has a claim-right that the government conduct the draft fairly and without corruption.[24]

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[23] Robert A. Dahl, "The Concept of Power," *Behavioral Science* 2, no. 3 (July 1957): 201–215.

[24] A closely related concept of authority is that of the philosopher of law, Joseph Raz: an exclusionary reason to act. People living under authority are obliged to abide by laws that the holder of authority has issued even should they judge that these laws are not the optimal ones. Laws exclude some actions that people living under the authority might consider it reasonable to undertake. A convinced skeptic of traffic humps must abide by the city council's decision to install these humps. See Raz's discussion of the "Pre-emptive Thesis" in *The Morality of Freedom* (Oxford University Press 1986), 57-62.

Authority and norms support one another. It is law that defines political authority, specifying the Hohfeldian powers that a holder of authority possesses – their scope, their limits, and the immunities of people living under the authority. In turn, the holders of authority – ranging from a president down to the orange-vested highway crew foreman – issue laws, decrees, judgments, mandates, and regulations that are binding on others.

While authority is the right of its holders to create obligations for others, not all of the holder of authority's acts correspond to the rights of others. Much as I have argued about the justice of right relationship, some of these acts carry out imperfect duties. The obligation to promote the common good is in many respects such a duty. Let us say that a town council has a pot of money available to it in the public budget and deliberates between proposals to refit downtown streets for bicycle lanes, increase teacher's salaries in the public schools, install additional street lights in an impoverished and violent neighborhood, or return the money to the taxpayers. No one of the proposals is optimal, which is to say that each of them has advantages and disadvantages and none is clearly superior, so no citizen has a right to any of them. By adopting any one of them, the town council may fulfill its obligation to promote the common good. The council members' obligation to the common good is open-ended, a public form of the duty of beneficence.

What is the Purpose of Political Authority?

The purpose and justification of political authority is to further the justice of right relationship. How does political authority further this justice? Consider the Questers, a throng of 100,000 people who strike out from their home civilization and settle on a

faraway, uninhabited, idyllic plot of land in a quest for a new life. When they arrive, they have no government. They do not share a common religion. All possess knowledge of the natural law. Some hold to the entirety of the justice of right relationship on Christian grounds. Muslims, New Age spiritualists, and agnostics among them hold to some of the principles that are defined supernaturally in the Christian tradition on a basis found in their own religion or their own reasoning. They understand that all of the principles of justice to which they subscribe promote the pursuit of certain forms of fulfillment that are intrinsically worthy – the basic human goods. In their new home, they wish to experience life, health, friendship, family life, the education of their children, sports, art forms such as dance and music, meaningful work, religious worship for those who practice it, and other goods through which they flourish. They understand that some principles, particularly natural law principles, ones known through unaided reason, correspond to rights, whereas others extend beyond rights.

Yet, the Questers are distraught. They know that they have an obligation to promote one another's flourishing but are frustrated by their inability to achieve the basic goods. Most distressing, they are unable to coordinate among themselves to bring about this achievement. They badly need shared facilities: roads, an electric grid, pipelines for water, sewage and natural gas, schools, parks, a plan for the layout of their town, zoning regulations, laws and rights that enable economic exchange, garbage pickup, property rights, and many other structures and services. Without these facilities, the goods will be fragile and fragmentary. Constructing, maintaining, and running these facilities, though, is a highly complex task that is impossible for 100,000 people to achieve on their own with a modicum of efficiency, effectiveness, and fraternal spirit. Worse, chaos swells and disaster lurks. Illness and disease are spreading, theft is

metastasizing, and fights are breaking out, inflicting injury, even a few deaths, and the desire for revenge. Questers start to cluster into gangs for protection and access to resources. They want everyone's dignity and goods to be protected and principles and rights to be practiced. They need constabularies.

Alarmed, 100 eminent men and women who won a reputation for wisdom among the Questers on the journey out form a council to address the crisis. They draw up a constitution that creates a political authority for the community much like that of modern sovereign states, defining a legislature, an executive, and a judiciary, setting forth a bill of rights, and specifying the method of choosing the holders of authority, what powers these officials enjoy, and how they are to make law. The constitution confers upon the new government the task of creating ministries and agencies to provide the water supply, design the towns, and build the other facilities that conduce to flourishing. The council agrees on the new constitution in a vote of 78-22 and the no voters agree to abide by it. The vast preponderance of the 100,000 Questers also accept the constitution and the authority that it prescribes, even though no referendum or ratification procedure takes place and many object to this or that feature of the constitution's design. Spurring the Questers' assent is their loyalty to their community, their commitment to the purpose of their journey, and, most of all, their recognition that only a political authority can secure the justice of right relationship. Without the coordination that an authority provides, they would not be able to promote goods for one another as justice requires, and without the enforcement of laws, this justice is endangered.

Political authority's most characteristic and potent means for its tasks of coordination and enforcement is law: the bills that legislatures pass; the decrees,

mandates, regulations, and orders of executives and other administrators; the rulings of courts; and so on. Human law, as Thomas Aquinas called it, is distinguished from natural law in being posited by holders of political authority.[25] Yet, human law, like the political authority that issues it, reflects, is consistent with, and shares in the purpose of natural law. Human law, like natural law, finds its purpose and justification in the promotion and protection of basic human goods. Like natural law, just human law is eudemonistic, ordered to human fulfillment. This is true not only for human laws based on the natural law, which Aquinas treats, but also for human laws based on additional principles of justice – for instance, health care policies based on care and mercy.

The direction of goods by human law may be seen in political and civil rights – such as the right to life, the right not to be tortured, the right to the free practice of religion, and the right to free speech – which correlate with natural law obligations to respect dimensions of personal dignity, which in turn protects basic goods such as life, health, mind-body integration, religion, knowledge, and others. Some rights, such as that to private property, promote goods in a more derivative sense, in this case by protecting the stability of ownership, which enables people to pursue basic goods. Owning a house enables life, health, marriage, family life, play, friendship, and other goods. Laws prohibiting racial discrimination in commerce and employment reflect the natural law norm against stealing, deriving from the norm of fairness, which in turn forbids denying people basic goods, or entities such as a job which enable basic goods, on account of their race or ethnicity. All laws promote basic goods at bottom. This is true even for laws that create elaborate systems such as the traffic network. The legislature

[25] ST I-II, q. 95, a. 2.

passes a law that creates a traffic authority, which creates a traffic system that channels the circulation of vehicles so as to elicit safety – life and health – and to achieve the innumerable purposes of transportation, which find their intelligible point in basic goods. A woman drives to visit her sister, realizing familial friendship. A plumber drives to a restaurant to fix a broken water pipe, removing what hinders the employees' work and the health and aesthetic appreciation that the customers gain from the restaurant's fare. In thousands of ways, an effective traffic system promotes basic goods.

In upholding goods and norms, holders of political authority perform both primary justice and rectifying justice. The Questers create political authority not first and foremost because they are sinful and quarrelsome but rather because they are finite and require coordination if they are to flourish. On their own, they could not create the facilities needed for flourishing. Even had not the Fall occurred, political authority would be needed. Political authority is additionally necessary, though, because justice is threatened by people who break laws, flout authority, and threaten or invade the country from outside. The Questers have their criminals, whose perfidy anarchy abets. Justice involves preventing crime and rectifying it rightly after it occurs.

Derived from the principles of the justice of right relationship, the public laws that the political authority creates are determinations. Recall that a determination is a norm that derives from a more general norm but not necessarily so. Again, traffic laws, mandating roundabouts rather than traffic lights, say, are a classic example. Sometimes determinations reflected in public law closely replicate a principle of justice. For instance, the laws against homicide that virtually every society enacts are ones that give legal force to the natural law norm, Do not murder, grounded in the good of human life. Even these laws, though, involve specifications that reason alone does not provide, for

instance, distinctions between different degrees of murder and the schedule of corresponding punishments. Other determinations, though, involve far more specifying and deriving, for example, the laws that provide national health care in developed democracies, which promote a basic good, health, but are colossally complex in determining what goods and services health involves, what sort of scheme provides it, and how it is paid for. Crafting determinations is the preponderance of political action. It is the art of politics, guided by the virtue of prudence, taking place through thousands of laws and policies fashioned by thousands of political acts, all aiming to fit the resources, customs, and circumstances of Canada, India, and Burundi.[26]

The Basis of Political Obligation

In the argument for the purpose of political authority lies a case for obligation to political authority. The reason why people are obligated to obey their government and its laws is none other than the rationale for government itself – namely, its necessity for securing the justice of right relationship, a justice, whose point, in turn, is upholding the goods of persons and associations, the sum total of which is the common good. This account of political obligation is that of Romans 13, as interpreted above – government is for your good – and of Aquinas and his successors, who have grounded political authority in the natural law.[27] It is what the Questers discerned in deciding to create a government. Stated more rigorously, the argument for political obligation is: 1) the

[26] The concept of the art of politics appears in Aristotle, *Nicomachean Ethics*, 2-3 and *Gaudium et Spes*, sec. 75.

[27] Natural law arguments for political authority, which the account here follows closely, saw a revival in the twentieth century. Proponents include Heinrich Rommen, Jacques Maritain, Yves Simon, and John Courtney Murray in the 1940s and 1950s; John Finnis, Martin Rhonheimer, Jean Porter, Robert George, Javier Hervada, and Daniel Mark in the decades since 1980. The arguments also follow closely the "natural law originalist" school of jurisprudence, including John Finnis, Gerard Bradley, Hadley Arkes, Lee Strang, Jeff Pojanowski, Kevin Walsh, Paul DeHart, and Joel Alicea.

justice of right relationship consists of principles that promote human good and is obligatory on persons[28] ; 2) reason judges that realizing this justice requires enforcement and coordination; 3) it follows that a political authority is justified, which, by definition, elicits the obligation of the people living under it; 4) it follows, in turn, that the just laws that the authority promulgates are justified. The obligation of citizens to their government, then, shares in their prior obligation to adhere to the principles of the justice of right relationship. The purpose of government is to promote this same justice.

In contrast stands the prevailing rationale for political obligation in the West since the seventeenth century, the consent theory.[29] DeHart traces consent theory to early Protestant political thought, especially that of Johannes Althusius, and finds it also in the sixteenth-century thought of Anglican philosopher Richard Hooker and Catholic philosopher Francisco Suarez.[30] Consent is better known yet in the thought of Hobbes and Locke, is found in Rousseau and Kant, was widely held by the founders of the United States, and is perhaps remembered most of all in the Declaration of

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[28] As I have been arguing, this obligation differs according to whether principles are natural or supernatural. Nevertheless, everyone is at least obligated by the natural law.

[29] "Consent theory has provided us with a more intuitively appealing account of political obligation than any other tradition in modern political theory," writes philosopher A. John Simmons in his important book of 1981, A. John Simmons, *Moral Principles and Political Obligations* (Princeton University Press, 1981), 57. Simmons ultimately rejects consent theory, 57-100. The consent theory and the "justice theory," as I call my argument, are not the only available accounts of political obligation. Richard Dagger and David Lefkowitz present four accounts in "Political Obligation", *The Stanford Encyclopedia of Philosophy* (Summer 2021 Edition), Edward N. Zalta (ed.), https://plato.stanford.edu/archives/sum2021/entries/political-obligation/%3E. These include consent theory, natural duty (which would include mine), fair play, and membership or association accounts. In their description of natural duty theories, they omit natural law accounts in the Thomist tradition, the sort that I consider the most persuasive accounts. The fair play and membership/association accounts, in my judgment, offer good reasons for obligation but ones that presuppose and buttress the justice account. Thus, the justice and consent accounts are the two left standing.

[30] Paul R. DeHart, *The Social Contract in the Ruins, Natural Law and Government By Consent* (University of Missouri Press, 2024), 6, 15-22.

Independence, which states that governments "[derive] their just powers from the consent of the governed." Consent theories continued to appear in the Anglo-American world into the late twentieth century.[31] Consent is exercised through a social contract in Hobbes, Locke, Rousseau, and Kant, and, as DeHart explains, belongs to a family of theories that includes contractualism, conventionalism, and constructivism, which commonly base political obligations on the willed agreement of people rather than on principles prior to politics that reason apprehends.[32] Consent theory, then, is a separation narrative.

Why are people obligated to political authority? Because they have explicitly agreed to accept this authority, consent theory contends. All consent theories hold that consent is necessary for political obligation, and the strongest versions hold that consent is also sufficient for political obligation. "[N]o one can be . . . subjected to the political power of another without his own consent, which is done by agreeing with other men," Locke contends.[33] Motivating consent thinking is its commitment to the freedom of every person. To assert authority over a person against or apart from his agreement to that authority is alleged to be tyrannical.

Consent theory, though, encounters difficulties, at least as an account of political obligation. Several political philosophers have mounted refutations in recent years; their

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[31] See, for instance Harry Beran, *The Consent Theory of Political Obligation* (London: Routledge, 1987) and Ruth Grant, *John Locke's Liberalism* (University of Chicago Press, 1987).

[32] DeHart, *The Social Contract in the Ruins*, 5.

[33] John Locke, *Second Treatise of Government*, ed. C. B. Macpherson (Hackett Publishing Company, 1980), 54. He also declares, "[Consent] is that, and that only, which did or could give beginning to any lawful government in the world," Locke, *Second Treatise*, 56.

objections are broached here to elucidate in relief why political obligation is grounded better in the justice of right relationship.[34]

Consent theory's core problem lies in its focus on the will. An act of the will cannot alone establish obligation. This is the same flaw found in divine command theories, as argued in Chapter Eight, whose medieval versions are the forebears of consent theory, a lineage especially apparent in Hobbes.[35] An act of the will cannot establish (or renounce) an obligation, including one to obey an authority, unless it is authorized to do so by a prior set of valid reasons. Consent theory is circular. Will cannot generate authority without authority. This is true for the actions of a person agreeing to his own obligations towards political authority, a boss asserting the obligations of his employees, a father those of his children, a president those of his citizens, and even God those of his people. What authorizes the will is a set of sound prior reasons.[36]

Revising consent theory in this pure form, which asserts the sufficiency of consent, several consent theorists have held that consent is necessary but not sufficient to establish political obligation. In this version, political obligation is not established

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[34] DeHart offers what I find to be a decisive case against consent theory. Still, despite his criticisms, he argues that consent to political authority is necessary because people are equal in their right not to be governed without their consent, see DeHart, *The Social Contract in the Ruins*, 12. He holds that consent can be manifested when understood in a corporate fashion along the lines of the early modern thinker Johannes Althusius, see 319. Other contemporary arguments against consent theory include Jean Hampton, *Political Philosophy* (Westview Press, 1997); Leslie Green, *The Authority of the State* (Oxford University Press, 1988); Nicholas Wolterstorff, "Accounting for the Authority of the State," in Terence Cuneo, ed., *Understanding Liberal Democracy: Essays in Political Philosophy* (Oxford University Press, 2012), 245-74; Michael Huemer, *The Problem of Political Authority: An Examination of the Right to Coerce and the Duty to Obey* (Palgrave Macmillan, 2013); and A. John Simmons, *Moral Principles and Political Obligations* (Princeton University Press, 1979).

[35] On the connection between Hobbes and voluntarism, or "imposed order," see William Bain, *Political Theology of International Order* (Oxford University Press, 2020), 129-155.

[36] DeHart argues that consent theory, at least in its strong form as an argument for the sufficiency of consent, is "self-referentially incoherent." See DeHart, *The Social Contract in the Ruins*, 39-40.

through consent alone but rather through the consent of persons who are bound by the natural law, which supplies consent with its authority. Locke advanced a similar argument in the *Second Treatise*, incorporating natural law into his state of nature.[37] This natural law involves the obligation to keep one's promises, the moral principle that gives authority to binding acts. On this authority, the parties to the contract make a promise to obey the political authority that they erect. They are like students at the University of Notre Dame who, authorized and empowered by the university's rules for establishing student organizations, form an Orestes Brownson Literary Society and agree to obey its by-laws. In the case of political obligation, the parties seek this authority in order to protect the dignity, goods, and rights that they possess but that are imperiled in the state of nature. Natural law authorizes consent; consent authorizes government.

This version of consent theory, though, encounters difficulties as well. On its logic, why is consent required? Unlike the Brownson Literary Society, governments are necessary to secure justice and the common good. If reason recognizes this necessity, then why is an act of consent further required for political obligation?

Several classical consent theorists answer: on account of human equality. Prior to political authority, everyone is equal in his right not to be governed by another, they contend, and thus holds the right to consent to be governed.[38] But are human beings equal in this way? They are indeed equal in certain critical respects, most importantly, in their inherent dignity, or intrinsic worth, and in their natural rights – for instance, to

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[37] Locke, *Second Treatise*, 9-10.

[38] DeHart identifies equality as a feature of several early modern consent theorists, including Richard Hooker, Robert Bellarmine, Francisco Suarez, Algernon Sidney, John Locke, and many American founders, see *Social Contract in the Ruins*, 12.

life, speech, the belief and practice of religion, and so on. But is the right not to be governed by another one of these? It is difficult to see why. The argument for equality allows that a person is subject to the authority of a government only should he consent to it. The argument, though, does not demonstrate or justify this necessity; it only stipulates it. In the justice of right relationship, a person has no such right but rather is obligated to the government under which he lives – usually the one into which he is born – provided that this government is reasonably just. A just government upholds the equal rights to which its members are entitled – to life, speech, religion, and so on – but their consent to the government's authority is not one of these rights. Because such a right lacks grounds, political authority continues to rest on reason alone.[39]

Another problem with consent theory is its near-impossibility. No government, at least that of any modern sovereign state, has been founded on a contract involving unanimous consent or anything close to it. Consent theory demands that every person – who uniquely possesses the free will that the theory prizes – exercise consent and that any person who does not exercise consent is not obligated.[40] Under this stricture, no

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[39] Abraham Lincoln bestowed upon consent an important status in his argument against slavery and associated it with the more general right of self-governance of a people. In his "Peoria Speech" of October 16, 1854, he said that "no man is good enough to govern another man, *without that other's consent*. I say this is the leading principle---the sheet anchor of American republicanism" and proceeded to cite consent in the Declaration of Independence (italics in original). See Abraham Lincoln, "Peoria Speech," October 16, 1854, https://www.nps.gov/liho/learn/historyculture/peoriaspeech.htm. In my view, consent can be folded into the moral argument against slavery, namely that it is wrong to take ownership of another person for the purpose of extracting his labor, whereby the slave's lack of consent is entailed in his being seized for ownership by another. This role of consent, though, does not imply the consent theory of political obligation.

[40] That is to say, the requirement that every person be granted an opportunity to consent follows from the importance of the will, which belongs to every person, at least insofar as she has a capacity to exercise a free will. Still, this brings up another problem. If consent is an act of the will, then people whose wills are impaired – developmentally disabled, infants, unborn, people with illnesses such as Alzheimer's disease – are unable to exercise the consent that is allegedly crucial for them to be obligated by a government. For that matter, there is no rational reason for the people exercising consent to include them as citizens in the political order with full rights. See DeHart's discussion of philosopher David Gauthier and of philosopher Annette Baier's criticism of Gauthier, in DeHart, *The Social Contract in the Ruins*, 82-99.

existing sovereign state and its laws are entitled to the obedience of the vast majority of its citizens. While the constitutions of some modern liberal democracies have been enacted through ratification, this is performed either through representatives or referendums that fall far short of unanimity. The hypothetical Questers formed a government through the majority vote of a council of 100 citizens. Nor has any modern state provided a process by which the people who are born into it are granted the opportunity to express consent to its authority. A consent theorist might acknowledge this fact and then conclude that it just shows that political obligation is a phantasm; it does not exist anywhere.[41] Such a conclusion would be consistent with consent theory's commitments but comes at a heavy price for political obligation and for justice.

Recognizing this problem, Locke turns to what he calls "tacit consent" as an alternative to "express consent," arguing that a person, through "possession or enjoyment" of a part of "the dominion of any government," even as much as traveling on a country's highways, "doth hereby give his tacit consent" to the government's

[41] Simmons surveys what he considers the major plausible accounts of political obligation and concludes that all of them fail. He does not believe that a good rationale for political obligation exists. Simmons does not retreat to anarchism, though, maintaining that political institutions are morally important and that reasons remain to abide by their authority. These reasons are pragmatic and utilitarian. The government does not oblige a person for any strong intrinsic reason, but life goes much better if people obey the law and do so mutually and reciprocally. Such a basis for political institutions is shaky, though. Utilitarianism offers no good reason why a person should not cheat, evade taxes or military service, or violate the law in any way if she can get away with it and, should she be concerned about the matter, avoid disproportionate harm to the society. Bereft of strong moral grounds for loyalty, such institutions may survive peaceful and prosperous times but are strained by economic crises and war. See Simmons, *Moral Principles and Political Obligations*, 191-201.

authority.[42] But, as several of Locke's critics have argued and elaborated, tacit consent is not consent at all, lacking the explicit act of the will that grounds consent theory.[43]

Nor is consent to government authority conferred by groups. Some consent theorists have tried to solve the unanimity problem by arguing that the heads of civic associations may confer consent to the government's authority on behalf of their members. This proposed solution, though, only defers the problem. If the heads of association lack the explicit, willed consent of their members, then they cannot establish their members' obligations to the state on the terms of consent theory.

Again, a full engagement with consent theory deserves more analysis. To reject the consent theory of political obligation is not to reject a place for consent in politics[44] So, too, the justice of right relationship can endorse elections, representation, referendums for secession, and the popular ratification of constitutions for their promotion of political participation, deliberation, accountability, legitimacy, stability,

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[42] Locke, *Second Treatise*, 67-69.

[43] See, for instance, Simmons, *Moral Principles and Political Obligations*, 75-100. Necessary for consent is an authorizing act – words, a signature, a clear sign, or perhaps silence under conditions where silent clearly implies consent. Each person living under a political authority must make an act of consent in order for him to be obligated by the authority. This criterion might appear draconian but it follows from the importance of the will in creating obligation, by which each person's action must count, for each person is the bearer of a will. A person born under a political authority must exercise this consent upon becoming an adult if he is to be obligated to the authority.

[44] For an argument, to which I am sympathetic, that favors consent in politics but not the more ambitious consent theory of political obligation, see Yves Simon, *The Philosophy of Democratic Government (*University of Chicago Press, 1951).

and good governance.[45] Even a natural right and duty of participation in the political order, which democracy best secures, merits affirmation. At this point in world history, constitutional liberal democracy has proven to be the best form of regime to guarantee natural rights and the rule of law. What is denied is that the authority of a government at its base depends on the willed consent of each of its members. What is important, rather, is that a government effectively upholds justice.

Consent theorists have proposed consent as the antithesis of the tyranny and inequality that resides in the divine right of kings and the doctrine of natural fitness to rule.[46] Neither of these doctrines, though, are the ones by which classical natural law accounts of politics such as that of Aquinas, as well as the justice of right relationship, justify political authority. Rather, justice, which includes equal natural rights, is the paramount quality of a regime that merits obligation. Thomist political philosophers since World War II have rejected consent theory yet have promoted avidly constitutional, rights-based democratic regimes and have sought to provide a moral foundation for them. The government that subverts or that fails to uphold justice to that

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[45] To be sure, better and worse pathways to establish a constitutional liberal democracy exist, whereby "better" involves democratic processes. The past century has seen regimes established through the armed overthrow of dictators, the defeat of totalitarian regimes in war, secessions by referendum, democratic decisions to draft a new constitution, and combinations of these pathways. For example, governments that were formed after their predecessors were defeated in war include the Federal Republic of Germany (1949) and Japan (1947). A constitution formed after a combination of a coup attempt and a democratic process of change is that of the Fifth Republic of France (1958). A democracy founded after a violent overthrow is that of Romania (1991) and one founded after a non-violent popular revolution (along with the critical decision of the neighboring superpower not to suppress the revolution militarily) is that of Czechoslovakia (1989). Regimes founded after a referendum on secession are Ukraine (1991) and Slovakia (1993). Erica Chenoweth and Maria J. Stephan argue that regimes founded through non-violent movements are more likely to be stable. See Erica Chenoweth and Maria J. Stephan, *Why Civil Resistance Works: The Strategic Logic of Nonviolent Conflict* (Columbia University Press, 2011), 201-219. See Chapter Eleven for further discussion.

[46] For instance, Locke wrote his two treatises on government in response to Sir Robert Filmer, an advocate of the divine right of kings. Hobbes, Locke, and Rousseau all argued against what they saw as Aristotle's view that some people are more fit to rule over others.

extent loses its legitimacy. A tyrannical regime could be deposed justly, Aquinas held (as Chapter Eleven elaborates).

Citizens are obligated to the authority of governments that enforce and coordinate justice – here, the justice of right relationship. This justice consists of actions governed by principles. As argued in Chapter Eight, principles find their end and their justification in their promotion of the good. In the political order, this good is the common good, which merits elaboration.

The Common Good

If the purpose of political authority is to promote the justice of right relationship, and, at bottom, basic human goods, it might seem that political action is merely a means and that its purpose is only instrumental to this relationship and to these goods. My argument thus far has run this way. The Questers form political authority as an instrument for solving problems whose solution requires coordination and enforcement.

Wise political philosophers have thought differently, holding that political action is not merely instrumental to the good but also constitutive of the good. Humans realize their true good through the very performance of political actions. Aristotle taught in his *Politics* that humans are social animals who are perfected in egressing the household into the public square, where they are citizens of the polis. In the 20th century, philosopher Hannah Arendt reasoned much the same. Citizens of many states practice patriotism, a love for country, as they do in the United States when they attend a Memorial Day parade and honor soldiers who died for their country. MacIntyre demurs, comparing devotion to the nation-state to dying for the telephone company, an entity

too large, impersonal, and instrumental to elicit true love.[47] Though debated, the claim is that political action realizes and does not merely further the human good.

Which sort of good, then, does political authority entail – instrumental or constitutive? A relationship that is constitutive of the good is one that people seek for its own sake. Their interaction and collaboration are something intrinsically desirable that they could not achieve on their own. A four-part choir enacts a quintessentially constitutive good. The chorister's parts blend into a harmony for which each part is crucial yet is more than the sum of each part alone. The choristers retain their individual dignity, though, acting freely, through reason, realizing this form of fulfillment, and are not swallowed up into the whole.

Constitutive is also friendship, whose mutuality overflows each person's separate will of the other's good. Playing tennis, enjoying a conversation over whiskey, and building a fence together are irreducibly social, interactive goods, even while each of the friends remains an individual bearer of each good. When Mary Ellen says to Eunice, "I value our friendship," Mary Ellen is an I, the friendship is shared.

Relationships that are instrumental to the good, by contrast, are ones in which the collaboration is sought not for its own sake but rather to attain a good apart from the relationship itself. When Luis's leaf blower quits working in California, he calls the manufacturer's customer service number and finds himself on the line with the company's agent, Lakshmi, in Mumbai, India. Luis and Lakshmi would not speak with each other apart from Luis's purpose of fixing his leaf blower and Lakshmi's of doing her

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[47] Aristotle, *Politics*, 1-5; Arendt, *The Human Condition* (University of Chicago Press, 1958), 50-58; Alasdair MacIntyre, "A Partial Response to My Critics," in *After MacIntyre: Critical Perspectives on the Work of Alasdair MacIntyre*, ed. John Horton and Susan Mendus (Polity Press, 1994), 303.

job. They will never see each other nor speak again. A test for the instrumentality of a relationship: Would people seek it were it not for a further purpose? Or do they seek it for its own sake?

The distinction between constitutive and instrumental goods, though, is scalar, not binary. Even the thinnest of instrumental relationships involve some interpersonal interaction that is more than the sum of its parts. Luis and Lakshmi's conversation is a mutual, shared activity of explaining, listening, clarifying, and thanking that exceeds each person's individual efforts. Constitutive relationships, for their part, are also often instrumental to further goods. Tennis is an activity of friendship that also yields an increase in fitness and athletic skill for each partner. Any form of interaction for good purposes, whether on the instrumental or constitutive end of the spectrum, involves the basic human good of interpersonal harmony.

To ask whether political authority is instrumental or constitutive of the good is to ask how it realizes the common good of a political community. It is Thomist philosophers who have used the term common good most extensively, though not exclusively, and by it they mean broadly a good that a community of people shares. Many communities have a common good: families, businesses, bicycle clubs, the Kingdom of God, and political communities. What is the common good of a political community? Is it instrumental or constitutive? The political common good takes both forms, I argue.[48]

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[48] The instrumental vs. constitutive character of the common good has been a subject of lively debate among Catholic theorists. See John Finnis, *Aquinas: Moral, Political, and Legal Theory* (Oxford University Press, 1998), 245; John Finnis, "Postscript," in *Natural Law & Natural Rights*, 2nd ed. (Oxford University Press, 2011); Michael Pakaluk, "Is the Common Good of Political Society Limited and Instrumental?" *The Review of Metaphysics* 55, no. 1 (2001): 57–94; John Goyette, "On the Transcendence of the Political Common Good; Aquinas versus the New Natural Law Theory," *National Catholic Bioethics Quarterly* 13, no. 1 (Spring 2013), 133-155.

In the case of the Questers, who illustrate that political authority is created to secure the justice of right relationship, the common good is institutions, laws, and the facilities that these create –roads, the sewer system, national parks, national defense, and so on. These are instrumentally valuable. Unlike the strong intrinsic interest that people have in a choir or a friendship, people have little such interest in being regulated by tax collectors, the foreman in the orange vest, or, *pace* MacIntyre, clerks at the telephone company, apart from the goods that these officials deliver. This instrumental view of the common good is that which the Catholic Church sets forth in *Gaudium et Spes*, the pastoral constitution of the Second Vatican Council: "the sum of those conditions of social life which allow social groups and their individual members relatively thorough and ready access to their own fulfillment."[49] The Council defines the common good as "conditions" that "allow . . . access to . . . fulfillment." Conditions plausibly means laws, institutions, and the facilities that they create in order to bring about forms of fulfillment. Fulfillment, that of "individuals" and "social groups," is compatible with integral human fulfillment, the sum total of the basic human goods, which people realize both as individuals and through associations with others, including family, religious communities, and many other kinds of community. The "conditions" are common in the sense that everyone shares them and benefits from them and are instrumental in the sense that their purpose is to secure a further good, namely everyone's fulfillment.

In another sense, though, political authority, and indeed all political action, involves a constitutive form of the common good. While the purpose of political

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[49] *Gaudium et Spes*, 26.

authority is an instrumental one – people have no good reason to construct it apart from its necessity for securing goods – the collaborative political action through which people participate in or seek to influence the political authority is itself a constitutive good. Political action involves cooperation among persons. The voter collaborates with the poll workers, who collaborate with everyone in the organized system of national elections. The mid-level official in the national health service works closely with his boss, his subordinates, and his surrounding colleagues in delivering health care to citizens. The army general works with her strategic planners and with colonels under her and receives directions from the prime minister in planning a military operation. The members of a protest movement act in concert in coursing through the streets of the country's capital city, banners raised. Sometimes, of course, collaboration will be thin, such as that of Luis and Lakshmi, while in other cases it will involve close bonds, say, between two protesters who become lifelong friends through marching together. Networked among a common people, these forms of collaboration, like all forms of collaboration for a good, realize the basic good of interpersonal harmony. This good is shared among the members of the community, as is most apparent in activities that involve the entire community (at least in principle) such as a national election. Everyone who participates in politics engages in a form of collaboration whose links extend through the entire community and its government. This network of collaboration, the sum total of political action, is a second form of the common good, one that may also be termed civic friendship. It is an expression of the justice of right relationship.[50]

[50] My argument in this paragraph draws from Germain Grisez, *Living a Christian Life*, vol. 2 of *The Way of the Lord Jesus* (Franciscan Press, 1993), 848-849.

This common good, this collaboration among the members of a political community, is cemented by their identification with that community. Augustine wrote in the *City of God* that "a people is a multitude of rational beings joined together by common agreement on the objects of their love."[51] Love here is affection, the second meaning of love in addition to willing the good of another (as argued in Chapter Four). Love for a political community is fortified by the sense that it is a nation. Five features distinguish nations and national identities, philosopher David Miller explains in his book, *On Nationality*: 1) belief, meaning that "members recognize one another as compatriots, and believe that they share characteristics of the relevant kind"; 2) historical continuity; 3) an active dimension to the national identity, the sense that nations are "communities that do things together, take decisions, achieve results, and so forth"; 4) connection to a particular territory; and 5) a distinct public culture.[52] Nations have long corresponded to states. When sovereign states first arose in England, France, and Spain in the fourteenth through sixteenth centuries, their people were coming to think of themselves as English, French, and Spanish.[53] It is through culture that the members of a nation express their identity, usually involving a common language but also rituals, literature, music, story, sports, customs, and sometimes religion. A desire to govern itself is a final crucial feature of a nation and one that differentiates it from ethnic or cultural groups. Where one finds a nation, one finds a state or an aspiration for one. The Polish nation survived through a vibrant culture after it was carved up by

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[51] Saint Augustine, *The City of God*, 2, trans, William Babcock (New City Press, 2013), 385.
[52] David Miller, *On Nationality* (Oxford University Press, 1997), 19, 22-26.
[53] A wide literature on the historical origins of nationalism exists. I am sympathetic to the arguments of Adrian Hastings, *The Construction of Nationhood: Ethnicity, Religion, and Nationalism* (Cambridge University Press, 1997).

surrounding empires in 1795, keeping alive its dream of independent statehood, which it won again in 1918.

The virtue that directs national loyalties to the political common good – that is, to the interpersonal harmony that emerges through cooperation in political tasks – is patriotism. Based on the Latin word root *patria*, meaning fatherland, patriotism is a corollary of the fourth commandment, to love one's father and mother, extended to gratitude and devotion to one's political community.[54] The common good of a political community, or civic friendship, is magnified by the accumulated collaboration of generations, and further by the belief that this collaboration is that of a nation. The civic friendship of a nation, realized in a state, is the basic good that grounds certain principles of justice including the right not to be attacked, the central norm of the just war ethic and of international law in the United Nations system. Russia's invasion of Ukraine in February 2022 was a crime not only because of its killing of Ukrainian soldiers and civilians, but also because it assaulted a shared national community and its government, a nation whose very existence Russia's leaders denied. Russia's own nationalism, like that of many other states, spurred its bid for conquest. Nations give rise to other claims and dilemmas of justice in cases where they do not fit the boundaries of a sovereign state – a nation that does not have a state, that spills across the boundaries of states, or that wishes to secede from a state, or a state that includes several nations or ones with weak loyalties.[55] Rights, wrongs, and responsibilities all attend the basic, constitutive, common good of a national political community.

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[54] Theresa Macart argues that Aquinas demonstrates how the virtue of patriotism can be grounded in universal moral obligations in Theresa MacArt, "Pietas: A Case for Ethical Patriotism in Aquinas," *The Journal of Politics* 84, no. 1 (January 2022), 541-53.

[55] I offer a natural law-based argument on the morality of self-determination in Daniel Philpott, "The Ground of Self-Determination," *The Journal of Ethics* 25, no. 2 (2021), 203-221.

Politics, in summary, involves two senses of the common good. First, political authority is a common good as a set of conditions – institutions and law – that is instrumental to the justice of right relationship and the good that it embodies and furthers. Second, the collaborative political activity of citizens and government employees is itself a form of the common good, civic friendship, and is fortified when this friendship takes the form of a nation.

The Politics of Jesus

The purpose of political authority and the basis of political obligation is the justice of right relationship, this chapter has argued. It concludes by stressing the holistic and encompassing character of this justice, including the political order. This justice includes principles that render what is due and ones that exceed due, and ones that are known both naturally and supernaturally, as the chapters in Part One argue. The entire set of norms apply to politics as they do to any institution: businesses, schools, churches, non-profit and civil organizations, and all other kinds. Truncations, then, are rejected by which politics is subject only to natural law norms but not to supernatural ones, or to norms that render due but not to those that exceed due, or by which politics is a minimal realm only concerned with safety, or is composed only by what attains agreement and consensus, or is a realm only of power. The holder of the principles of the justice of right relationship ought not to place some of them aside when he acts within institutions. True, as Part Three elaborates, politics is subject to rightful limits: All of the justice of right relationship pertains to politics, but not all of the politics promotes the justice of right relationship. The limits, though, emanate from the principles of the justice of right relationship and not from a sequestration of this justice

and its principles from politics or any other institution. Such a sequestration is the logic of the separation narrative.

The justice of right relationship begins as divine justice and is embodied by Jesus Christ. The Ten Commandments, precepts of the natural law, are confirmed by him, reflect him, and belong to his justice. The Cross and Resurrection are his wider justice, by which he restores the *kosmos,* within which lies the *oikoumene*. Certain norms that Jesus teaches reflect this wider justice distinctively – mercy, gift, forgiveness, generosity, and the like – and are mostly imperfect obligations that heal and restore. Together, these principles make up *dikaiosune*, the justice of the Kingdom. Jesus brings this justice to a triumph in his Resurrection, rules by it upon his Ascension, invites all of humanity to participate in it, and destines all of humanity, indeed, "all things," for its completion.

Humans who accept this justice become conformed to it and aspire to follow its entire set of norms. They play a part in God's redemption of the world by working to expand the Kingdom and its ways, the realm of right relationship. They love the world because God loves it and they love it in the manner that he loves it. They love their neighbor, willing his good, according to the entirety of justice, and continue to do so when they act in the political realm. To sequester part of justice from the political order, or any other order such as business, the family, the school, and friendship, would be to sequester God's justice from a sizable portion of human affairs. Consequently, Christian political action respects and protects rights and the rule of law, acts fairly, and heeds retribution but also practices and promotes mercy, generosity, hospitality, forgiveness, love for enemies, the will to reconcile, peacemaking, and restorative justice. And, it pursues a political order that would guarantee basic human rights, enforce the law,

ensure fairness, administer just punishment, and defend the state, but also would welcome immigrants, ensure the provision of health care, enact restorative justice, ensure care for people living in poverty, protect and restore the natural environment, encourage social ties, promote the welfare of the family, pursue peace and reconciliation in countries recovering from war and dictatorship, and address wounds of historical injustices.

If the justice of right relationship is intended for the entire world, what does it mean for non-Christians? If the natural law is true, then every person possesses it by virtue of his rational capacities. Natural law principles are ones that a person cannot "not know," as political philosopher J. Budziszewski put it.[56] While the entire justice of right relationship is the purpose of the political order and the basis of political obligation, natural law principles and the goods that they promote are sufficient to supply political authority with its just purpose and the right to the obedience of its citizens. Natural law provides a common basis for law, policy, and political action in general within a political order. People other than Christians will also hold the equivalent of the supernaturally taught principles in the justice of right relationship to various degrees according to their religious and philosophical beliefs. Christians, who hold these principles on the authority of Jesus' teaching, may seek consensus on laws and policies based on them with fellow citizens who subscribe to them on different grounds. Christians need not leave these principles aside in their public speech and action, or separate them from politics.

[56] See J. Budziszewski, *Written on the Heart: The Case for Natural Law* (InterVarsity Press, 1997).

The politics of Jesus gives rise to prompt and fretful questions. They are those of the liberal, the realist, the secularist, and the Baptist that arise from sensibilities that have grown and ripened in the West in recent centuries. They warn in different keys that the justice advocated here will be harshly coercive, overimposing, threatening of freedom, quelling of autonomy, and prone to hypocrisy, failure, backfire, and malicious side effects. Does this justice respect the rights and limits of constitutional liberal democracy? Does it respect religious freedom? The requirements of pluralism? The separation of Church and state? Does it heed the limits of prudence? Does it call for blind obedience? Behind the disquieting tenor of these questions, which have done much to generate separation narratives, are certain truths. These truths, though, are ones that the justice of right relationship may incorporate and endorse on its own basis. They yield a politics that heeds laws and limits – of the kind that characterize constitutional liberal democracy – even as it incorporates the wide justice of right relationship. Again, all of this justice applies to politics, but not all of politics promotes this justice.

The chapters in Part Three take up these questions through a dialogue with several schools of thought and aim to incorporate answers to them into the justice of right relationship. The more immediate task at hand is to examine the meaning of the justice of right relationship for political orders. What laws, policies, and political action emerge from a combination of principles that render and exceed what is due and that are known naturally and supernaturally? How does politics look different when it is based on the justice of right relationship? The next three chapters take up these questions.

Chapter Ten: Elaborating the Justice That Exceeds Due: Primary Justice

A just society is one that fulfills its citizens' right to health care. This proposition has motivated a political movement in the United States in recent years. Proponents have claimed that the U.S. stood alone among developed democracies in failing to provide national health insurance, which some 45 to 50 million citizens lacked as of 2009.[1] The cause triumphed in the Affordable Care Act of 2010, which mandated that every citizen hold health insurance and sought to improve its quality. Today, many more, yet still not all, U.S. citizens have health insurance and the law continues to be debated.

The movement's proposition contains a justice that both fulfills and exceeds what is due. Its term "just" describes a society that provides health care, and "care" a principle that enjoins assistance to vulnerable and dependent people. Care arguably fulfills a right – the right to health care – while also calling for the additional promotion of health, particularly among the poor, as an imperfect duty, one that is real but open-ended with regard to how much, what kind, and what mode of delivery is called for. Natural law contains rights and beneficence, grounded in the basic good of health, while the supernatural teachings of Jesus specify and expand the meaning of health and health care and graft them unto God's healing, redemptive justice. The Gospel of Luke (10:33) uses the term, *esplanchnisthē* – a Greek word meaning, "was moved with compassion," from the bowels – to describe the Good Samaritan's reaction to a beaten man in Jesus's parable. The word expresses the Christian justice of health care.

[1] The Henry J. Kaiser Family Foundation, *The Uninsured: A Primer*, December 2010, find at http://www.statecoverage.org/files/KFF-UninsuredPrimer.pdf

If justice fuses obligations that render due with ones that exceed what is due, and if politics expresses the justice of right relationship in the sphere of public law, then what a portrait of this justice now needs is a depiction of those obligations that exceed due and their political practice. Besides care, these include mercy, generosity, hospitality, reconciliation, and several others. On account of the long absence of beyond-due obligations from justice, and thus from the chief principle that governs politics, theorists of politics have depicted them far less than principles that fulfill rights. Beyond-due principles amount to the difference between the justice of rendering due and the justice of right relationship. They are the principles that the justice of rendering due once molted, shedding them as shriveled encumbrances in order to proceed leanly. Grafted back into justice, these duties contribute to the body politic by healing, alleviating, repairing, caring, welcoming, assuaging, reconciling, reknitting, and fortifying its members and their ties. Broadly, obligations beyond due are ones that heal wounds. More distinctly than obligations that are due, these obligations receive their shape and definition from the actions and teachings of Jesus Christ. The task of reintegrating these principles into politics is what Pope John Paul II described as the task of the Church with respect to mercy, the principle that salves wounds most squarely and widely:

> The more the human conscience succumbs to secularization, loses its sense of the very meaning of the word "mercy," moves away from God and distances itself from the mystery of mercy, the more the Church has the right and the duty to appeal to the God of mercy "with loud cries." These "loud cries" should be the mark of the Church of our times, cries uttered to God to implore His mercy, the certain manifestation of which she professes and proclaims as having already come in Jesus crucified and risen, that is, in the Paschal Mystery.[2]

[2] John Paul II, *Dives in Misericordia*, sec. 15.

The appeal to mercy is an appeal to justice.

The borders of principles that exceed due are not sharp. Several of these principles also admit instances in which they are due, or fulfill rights, making them a blend of due and beyond-due. Mercy, chief among the beyond-due principles, is of this kind. In certain situations, people have a right to the mercy of others, even while most actions of mercy, and the most distinctive contributions of mercy to justice and to politics, are beyond due. Another inexactitude is that while mercy is the chief of the beyond-due obligations, not all of these obligations are strict varieties of mercy. Mercy encompasses the other obligations more than any of the other obligations do, but does not encompass all of them entirely.

Almost all of obligations that exceed due are open-ended, or imperfect, duties. Unlike rights, entitlements that people have to be specified and dischargeable actions on the part of others, these obligations are discretionary with respect to their recipients, what goods they involve, how much is provided, and by what manner they are delivered. Their just enactment depends on determinations of capacity, effectiveness, context, tradeoffs, and balances with other goods and obligations, and the appropriate level of government for their provision. This latter factor is determined by a balance between solidarity, a commitment to provide the goods that people need, and subsidiarity, a respect for the agency and initiative of citizens and local organizations. Justice ought to be done at the "lowest level possible and the highest level necessary," theologian Meghan Clark put it.[3] That political action is performed by citizens and civil society

[3] Meghan Clark, "Subsidiarity Is A Two-Sided Coin," March 8, 2012, at https://catholicmoraltheology.com/subsidiarity-is-a-two-sided-coin/

organizations, including the Church, and not only by government officials and employees, adds further to the open-ended quality of obligations beyond due. Yet, beyond-due principles are not completely open-ended and undetermined in their discharge. Each entails a pattern of action, defined by certain characteristics, that is to be practiced and may be assessed.

This and the next two chapters plumb the principles that exceed due, describing what they consist of; how they involve, complement, and exceed rights; in what respects natural law and supernatural determinations describe them; how they may be practiced; and what they contribute to politics. Historical and contemporary examples illustrate each. These chapters do not purport to cover all of politics or to offer policy prescriptions that depend upon vast judgments of prudence. How countries ought to organize the provision of health care, for instance, depends on history, circumstance, and considerations of effectiveness and efficiency that well exceed these chapters' scope. This chapter looks at beyond-due obligations that belong to primary justice, including mercy, care, hospitality, gift, friendship, and hope; Chapters Eleven and Twelve look at beyond-due obligations that belong to rectifying justice, governing actions that address the evil in wrongdoing, including punishment, war, peacebuilding, reparations, apology, forgiveness, and reconciliation.

Mercy

Mercy is the most eminent of the obligations that exceed what is due. As I argue in Chapter Four, mercy belongs to the justice of right relationship and is centrally an

action as well as being an emotion and a virtue.[4] Mercy is a positive obligation, not a prohibition, requiring the performance of an action. Mercy always relates two parties, one that suffers wounds and another that alleviates wounds. Performers of mercy might be an individual, for instance, the Samaritan traveler who stops to salve the wounds of a man beaten by robbers and laying on the side of the road in Jesus's quintessential parable about mercy (Luke 10:29-37). They might also be an organization, say, a humanitarian agency, or a government in its provision of health care, welfare, foreign aid, or disaster relief. Recipients of mercy might be individuals, organizations, nations, or millions of citizens.

Mercy is preeminent among the beyond-due obligations because its quintessential and encompassing end is to alleviate wounds and to restore persons and relationships, an end that several of the other beyond-due obligations share in more particular ways. As Aquinas teaches, the wounds to which mercy attends include both ones that result from misfortune (non-moral evils) and ones that result from sin (moral evils).[5] The man that the Good Samaritan finds beaten and left by the side of the road is a victim of another person's wrongdoing. Earthquake victims, at the other extreme, are not. The distinction can be loose. An investigation might find that the earthquake victims suffered excessively on account of a corrupt building company's faulty construction of their houses, a form of wrongdoing.[6] The wrongdoing behind poverty is debated perennially: Is it due to neglect? Oppression? Misfortune? Misguided welfare

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[4] More generally, the argument about mercy in the present section builds upon the discussion of mercy in Chapter Four.

[5] Aquinas, *Summa Theologica* II-II, q. 30, a. 1, resp.

[6] Consider the debate in the wake of Hurricane Katrina in 2005 over the social causes of the suffering that the storm brought about. See, for instance, Iris Young, "Katrina: Too Much Blame, Not Enough Responsibility," *Dissent* 53, no. 1 (2006), 41-46.

policies? The indolence of the poor? Still, mercy can be a form of both primary justice, the succor extended by the Good Samaritan, whose will to help the beaten man is not dependent on the man's being the victim of a crime, and rectifying justice, which might include legal punishment at the hands of the Jericho magistrates had they apprehended and tried the robber, the actions of the robber had he paid restitution or apologized to his victim, or of the victim had he forgiven the robber. Among the principles of primary justice, the subject of this chapter, manifesting mercy most clearly are care, gift, and hospitality, and, less limpidly but still discernibly, friendship and hope. Obligations of rectifying justice, the subject of the next chapter, also manifest mercy, including, surprisingly but arguably, punishment and war, and, less surprisingly, peacebuilding, reparations, apology, forgiveness, and reconciliation.

Mercy and the Justice of Rendering Due

Mercy, the obligation to repair wounds, is mostly a duty that exceeds rights but is sometimes one that fulfills rights. In fact, three broad orientations towards rights characterize duties of mercy. First, in some instances, a right to mercy obtains. In a second set of instances, mercy is a departure from what is normally due to people. Third are instances – most duties of mercy – in which mercy is neither due nor defined by due but rather simply exceeds due.

Regarding the first orientation: When do people have a right to mercy? Mercy always presupposes distress. Yet, it would seem that rights are entitlements to certain kinds of action (or restraint from action) that have basic goods as their end, and that these actions are due to people by virtue of their dignity and not because they are in distress or diminished. The (claim) right of the No Squirrels Roofing Company to be

paid for its services, Felicity's (privilege or liberty) right to walk in the park during open hours, the government's (power) right to levy taxes, and a citizen's (immunity) right not to be drafted – all of these Hohfeldian incidents are entitlements not to repair but rather to goods of one kind or another. Much the same could be said for negative human rights – prohibitions of torture, killing civilians, curtailments of the freedom to practice religion – and for positive human rights, say to education, decent health care, or to subsistence. True, a lack or violation of these human rights involves wounds, and to restore the enjoyment of these rights may alleviate wounds, but the end of the rights is not to alleviate wounds but rather to secure goods. A child has a right to nourishment, education, and decent treatment because these are goods that her parents owe her on account of the duties that attend the parent-child relationship even should the child never suffer a deprivation of them.

Still, in some situations mercy is a right. Imagine a fit, six-foot tall adult swimmer who walks past a pool on a sunny and calm day with no one else around and spots a three-year old child drowning. To rescue the child would be mercy, an action that aims to relieve his distress. Further, the swimmer has an obligation to perform this mercy and the child has a right to it.[7] It is indeed mercy to which the child has a right since alleviating the child's distress is the aim of the swimmer's prospective action. The swimmer's mercy is demanded by a right because the two criteria of rights obtain. First, the action is specified: a particular action, pulling the child out of the pool, performed by a particular person, the swimmer, for a particular recipient, the child, is what is

[7] Such a right to mercy belongs to primary justice since the suffering is a non-moral evil; the next chapter will discuss rights to mercy that belong to rectifying justice. Of course, as noted above, there may be more to the story, say the child fell into the pool because of the neglect of parents. The case illustrates primary justice, though, in that the purpose of the rescuing action is to relieve the suffering of danger to the child's life, not to address anyone's wrong doing.

required. This is not an imperfect duty. Second, the action may be discharged: the swimmer possesses the capacity to perform the action by virtue of her size, ability, proximity, the availability of an effective rescuing action, and the absence of trumping obligations, say, rescuing a separate child who simultaneously is about to fall off a nearby ledge; and the action is one that can be completed and is not an ongoing obligation. A third factor, if it obtains, could strengthen the right: a social tie. Should the swimmer be the father of the drowning child, the corresponding obligation and right to mercy would be enhanced.[8]

Imagine the scenario reversed: A three-year-old child is walking alone along the shore of a lake and notices a three-hundred-pound adult flailing and about to drown twenty yards offshore amidst high waves on a gusty day. The child has no obligation to rescue the drowning person; he is required to seek help at most; and the swimmer has no right to the boy's attempt at rescue. Although such an attempt would be an act of mercy and is a specified action, it is not dischargeable; the child lacks the capacity to perform it.

These polar cases illustrate the criteria for a right to mercy: The prospective action aims to alleviate wounds, is specifiable, and is dischargeable. These criteria are scalar, not binary. Infinite factors vary the proximate swimmer and the drowning person each along a spectrum from large to tiny and strong to weak, the weather conditions from rough to calm, and so forth. The right to mercy obtains when each of the criteria stands at the favorable end of the scale -- the swimmer is a fit adult, the drowning

[8] Theologian David Hollenbach, SJ, in his discussion of positive duties of humanitarian assistance or intervention, draws on the Kew Gardens Principle to propose five criteria for positive duties: 1) a critical need; 2) proximity of the assister; 3) capability; 4) the assister is the last resort; and 5) the capacity to deliver aid without proportionate harm. See David Hollenbach, *Humanity in Crisis: Ethical and Religious Response to Refugees* (Georgetown University Press, 2019), 99.

person is a helpless child, and the weather is calm. A qualifying scenario in political life would be an earthquake that strikes a town and leaves hundreds of victims in need of food, water, shelter, and medical care in a country whose government is well equipped for emergency relief. These victims have a right to mercy as a matter of primary justice.

In the second orientation, mercy departs from a baseline of due, that is, a rightful *prima facie* expectation of what is due. Here, the prospect of salving wounds pleads for an exceptional departure from due. This narrow rationale for mercy is the main one that has been countenanced in political thought and practiced in the West from the Enlightenment to today, a period that Tuckness and Parrish argue has seen the decline of mercy in public life. The most familiar site of this departure is the court of law, where a judge possesses a Hohfeldian (power) right to render a defendant his due by judging and sentencing him. Mercy in this setting means leniency – commutation or clemency. An executive pardon exemplifies this sort of mercy, too – for instance, U.S. President Gerald R. Ford's pardon of his predecessor, Richard M. Nixon, after Nixon resigned in 1974, on the rationale that national healing called for avoiding the prolonged public divisions of a trial. The lenient judge is one of four metaphors that Tuckness and Parrish find in modern Western thought in its rare treatments of mercy. The other three are the "forgiving creditor," who forgoes collecting what is owed, the "merciful benefactor," who gives what is not earned, and the "loving parent," who spares a child punishment.[9] Are such departures from due justified? Its opponents invoke impartiality, fairness and equality – many of "the president's men" served prison sentences for the crimes they committed under Nixon – while its proponents cite the need for healing or avoiding

[9] Alex Tuckness and John M. Parrish, *The Decline of Mercy in Public Life* (Cambridge University Press, 2018), 11.

harm that sometimes overrides what is due. I do not resolve the question of the lenient judge at this point but rather only note this second relationship between mercy and rights.

Both of these two orientations, where mercy is a right and where mercy exceptionally departs from what is due, brook yet circumscribe mercy as the mingy measure of what due allows. Yet, Christian mercy is wide, as wide as wounds are. The mercy found in the Bible and in classic Christian thinkers such as Aquinas – the third orientation – extends succor that is due and beyond due, that is deserved and undeserved, that arises from human evil and does not so arise, and that finds recipients in the poor, the prisoner, the hungry, the ignorant, the guilty, and the oppressed. Mercy "restores to value, promotes and draws good from all the forms of evil existing in the world and in man," writes John Paul II.[10] This far less severe mercy belongs to the wide justice of comprehensive right relationship. The Bible conveys the compatibility of mercy and justice in Micah 6:8, where it conjoins "do justice (*mishpat*)" unreservedly to "love mercy (*hesed*)"; in the Gospel of Matthew (5:6-7), where the beatitude, "blessed are they who hunger and thirst for justice (*dikaiosune*)" immediately precedes "blessed are the merciful"; and later in the same Gospel (25:46), where Jesus promises that "the just (*dikaios*)" who practice the mercy that he describes will receive eternal life. Incorporated into justice, this wider mercy may be revived in public life.[11]

The three orientations associate justice and mercy differently. The justice of rendering due is one to which mercy either belongs or that defines a baseline from which mercy departs – the first two orientations. When mercy exceeds rendering due –

[10] John Paul II, *Dives in Misericordia*, sec. 6.
[11] I have adapted these verses through my own translations to show the link between justice and mercy.

the third orientation – it complements, balances against, or stands in tension with it. Altogether, the justice of right relationship includes mercy as a right and also enfolds mercy when it departs or swings free from what is due. This justice includes and is shaped by all of mercy's three expressions.[12]

Natural and Supernatural Mercy

Reflecting the justice of right relationship, mercy also takes both a natural form, known by unaided reason, and a supernatural form that God communicates and that develops and specifies what reason alone can know. As a natural obligation, mercy is a subset of beneficence, the open-ended duty to promote the good of others, which invoves alleviating their distress or bringing healing to their wounds. Mercy is mostly an

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[12] Both aspects of justice and their association with mercy are discernible in the thought of John Paul II, who made mercy the escutcheon of his pontificate, which spanned from 1978 to 2005. He set forth his theology of mercy in 1980 in his second encyclical, *Dives in Misericordia* (Rich in Mercy), where he writes of mercy's relationship to justice. John Paul II sought to integrate mercy with the justice that both renders and exceeds due and thus into public life, I argue.

In portions of the encyclical, John Paul II writes of the justice that renders due, comprising equality, rights, just distribution and deserved punishment. The Prodigal Son in the Gospel of Luke (15:11-32) is prepared to accept this justice on his return from his spree in a far country, deserving to work back his wasted inheritance as a hired servant, a justice that his father has a right to expect and that his older brother demands. Though valid, this justice restores far from completely. It stands to be corrected and "tempered" by mercy, and alone has a tendency to descend into injustice, hatred, spite, and revenge, John Paul II argues. Mercy is the father's welcome of his son, his willingness to restore his son's dignity. Jesus's sacrifice on the cross effects this justice by compensating for the sins of humanity and paying the price of sin while also motivated by mercy, rooted in love, and restores humans to right relationship with God and with others. Mercy complements the justice of due, John Paul II argues in these passages.

In other places in the document, though, John Paul II writes of a different justice, one that mercy does not merely complement but rather redefines, one that "restore[s] justice in the sense of that salvific order which God willed from the beginning in man and, through man, in the world"; that "accomplishes" the justice that means salvation in the Old Testament; that "restore[s] justice in the salvific order which God willed from the beginning in man, and, through man, in the world"; that "reveals the perfection of justice"; that is "the most profound source of justice"; that is "the perfect incarnation of justice"; and that "has the power to confer on justice a new content, which is expressed most simply and fully in forgiveness." Later, in John Paul II's message for the World Day of Peace of January 1, 2002, following the attacks of September 11th, 2001, he wrote that there is no justice without forgiveness and that forgiveness is "the fullness of justice," again describing a justice that mercy, expressed here by forgiveness, shapes. In John Paul II's encyclical of 1995, *Evangelium Vitae,* he writes of a "more radical 'justice'" that "implores mercy." John Paul II, then, sometimes treats justice as rendering what is due but at other times as restoring right relationship, including through a mercy that exceeds what is due. It is a mercy that expresses a justice that both includes and exceeds what is due for which I want to argue.

imperfect duty, to which recipients have no right, although it also may meet the criteria for a right in some situations such as the fit swimmer's encounter with the drowning child.

Christianity's mercy shares in the natural meaning of mercy yet specifies it with further content, identifying more particularly the recipients, the form, the spirit, and the inspiration for merciful action. Revealed, defined, and authorized by God, such mercy is a supernatural obligation.

The distinctiveness of Christianity's mercy appears vivid in relief against the notions of mercy that classical philosophers espouse and draw from their period's discourses and traditions. Philosopher John O'Callaghan contrasts mercy in Aquinas, whom the Bible inspired, with mercy in Aristotle, Cicero, and Seneca, whom Aquinas discusses. Aristotle, in his *Rhetoric* and *Poetics*, O'Callaghan explains, depicts *eleos* as an emotion of pain that a person suffers upon apprehending the pain that another person has suffered upon a reversal of fortune. Prompting the pain is a fear that a similar future awaits the merciful one. It is not God who bestows *eleos*, but rather a person who is a part of a circle of friendship with the recipient. As for Cicero and Seneca, they both thought ill of *misericordia*, a sharing of the pain of another that they associated with pity, weakness, and dishonor, though both favored what Seneca called *clementia*, an action by which a ruler might mitigate the punishment of a criminal, as did Caesar when he pardoned his enemy in war, Marcus Junius Brutus. *Clementia*,

Seneca thought, would make a ruler honored and loved and render his rule more secure.[13]

O'Callaghan then observes that Aquinas, in contrast, understood mercy as compassion that is motivated not primarily by fear for oneself but rather by friendship through which one identifies with another's suffering as if it were one's own. The recipient's suffering may be the result of wrongdoing, or may not, and need not involve a reversal of fortune, though it might. Any person, friend or stranger, similar or dissimilar in social status, is a potential recipient of mercy – the victim of robbery in the Good Samaritan parable, for instance. Mercy may be bestowed by God or by a human person. For Aquinas, mercy can be an emotion (or passion), the action to which the emotion leads, or a virtue, a ready disposition towards the action. In contrast to Seneca and Cicero, Aquinas understands mercy differently from clemency, which he discusses in a separate article in the *Summa Theologica* as mitigation of anger, and he does not disdain pity, the emotion of mercy. Aquinas specifies mercy, then, according to what he takes God to have revealed and does so differently than classical philosophers.[14]

In the Bible, mercy shares in *sedeq* and *dikaiosune*, the totality of commands that make up the justice of right relationship. God reveals and enacts mercy in his primary and rectifying justice (Quadrants I and II in Table 2-1), through which he creates the world out of nothingness and wills to restore it in response to sin. This mercy climaxes in Jesus Christ, as John Paul II declares in *Dives in Misericordia*: "Christ confers on the whole of the Old Testament tradition about God's mercy a definitive meaning. Not only

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[13] John O'Callaghan, "*Misericordia* in Aquinas: A Test Case for Theological and Natural Virtues," *Jaarboek Thomas Instituut te Utrecht* 33 (2013), 7-9 11-26, 31-44. See also Tuckness and Parrish's treatment of mercy in classical thought in Tuckness and Parrish, *The Decline of Mercy in Public Life*, 54-84.

[14] O'Callaghan, "*Misericordia,*" 31-51.

does He speak of it and explain it by the use of comparisons and parables, but above all He Himself makes it incarnate and personifies it. He, himself, in a certain sense, is mercy."[15]

Divine mercy shapes and commissions human mercy. Ordered supernaturally, human mercy is commanded by God, animated by grace, directed to God, due to God as gratitude, and responds to God's mercy. Like the other obligations that exceed what is due, mercy imitates God's action. "Be merciful, just as [also] your Father is merciful," Jesus teaches in the Sermon on the Plain in the Gospel of Luke (6:36); "[g]o and do likewise," he says at the end of the parable of the Good Samaritan, also in Luke; and, "[i]f I, therefore, the master and teacher, have washed your feet, you ought to wash one another's feet," he teaches in the Gospel of John.[16]

Six qualities, all further specifications of natural mercy, distinguish the human obligation of mercy that the Bible sets forth.

First, the presence of Christ in the distressed person enhances the universal orientation of mercy. That any distressed human being is befitting of help expresses the universal natural obligation of beneficence. In Chapter Eight, I endorsed Harper's argument that Christianity introduced human dignity and its accompanying features of universality, equality and freedom into the mores of antiquity. If, as I also argued, reason can know that everyone has dignity, it follows that God's revelation clarifies and affirms what civilizations without revelation are prone to distort. The same may be argued about mercy. That the distressed victim of robbery in the Good Samaritan

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[15] John Paul II, *Dives in Misericordia*, sec. 2

[16] Roland Teske, "The Good Samaritan (Lk 10:29–37) in Augustine's Exegesis," in *Augustine: Biblical Exegete*, eds. Frederick Van Fleteren and Joseph C. Schnaubelt, 2nd ed. (Peter Lang International Academic Publishers, 2001), 347–57.

parable merits help is something that every person can know by virtue of her reason. That anyone distressed is the neighbor of everyone is the answer to the question that prompts the parable: Who is my neighbor? Jesus' teaching gives the obligation new and vivid clarity.

Jesus does not only clarify and accentuate a natural obligation, though, but also enhances the universality of mercy – that it befits everyone – by teachings that exceed the natural law. In Jesus' teaching regarding the poor in the Gospel of Matthew (25:31-46), he offers a certain rationale for why his hearers ought to come to the assistance of the hungry, the thirsty, the imprisoned, and the like: When you see them, you see me. Jesus Christ shows mercy to the poor and the distressed to the point that he inhabits them. In the Bible's teaching, the end of mercy is not only human dignity but also Jesus Christ himself. Jesus identifies with every suffering person, enhancing the reason for coming to every suffering person's assistance regardless of that person's communal affiliation or other characteristics.[17]

The Bible specifies the content of mercy in a second way by prescribing each of the more concrete restorative actions that the Christian tradition would come to recognize as the fourteen works of mercy. These include the corporal works of mercy, which are to feed the hungry, give water to the thirsty, clothe the naked, shelter the homeless, visit the sick, visit the imprisoned, and bury the dead, and the spiritual works of mercy, which are to instruct the ignorant, counsel the doubtful, admonish the sinners, bear patiently those who wrong us, forgive offenses, comfort the afflicted, and pray for

[17] John Paul II, *Sollicitudo Rei Socialis,* The Holy See, December 30, 1997, secs. 38-40, https://www.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf_jp-ii_enc_30121987_sollicitudo-rei-socialis.html. See William C. Mattison, III, "Solidarity in Catholic Social Teaching: An Inquiry Employing Thomistic Categories of Virtue," *Journal of Catholic Social Thought* 15, no. 1 (2018): 1-43.

the living and the dead.[18] The fourteen works entail but are more specific than natural mercy or beneficence, and the spiritual works bear an especially supernatural imprint.

Third, as Aquinas discerns, biblical mercy is marked by compassion. The Bible often describes God as compassionate and prescribes human behavior motivated by compassion.[19] Again, the Good Samaritan parable speaks of a viscerally felt compassion. (Luke 10:33). "Weep with those who weep," the Apostle Paul wrote (Rm 12:15). The possessor of such compassion looks upon another's distress as being his own – a solidarity of identification between persons.

Fourth, Jesus teaches a mercy of sacrifice. In Matthew 12, Jesus declares "I desire mercy, not sacrifice," contrasting mercy with the Pharisees' insistence upon the ceremonial precepts, paralleling the contrast in Isaiah 58 (3-10) between a fast of outward conformity with a fast of mercy. That acts of mercy would be a fast implies deeds that are more than what is naturally required. Acts of mercy are also entailed in Jesus' general command, "[i]f anyone wishes to come after me, he must deny himself and take up his cross daily and follow me" (Luke 9:23), the synoptic gospels' strongest invocation of a life of sacrificial love.

Fifth, again following the argument of Aquinas, the Bible's mercy is directed both to those who do and do not deserve their distress, the sinner and the hungry. As the following two chapters will argue, a merciful, restorative justice towards wrongdoers extends what reason alone can know.

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[18] Each of the fourteen works of mercy is referenced in scripture. See, for instance, Matt 25:31-46; Isa 58: 6-11.

[19] Deut 30:30; Ps 25:6; Ps. 51:3; Ps 78:38; Ps 86:15; Ps 103:8; Ps 103:13; Ps 145:8; Matt 18:27; Luke 15:20; Eph 4:32; Col 3:12.

Sixth, Christian mercy is bilateral, never dispensed only in one direction, as John Paul II argues in *Dives in Misericordia*. Mercy merits the gratitude of the recipient. Even should the recipient withhold this gratitude, the merciful one attains happiness by extending a gift to the other – a dynamic that John Paul II describes as the commandment of the gift in *Evangelium Vitae* – a happiness that is bilateral by being relational.[20] Jesus teaches further that the merciful may expect that by giving to "the poor, the crippled, the lame, the blind," who are unable to repay them, God will repay them at the resurrection of the "just" (Luke 14:13-14).

All of these qualities, revealed supernaturally, conveyed in the Bible, found fully in Jesus Christ, give mercy its distinct Christian texture. "Be merciful, as your Father is merciful" Jesus teaches (Luke 6:36). Thus determined, this mercy is a commandment, not an option, even in the form of an imperfect duty. While not everyone will perform all of the fourteen works, while all of the works are subject to prudence, and while some of them call for acquiring abilities – instruct the ignorant, for instance – it would be wrong not to perform mercy, as befits an imperfect duty.

While supernaturally determined, Christian mercy enfolds and does not erase natural duties and goods. Mercy aims to relieve wounds to natural human goods in persons – life, health, knowledge, opportunities for play, and aesthetic appreciation, friendship among persons, communities, and religion. No work or aspect of mercy contains an end that is beyond reason and intelligibility, even while divine authority determines mercy beyond what reason alone can know. Mercy finds resonance in the

[20] John Paul II, *Evangelium Vitae*, 52.

teachings of other religious and philosophical traditions. Supernatural obligations of mercy both subsume and exceed natural obligations of mercy and beneficence.

In sum, mercy is an obligatory action that seeks to alleviate the wounds of persons and relationships and aims to restore them. Mercy is sometimes the right of recipients but it is mostly an imperfect duty, one that is not due. The mercy that God reveals and the Bible sets forth is a specified form of mercy's natural form, which is a subset of beneficence. It belongs to and shapes the justice of right relationship.

Mercy in Politics: Humanitarian Aid

Illustrating mercy in politics is humanitarian aid across borders – the delivery of material assistance to people suffering from starvation, need of urgent medical care, and lack of shelter due to the ravages of armed conflict, natural disaster, and economic crises for the purpose of providing them immediate relief.[21] Humanitarian aid is political in the broad sense meant here – addressed to a matter that is properly the concern of public law and performed by international institutions, the governments of sovereign states, or NGOs that are approved and sometimes funded by political institutions. In 2021, international institutions and governments provided 80% of the world's $31.3 billion of humanitarian aid.[22]

Humanitarian aid is best justified as a duty of mercy that exceeds rights. While rights help to depict the problem to which humanitarian aid responds, they do not

[21] Humanitarian aid is distinguishable from humanitarian assistance, which provides longer-term support for victims of crises; development aid, which promotes longer term economic development in a population; and humanitarian intervention, which involves military force used against one or more parties for the purpose of ending large-scale human rights violations or providing the delivery of relief. Humanitarian aid is selected as an exemplary case for my argument in this chapter. The next chapter will look at humanitarian intervention.

[22] ALNAP (Active Learning Network for Accountability and Performance in Humanitarian Action), *The State of the Humanitarian System* (London: ALNAP/OD, 2022), 13.

ground the duty to provide the aid. Advocates of humanitarian aid have sought for decades to make it a right, but this is a mistake because a duty to deliver humanitarian aid to every sufferer is not dischargeable, as a right requires.[23] The world's institutions have a duty to deliver humanitarian aid and to develop the capacity to deliver more and better, but the duty is an imperfect one, subject to discretion. Perhaps one day institutions will have developed this capacity to the point that they can deliver aid readily, reliably, and universally, at which time such aid can be a right of every person. At present, to invoke a right where only a hope or an aspiration exists is to inflate and cheapen the currency of rights and weaken the moral force of entitlements. Humanitarian aid is a good example of a duty that does not fulfill rights yet belongs to justice and is thus centrally relevant to politics. Were justice to consist only of principles that fulfill rights, humanitarian aid would not belong to justice.

Humanitarian aid that is delivered today by United Nations organizations, the International Federation of Red Cross and Red Crescent Societies (IFRC), and multiple other NGOs to people in countries such as Ethiopia, Yemen, the Democratic Republic of Congo, Afghanistan, and many others, finds its historical roots in Christian mercy. Christianity is not the only religion that calls for or delivers humanitarian aid. Muslim organizations such as Islamic Relief Worldwide, motivated by the Quran's teaching, deliver such aid, as do organizations governed by other religions and secular leaders. Today, United Nations organizations, the largest purveyors of such aid, as well as the largest humanitarian NGOs, speak in secular terms, although some of the large NGOs

[23] On the advocacy of a right to humanitarian aid and a thoughtful skeptical discussion, see Hugo Slim, *Humanitarian Ethics: A Guide to the Morality of Aid in War and Disaster* (Hurst & Company, 2015), 118-121.

are Christian organizations. The historical genealogy of the ideas, institutions, and practices that predominate in humanitarian aid today, though, begins with Christian mercy.[24] "Religion poured the foundations for humanitarianism," political scientist Michael Barnett writes.[25]

During the sixteenth and seventeenth centuries in Europe, as medieval Christendom metamorphosed into the sovereign states system that was consolidated at the Peace of Westphalia in 1648, Christian philosophers such as Francisco de Victoria, Hubert Languet, Alberico Gentili, and Hugo Grotius argued that state sovereignty was not absolute and that when people in one state suffered acutely and in large numbers, princes in other states had a duty to come to the victims' aid, even through armed force.[26] In the late eighteenth and nineteenth centuries, a Christian calling motivated English activists such as William Wilberforce and Florence Nightingale to advocate for and assist slaves and soldiers overseas and Swiss businessman Henry Dunant to stop and help wounded soldiers at the Battle of Solferino in 1859, leading him to found the organization that would become the IFRC. During and after World War II, "humanitarianism [went] global," as Barnett writes, as organizations expanded their work beyond Europe. Humanitarian aid was also incorporated into international law in the Geneva Conventions of 1949. The next and last major wave of sharp expansion took

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[24] For the largest humanitarian NGOs in the world see https://www.humanrightscareers.com/issues/biggest-ngos-in-the-world/

[25] Michael Barnett, *Empire of Humanity: A History of Humanitarianism* (Cornell University Press, 2011), p. 18.

[26] Daniel Philpott, "On the Cusp of Sovereignty: Lessons from the Sixteenth Century" in Luis E. Lugo, ed., *Sovereignty at the Crossroads? Morality and International Politics in the Post-Cold War Era* (Rowman and Littlefield, 1996), 46-53. In the eighteenth century, after Westphalia, international law scholar Emerich de Vattel advocated for assistance across state lines, see Barnett, *Empire of Humanity*, 14. See David Hollenbach, S.J. *Humanity in Crisis: Ethical and Religion Response to Refugees* (Georgetown University Press, 2019), 26-31. Humanitarian armed intervention is discussed in the next chapter.

place in the 1990s, when "everything changed," Barnett maintains. "The Cold War was history, replaced by 'new wars' that were creating 'complex humanitarian emergencies,'" he explains, ones that involved state failure, genocide, and ethnic cleansing, that were spurred by 24-hour cycle of global news, and that were enabled by an outbreak of NGOs.[27] By 2021, some 5000 organizations and 632,000 staffers (90% of them in national organizations) had arisen to deliver humanitarian aid. In the same year, 255.1 million people were estimated to be "in need," 174 million of whom were designated for assistance.[28]

Rights might seem apposite to ground humanitarian aid. Human rights and humanitarian aid experienced their historical growth spurt as siblings under the same parents, international law and international institutions. Are not massive violations or deprivations of human rights the very reason for humanitarian aid? Does not the urgent restoration of these rights constitute the goal of humanitarian aid? Do not international organizations, governments, and NGOs possess a Hohfeldian power right (authority) to deliver aid subject to international humanitarian aid?

Yes, the violation and restoration of rights define humanitarian aid's provocation and purpose. Yet, in a crucial respect, humanitarian aid is not a right: It fails to meet a critical aspect of dischargeability, namely organizational and logistical capacity. Recall that a critical aspect of rights is that an agent – individual or organization – can be expected to act toward the holders of the right in the manner that the right entitles them. Here, this means fulfilling positive economic rights by providing nourishment,

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[27] Barnett, *Empire of Humanity*, 2-3.

[28] ALNAP, *The State of the Humanitarian System,* 9, 14. Almost half of funds for aid went to three U.N. organizations, the World Food Programme (WFP), the United Nations High Commissioner for Refugees (UNHCR) and the United Nations Children's Fund (UNICEF).

shelter, and basic health care to victims of disasters. Just entitlement, in turn, implies capability. Victims have a right only if some agent possesses the ability to meet this right.

Normally it is the governments of sovereign states whom we expect to fulfill these rights, that is, to meet (or guarantee) the basic needs of their citizens. When humanitarian crises occur and persist within their borders, these governments have failed in this fulfillment. Their culpability for this failure is a different question. A disaster such as the tsunami on the day after Christmas in 2004 may have created humanitarian needs beyond their capacity to alleviate. Other times, governments may be more culpable. Economist Amartya Sen wrote a well-known article in 1994 arguing that famines occur only under authoritarian governments, who lack democratic accountability.[29] Governments may also bear responsibility for wars and corruption, which contribute to humanitarian suffering. Unjust governments are culpable for not being capable.

In any event, when governments fail to alleviate humanitarian disasters, do their people then invoke a right to aid from governments and other organizations outside their borders? Recall that the failure to uphold or fulfill a right constitutes a wrong. If victims have a right to humanitarian aid, these potential providers are situated like the fit adult swimmer encountering the drowning child. They would be wrong not to come to the rescue. Humanitarian aid across borders, though, does not qualify as a right. The providers lack the capacity to deliver this aid to every victim, indeed to millions of victims, who need it. Recall that in 2021, 174 million out of 255.1 million people in need

[29] Amartya Sen, "Liberty and Poverty: Political Rights and Economics," *The New Republic*, Vol. 210, 10 January 1994, pp. 31-37.

received aid. Capacity means not only financial resources but also the personnel, equipment, logistical, and organizational ability to meet humanitarian need. Armed conflict can hamper this capacity further. Political scientist Daniel Engster describes this scenario:

> [I]n 1996 . . . Oxfam and twelve other humanitarian organizations pulled out of Liberia when it became evident that warring groups were using their aid to purchase arms and fund the civil war . . .. The decision of these groups to cease operations undoubtedly contributed to the death of some individuals, but was probably the right choice . . .. More people would likely have died if these groups had continued to provide aid, and the people of Liberia had little chance to return to their normal lives as long as the war continued.[30]

These organizations did not wrong victims by pulling out. More generally, providers of humanitarian aid cannot be said to have failed in their obligations when they do not deliver aid to every victim, as a right demands. Such a duty is not dischargeable.

Contrast the obligation to deliver aid that arose when a tornado struck Joplin, Missouri in 2011, taking the lives of 158 people and injuring 1100.[31] U.S. citizens rightly could expect their national and state governments to come to the aid of victims, and the victims had a right to this aid. Because this government has the capacity to fulfill this obligation with respect to these citizens, the obligation is dischargeable. A rights claim also motivates the criticism that the United States government failed to carry out this obligation in the case of Hurricane Katrina in 2005. If the failure to deliver aid resulted

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[30] Engster, *The Heart of Justice; Care Ethics and Political Theory* (Oxford University Press, 2007), 184. Engster cites Daniel A. Bell and Joseph H Carens, "The Ethical Dilemmas of International Human Rights and Humanitarian NGOs: Reflections on a Dialogue Between Practitioners and Theorists," *Human Rights Quarterly* 26, no. 2 (2004): 318-319.

[31] National Weather Service, “Commemoration of Joplin, Missouri EF-5 Tornado,” https://storymaps.arcgis.com/stories/d64c8d41c28949bd87478f252ac7e378.

from poor leadership or incompetence, then the rights of citizens were valid but not upheld; the government was culpable for not being capable.[32]

Do providers of humanitarian aid across borders still have an obligation to deliver aid? Yes, the obligation is one of mercy and is imperfect, that is, beyond due. With limitations on their capacities, providers must choose which victims they can best help and develop a strategy for doing so. This is the exercise of prudence that saliently attends imperfect duties. Does this duty of mercy imply that providers ought to work to develop the capacity to deliver aid to more, and perhaps eventually to all, victims? Yes, in fulfillment of this imperfect duty. Should they one day develop the capacity to deliver to all, then a right to humanitarian aid, a right to mercy, would obtain.

How are the principles that undergird humanitarian aid known, grounded, and authorized? They both belong to the natural law, and thus are knowable by reason alone, and also entail determinations of these principles, ones that reason can apprehend but not alone. Both basic natural law norms and the determinations are found in the international standards governing humanitarian aid that officials and practitioners have developed over decades.[33] Christian justice, based on the Bible,

[32] I take no position on the validity of this criticism but only note that it presumes the dischargeability of an obligation of aid.

[33] See Hugo Slim, *Humanitarian Ethics: A Guide to the Morality of Aid in War and Disaster* (Hurst & Company, 2015), 39-64

affirms and incorporates natural law norms and determinations but also reflects the particular texture of Christian mercy that the supernatural teachings of Jesus depict.[34]

Four core principles of humanitarian aid have been recognized by the United Nations, international law, international organizations, governments, and aid organizations: humanity, impartiality, neutrality, and independence.[35] The humanity principle is that the object of humanitarian aid is the human person, which, as the preambles of the UN Charter and the UDHR state, is the bearer of dignity or inestimable worth. Manifesting this dignity are the basic goods of life and health, now threatened in the extreme. Humanitarian aid also draws out the humanity of its giver, who exercises beneficence, often in a close personal manner. Humanitarian aid is a relational act, elevating both the giver's and the receiver's humanity, and an expression of the natural law principle of beneficence.[36]

The second principle, impartiality, means that need is the criterion of aid and reflects fairness with respect to the goal of the aid, the restoration of life and health. It forbids providing or withholding aid on the basis of race, sex, religion, communal affiliation, and other characteristics as well as a one that is more difficult for many to

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[34] Catholic philosopher Daniel J. Mahoney criticizes "humanitarianism" and the "religion of humanity" in his book, Daniel J. Mahoney, *The Idol of Our Age: How the Religion of Humanity Subverts Christianity* (Encounter Books, 2018). What he has in mind is an ideology that is divorced from Christianity and the natural law created by God, that promotes an abstract universalism that devalues commitments to particular political communities and their common good, that is pacifist, that is devoted to utopian visions of progress, and that is prone to authoritarianism and totalitarianism. He describes a form of secularism vivified most by communism or Jacobinism. While I am sympathetic to his critique of these ideologies, I argue that humanitarian aid can be defended on the basis of natural law and Christian mercy and that these rationales can find common ground with the largest practitioners of aid in international and non-governmental organizations even while they operate in secular terms. Slim's *Humanitarian Ethics* is a good example of a defense of humanitarian aid expressed in secular – meaning common, without religious appeal – terms even while Slim appeals to the natural law teachings in the Catholic tradition, professes his own Christian motivation for the ethic, and, at times, introduces distinctly Christian rationales for portions of the ethic.

[35] See Slim, *Humanitarian Ethics*, 4-6.

[36] Slim, *Humanitarian Ethics*, 44-52.

accept, a recipient's position, role, or past deeds in a political conflict. Aid's fairness will seem unfair at times but is required by the purpose of the aid, alleviation of the suffering of human beings.[37] Fairness, like beneficence, is a principle of the natural law.

Two other core principles govern the manner of provision of humanitarian aid. One is neutrality: Delivering aid must remain politically and militarily neutral in conflicts. The other is independence. Humanitarian aid organizations must remain autonomous in their governance and not subject to the authority of local entities. These principles do not reflect a general indifference towards justice, which may involve other authorities in upholding human rights and supporting just causes in armed conflicts. Rather, they reflect the purpose of a particular activity carried out by particular actors – humanitarian aid, the relief of suffering persons. Indeed the success of humanitarian operations is often dependent on their not being conflated with or widened to more general political change. In this sense the principles are determinations, or applications of more general principles, fitted to a particular task.

Other principles also govern humanitarian aid. One of them addresses a frequent criticism of humanitarian aid, that it is colonialist. It is that aid ought to be distributed as much as possible in cooperation with local actors. This is a version of the natural law principle of subsidiarity and it furthers the goods of self-direction (or participation) and friendship.[38] To assert this or any of the principles is not to deny the dilemmas that

[37] Slim, *Humanitarian Ethics*, 56-64.
[38] Slim, *Humanitarian Ethics*, 75-91.

attend their application. To cooperate with local actors, remain neutral, and retain independence in the midst of armed conflict is more easily said than done.[39]

The justice of right relationship, found in the Bible, adds certain supernatural elements to natural principles and determinations so as to render humanitarian aid an expression of human mercy. First, the dignity that grounds the duty to aid any and all persons in need is fortified by the image of God in every person and the habitation of Christ in the poor and distressed, as the Gospel of Matthew teaches. Second, the divinely taught form of compassion (*esplanchnisthē*) that marks the giver of aid, as argued above, specifies the duty of beneficence, denoting a more particular emotion upon which the giver acts. Together, giving and receiving life-saving aid becomes a divinely shaped relationship.

Third, the humanitarian community's principle of neutrality – that aid is given to people in armed conflicts regardless of whose side they are on – corresponds with the biblical principle that mercy is given both to those whose suffering results from their own misdeeds and those who are the victims of misfortune. Wars are sometimes morally asymmetrical, contests between the mostly just and the mostly unjust, and sometimes morally symmetrical, ones in which injustice is distributed roughly evenly on both sides, and it is not obvious that mutual humanitarian aid ought to take precedence over favoring the cause of the just. The case for impartiality in aid lies in the equal dignity of every person, a dignity that, because it subsists in God, a person does not lose when he commits wrong. Hugo Slim, a scholar and veteran of humanitarian aid, takes the case

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[39] Skeptical or cautionary accounts of humanitarian aid and intervention can be found in Fiona Terry, *Condemned to Repeat? The Paradox of Humanitarian Action* (Cornell University Press, 2002); David Rieff, *A Bed For the Night: Humanitarianism in Crisis* (Simon and Schuster, 2002); and David Kennedy, *The Dark Sides of Virtue: Reassessing International Humanitarianism* (Princeton, 2005).

further through a Christian argument that aid to unjust persons might serve as an act of mercy and forgiveness that leads them to reflect upon and turn from their wrongs.[40]

Fourth, Christian humanitarian aid is directed to the whole person, whose life and health lies in body and spirit and is realized through the practice of the good of religion. Pope Pius XII argued in his seminal document on migration, *Exsul Familia*, that one of the core reasons to welcome migrants is to provide them with spiritual care.[41] Likewise, with humanitarian aid, pastoral care and religious rites might be provided with food and medicine as is appropriate to recipients.

Fifth, Christian churches, by virtue of their spiritual unity, contain ligatures that help to build and fortify the relationships conducive to humanitarian aid. They are communities that include members of and have ties to international organizations, governments, aid organizations, and donors as well as to communities with a permanent presence in recipient countries who are attuned to the needs of recipients. Bound together on a supernatural principle, they promote solidary, subsidiarity, and mercy.

Christian justice, enfolding both natural and supernatural principles, both contributes to a global consensus on humanitarian aid and depicts a distinctive version of it that Christian organizations will practice yet might also shape the wider consensus through dialogue.

Care

"[W]hat difference to moral philosophy would it make," asks MacIntyre, "if we were to treat the facts of vulnerability and affliction and the related facts of dependence

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[40] Slim, *Humanitarian Ethics*, 60-61.
[41] Pope Pius XII, *Exsul Familia Nazarethana,* Apostolic Constitution, The Holy See, August 1, 1952, https://www.papalencyclicals.net/pius12/p12exsul.htm.

as central to the human condition?"[42] It is the principle of care that attends to the "facts of dependence." It contributes to moral philosophy and to the justice of right relationship the duty to extend aid to persons in a position of dependency and to do so in a sustained manner. Dependents include infants, children, and people who are elderly, diseased, disabled, poor, and orphaned among others. In the political sphere governments provide care not as intimately as persons and families do yet through sustained policies and practices that address the needs of persons "who are in the dawn of life, the children; those who are in the twilight of life, the elderly; and those who are in the shadows of life, the sick, the needy and the handicapped," as U.S. Vice President Hubert H. Humphrey voiced.[43]

Care images mercy. Like mercy, it shares in and is a subset of the natural law principle of beneficence. As with mercy, care is an emotion, a virtue, and a principle of action, and action is most relevant to the justice of right relationship. Care's specific difference is that it is directed to persons with dependency. It magnifies the relational character of justice in its qualities of responsibility, sensitivity, tenderness, and attentiveness.

Care's conformity to mercy is inexact. Whereas mercy always relieves distress, care does not strictly presuppose distress. A healthy and happy infant is not in distress yet is ever dependent on her mother's care. The difference is not great, though, because persons dependent on care are always vulnerable and often distressed in some way – wounded, ill, lacking. Care is also narrower than mercy in being almost entirely confined

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[42] Alasdair C. MacIntyre, *Dependent Rational Animals: Why Human Beings Need the Virtues*, (Open Court, 1999), 4.

[43] The quote is inscribed in the entrance hall of the Health and Human Services Administration Building in Washington. D.C.

to human primary justice (Quadrant Three of Table 2-1), whereas mercy spans primary and rectifying justice (Quadrants Three and Four).

As with mercy, care is sometimes a right yet also vastly exceeds what is due, involving actions that are not specified and dischargeable. Family evinces this combination. Children have a right to their parents' care during the children's minority, specified as nutrition, shelter, education, moral formation, and certain other goods.[44] Yet, the duty to care for children much exceeds what may be specified as a right, is discretionary, involving a wide range of possible actions, and extending over a lifetime.

Care belongs to the Bible's justice, its principle of right relationship, in all of its specificity. The Old Testament repeats God's care for his people: "He found them in a wilderness, a wasteland of howling desert. He shielded them and cared for them, guarding them as the apple of his eye" (Deut 32:10). *Hesed*, often translated to English as mercy, is God's fidelity to his covenant, involving an ongoing care for the flourishing of his people. The Old Testament's word for mercy, *rahamim*, connotes the love of a mother for a child, a constant attention to a dependent. Hosea (2:9) compares God's love for his people to the enduring solicitude of a spouse. Jesus showed tender, constant love for the wounded in body and spirit. The font of Jesus's teaching of care, as of mercy, is the Good Samaritan parable. The Samaritan "cared for" the beaten man, not simply giving him temporary relief but rather also cleansing and bandaging his wound, lifting him onto his animal, taking him to an inn, and paying for his stay. "Take care of him," the Samaritan tells the innkeeper (Luke 10: 33-35). The Letter of James writes, "[r]eligion that is pure and undefiled before God and the Father is this: to care

[44] The human rights of children receive international support in the UN Declaration on the Rights of the Child (1959) and the United Nations Convention on the Rights of the Child (1989).

for orphans and widows in their affliction . . .." (1:27). The New Testament's exemplary provider of care is Mary, who displays *rahamim* for her son from his infancy over the course of her life. In the New Testament's care is found also the bilateral quality of mercy, where the healed respond to Jesus with gratitude and relationship is formed. In all of these teachings can be found a supernatural determination of the natural law principle of beneficence.

Christian care finds kinship in a movement among moral and political philosophers in the past generation known as "care theory." Like MacIntyre, care theorists commonly judge the dominant political morality as being abstract, rigid, impersonal, and laden with a view of the person as autonomous and disembodied and of society as fragmented. This dominant thinking sidelines "attentiveness, responsibility, nurturance, compassion, meeting others' needs" and a stress on context, as political philosopher Joan Tronto, one of the most widely cited care theorists, summarizes in her 1993 book, *Moral Boundaries*. Tronto summons a "radical transformation in the way we conceive of the nature and boundaries of morality" that would break down three boundaries in particular: that between morality and politics; a "moral point of view" that limits politics to "distant and disinterested" reasoning; and a sharp boundary between public and private life. What Tronto and fellow care theorists argue parallels what this book argues, that modern justice has sidelined care. They desire that care as a moral, nurturing, relational, and familial principle would be relevant in politics. Care theorists want to redefine the role of justice in public life though they differ over whether care ought to be incorporated into justice, as I argue, or whether care ought to complement justice. Most of them do not want to discard rights, equality, impartiality, and fairness,

and norms, but do not want these to exclude care. All urge a program of kneading care into politics and policy.[45]

Wending through care theory is feminism. The founder of care theory is Carol Gilligan, a psychologist whose classic of 1982, *In A Different Voice*, argued that women reason differently than men do, stressing care and relationship, in contrast to men, who think in terms of justice centered on rights and law.[46] Care theorists voice caution, though: The recognition of feminine virtues must not lead to the subordination of women, the surrender of equality in career or the workplace, or the negation of autonomy. Neither care nor justice is exclusive to women or men, but rather the two principles are accessible to and practicable by both sexes even if women exercise care distinctively. They agree that every society ought to elevate care in its common ethos.[47]

Certain Christian thinkers also understand care as a feminine quality. Legal scholar Elizabeth Schiltz shares the goal of a "dependency-based theory of justice," rethinking justice so as to incorporate care and dependency, and considers care a distinctly feminine quality. She turns to Pope John Paul II, in whose several writings on

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[45] Joan Tronto, *Moral Boundaries: A Political Argument for an Ethic of Care* (Routledge, 2009), 1, 3, 6, 9, 126, 162, 166-167. Tronto seems to want to incorporate care into justice, thus overcoming a "false dichotomy," but also calls the two concepts compatible, seeming to suggest that they are separable concepts but complementary. For other major works, see Engster, *The Heart of Justice*; Nel Noddings, *Caring: A Feminine Approach to Ethics and Moral Education* (University of California Press, 1984); Grace Clement, *Care, Autonomy, and Justice* (Westview Press, 1996); Virginia Held, *The Ethics of Care: Personal, Political, and Global* (Oxford University Press, 2006); Eva Feder Kittay, *Love's Labor: Essays on Women, Equality, and Dependency* (Routledge, 1999); Sara Ruddick, *Maternal Politics: Toward a Politics of Peace* (Beacon, 1989); Robin West, *Caring for Justice* (New York University Press, 1997); and Mona Harrington, *Care and Equality: Inventing a New Family Politics* (Routledge, 2000); Elizabeth R. Schiltz, "West, MacIntyre, and Wojtyla: Pope John Paul II's Contribution to the Development of a Dependency-Based Theory of Justice (the Jurisprudential Legacy of John Paul II)" *Journal of Catholic Legal Studies* 45, no. 2 (2006): 369–414. Relevant here is also Christopher D. Marshall, "Justice as Care," *The International Journal of Restorative Justice* 2, no. 2 (2019): 175–85.

[46] Carol Gilligan, *In A Different Voice: Psychological Theory and Women's Development* (Harvard University Press, 2016). Most of the works in the previous note are of a feminist orientation. See Schiltz, 375-377.

[47] On this last point, Harrington argues that we ought to "add care to the pantheon of national social values" in Harrington, *Care and Equality*, 48

women she finds an innovative Christian feminism. In John Paul II's 1988 Apostolic Letter, *Mulieris Dignitatem*, or "On the Dignity and Vocation of Women," he writes of a "feminine genius" that involves a "special ability to appreciate each human being's obligation to love every other human being, arising out of the truth that we are all loved by God and that we are all created in the image and likeness of God," as Schiltz paraphrases him. John Paul II teaches that the female gift is most vivid in Jesus's interactions with women in the Gospels, most of all in his mother Mary's care for him. Mary's feminine genius lies in her receptivity to God's gift of his own life in her womb, a gift that she nurtures over the course of Jesus's life and that is amplified in her sorrow for him in his suffering. Reciprocally, Jesus elevates the dignity of women and gives them a status that they did not enjoy in antiquity. In John Paul II's *Letter to Women* in 1995, he urges women to contribute their "genius" to the world's institutions, including its political ones, thus affirming both the distinctiveness and equality of women. Like the care theorists, though, John Paul II makes clear that women's and men's characteristics are not exclusive. Women rather exemplify a capacity that is shared by all.[48]

Erika Bachiochi writes: "Dependency is just as much a part of the human experience as the ability to reason. And yet, modern thought has largely neglected

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[48] Schiltz, "West, MacIntyre, and Wojtyla," 396-411; *Letter of Pope John Paul II to Women*, June 29, 1995, find at https://www.vatican.va/content/john-paul-ii/en/letters/1995/documents/hf_jp-ii_let_29061995_women.html; John Paul II, *Mulieris Dignitatem*, Apostolic Letter, The Holy See, August 15, 1988, find at https://www.vatican.va/content/john-paul-ii/en/apost_letters/1988/documents/hf_jp-ii_apl_19880815_mulieris-dignitatem.html. Other Christian thinkers who espouse care theory in a feminist key include Erika Bachiochi, *The Rights of Women: Reclaiming a Lost Vision* (University of Notre Dame Press, 2021); Leah Libresco Sargeant, *The Dignity of Difference: A Feminist Manifesto* (University of Notre Dame, 2025); and Mary Ann Glendon, a succinct statement of whose views may be found at, "A Glimpse of the New Feminism: From July 6, 1996," *America*, July 6, 1996, find at https://www.americamagazine.org/from-our-archives/1996/07/06/glimpse-new-feminism/.

dependency, instead touting individual autonomy and rational self-interest. If we are to recover the human person's proper relationship with others, we must turn to thinkers who give dependency its due."[49] To give dependency its due is to recognize care as a principle of justice, one that sometimes fulfills a right but largely exceeds what is due. Three contexts illustrate the justice of care in politics.

The Poor

Just as care accents mercy, the Bible distinguishes the poor among recipients of care. The poor are persons suffering debilitating lacks of basic goods: health, knowledge, play, work, rest, aesthetic enjoyment, and often ties of family, friends, communal belonging. They also lack the basic means to secure these goods, including money, decent shelter, education, and cultural know-how.[50] Their sustenance and prospects for improvement depend intensively on others. The Old Testament's "quartet" of the vulnerable – the widow, the orphan, the stranger, and the poor – are all persons whose wounds both consist of and are the result of broken ties. They are dependent, and justice involves care from others that alleviates their wounds in ongoing ways.[51]

The principle of care for the poor involves rendering both what is due and what exceeds due, an argument that I made in Chapters Five and Seven. To summarize, the poor have rights. These are the positive rights (ones of provision) that make up the economic and social rights in the major human rights documents – rights to

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49 Erika Bachiochi, "Embodied Caregiving," *First Things*, October 1, 2016, find at https://firstthings.com/embodied-caregiving/.

50 Poverty ought to be defined holistically, including social ties. This is not to ignore that a person at the low end of the economic spectrum may be rich in social ties such as family or strong in religious faith. Poverty, for social and policy purposes, always involves a lack of economic goods, but this lack may or may not be accompanied by other lacks.

51 The phrase, "quartet of the vulnerable," is from Wolterstorff, *Justice*, 75.

nourishment, shelter, decent health care, social security, work, rest, and education. Threshold quantities may specify these rights and governments may be expected to guarantee them, making them dischargeable. It might not be the central governments of sovereign states who provide rights, or provide them exclusively, though, but also more local governments, NGOs, civil society organizations, philanthropies, and private persons. These rights are not the rights of the poor *per se* but are rather human rights to which every human is entitled by virtue of his dignity and the goods that manifest his dignity apart from whether he is wounded, indigent, or in any way vulnerable. Still, we may speak of the rights of the poor in order to draw attention to the entitlements of people who sorely lack goods.[52] Yet I have argued, too, that obligations to the poor exceed rights. The justice of right relationship is realized through development, actions by which governments and other providers assist people in realizing greater levels of goods in their lives beyond minimums set by rights. This obligation is imperfect, subject to discretionary choices about recipients and strategies and limited by capabilities and competing obligations. This duty to provide for the poor, both due and beyond due, is a duty of care when the provision is ongoing.

The Bible's teaching of care for the poor is in part known as natural law. Susan Holman points out the substantial overlap between positive economic human rights and the six corporal works of mercy that Matthew 25 enumerates: feeding the hungry, giving

[52] My argument here conforms to the language of the human rights conventions and of sovereign state constitutions, the world's main forums for rights. Nowhere do the human rights conventions articulate the rights of the poor; none of the major human rights conventions is dedicated to the poor *per se*, and constitutions do not generally speak of the rights of the poor. Rights are always rights to certain goods that are good for everyone. To advocate for the poor is to promote their common human flourishing. The most relevant human rights convention is the International Covenant on Economic, Social and Cultural Rights of 1966, find at https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights

drink to the thirsty, welcoming the stranger, clothing the naked, caring for the ill, and visiting the prisoner.[53] Each work implies certain characteristically human goods that reason grasps and that acts of care bring about.

Yet the Bible conveys God commanding a love for the poor, bearing qualities that are more particular than the natural obligations of fulfilling their human rights and practicing further beneficence. It is a love that accords the poor a special place. Succinctly expressing it is the phrase, "preferential option for the poor" that liberation theologians coined in the late 1960s and early 1970s and that has made its way into the magisterial teaching of the Catholic Church.[54] "A special form of primacy in the exercise of charity," John Paul II interprets the principle.[55]

Jesus gave the "poor," the "captives," the "blind," and the "oppressed" a special place in his ministry, making them the theme of the "inaugural address" at the outset of his public ministry in the Gospel of Luke, where he quotes the book of Isaiah.[56] Beyond teaching love for the poor, "he became poor although he was rich, so that by his poverty you might become rich," taking on poverty as the mode of his ministry. The humiliation and suffering of the Cross, this "self-emptying," was the climax of his poverty (Phil 2:7). His poverty is one of solidarity, for he continues to inhabit the poor (Matt 25:31-46). These are qualities of Jesus's mercy but also of care, for it addresses dependency.

The divine justice of care stamps the human justice of care. It extends not only to the material deprivation of the poor but also to the needs of their whole person,

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53 Susan Holman, *Beholden: Religion, Global Health, and Human Rights* (Oxford University Press, 2015), 92, 96-107. 109-113, 113-118.
54 For usage of the term by Gustavo Gutiérrez, regarded as the founding father of liberation theology, see Gustavo Gutiérrez, *Essential Writings*, ed. James B. Nickoloff (Fortress Press, 1996), 78-148.
55 John Paul II, *Sollicitudo Rei Socialis*, encyclical letter, The Holy See, December 30, 1987, sec. 42.
56 Luke 4:18-19. Isa 58, 61.

including their spiritual welfare. It is personal, a form of friendship. It involves the giver in a gift of her whole self, a divestment of her possessions, and paradoxically elicits a reward in heaven (Mark 10:29-30). Bilaterally, the poor, most aware of their lack of power and money and thus of their need for communion, respond to Christ's love with a special generosity, as did the widow who gave her mite in the Temple. The poor thus become agents of evangelization and of social change, not passive recipients.[57] In these ways, the natural principles of fulfilling rights and beneficence become supernaturally defined.

Belonging to the justice of right relationship, care for the poor – fulfilling their rights, promoting their development beyond their rights – is a duty of the state and of international institutions. Political scientist Sigrun Kahl demonstrates that Christian theological doctrines motivated sovereign states to adopt poor relief policies as early as the sixteenth century, that these policies were the precursors of social insurance in modern states in the nineteenth and twentieth centuries, and that Catholic, Lutheran, and Calvinist theology varied in who would receive assistance and why.[58] Debates attend care for the poor. What is the goal of welfare? To alleviate hardship or to raise people out of poverty? What form and what levels of welfare will accomplish the most good for the poor? What forms fail and even perpetuate poverty? Beyond rights, how much welfare is required given the state's competing moral obligations? While the Bible and Christian tradition do not furnish determined answers, they point to broad principles.

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[57] The later point is made by Martin Schlag, "The Preferential Option for the Poor and Catholic Social Teaching," in *Catholic Social Teaching: A Volume of Scholarly Essays*, eds. Gerard V. Bradley and E. Christian Brugger (Cambridge University Press, 2019), 478.
[58] Sigrun Kahl, "The Religious Roots of Modern Poverty Policy: Catholic, Lutheran, and Reformed Protestant Traditions Compared," *European Journal of Sociology / Archives Européennes de Sociologie* 46, no. 1 (2005), 91-126.

The importance of relationship, compassion, and reciprocity point to subsidiarity, the provision of aid through agents and modes that are as close to the poor as possible. The integration of spiritual and material dimensions of care points to the freedom of religious bodies to participate in caring for the poor.

Care for the Family

A justice that enfolds care for dependents is one that promotes the family. Conversely, a justice that is entirely a matter of rights and that conceives of rights as the possessions of autonomous, unencumbered individuals, as care theorists believe justice came to be defined in western legal and political thought, is a separation narrative that sidelines a sphere of right relationship from justice and from the public. It is a costly sequestration. The family is a basic good, a form of social harmony; is integral to the happiness of men and women in their distinctive qualities and roles, especially regarding childbearing; is a generator of bounteous social goods, and is inevitably tied to law, politics, the economy, and cultural norms regarding relationships between the sexes. The health of the family and the character of its integration into the wider society is a component of the justice of right relationship and gives rise to duties both of the sort that are due and that exceed due.

Care and family are ennobled in the thought of Mary Wollstonecraft, the eighteenth-century British writer who is the founding mother of modern feminism, argues legal scholar Erika Bachiochi in her book of 2021, *The Rights of Women*. Wollstonecraft's commitments regarding morality, law, and politics, as Bachiochi describes them, resemble the justice of right relationship. Morality and rights are known by reason, which, along with virtue and happiness, are grounded in God. Because men

and women share a "common human nature ordered to wisdom and virtue," they can grasp and practice the same moral virtues. "Justice is not masculine, nor is mercy feminine; all must simply strive to imitate God's goodness as they carry out the particular duties of life," Bachiochi summarizes.[59]

Wollstonecraft's mission, which she voiced in her best-known book, *A Vindication of the Rights of Women* (1792), was to elevate the social status of women in a culture, a polity, and a market that she thought subordinated and instrumentalized them. She desired women to be educated with men and to have opportunities for professional occupations. Still, domestic life and its "soul-shaping, society forming" tasks merited "top priority" for married women, Bachiochi describes. While women share a common rational nature with men, they have different and indispensable abilities that arise from their capacities for bearing and raising children. Notably, the same goes for men. Fathers also bring distinct and critical qualities to marriage and raising children. Families elevate men, women, children, and all of them in complementary relationship. Bachiochi recaps: "Children were not a burden or impediment to a woman's 'real' work; they were her real work, and an ennobling and important work they were. But they might not be her *only* work. And they were not only *her* work."[60]

Bachiochi's portrayal of Wollstonecraft contains the conceptual materials for the justice of right relationship regarding care in the family. The justice of care is practiced in the family by men and women towards one another as spouses and as parents towards children, and by government and the surrounding society towards the family.

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[59] Bachiochi, *The Rights of Women*, 34-37, 57-59.
[60] Bachiochi, *The Rights of Women*, 40, italics in original. Also see, 37-42, 55-57.

This justice is partly a matter of rights. Like Bachiochi, another scholar of Wollstonecraft, political philosopher Eileen Hunt, makes the case that Wollstonecraft strongly favored rights and that she based rights upon a rational capacity to grasp moral duties that God established and that men and women share.[61] Wollstonecraft also had much to say about justice, which she thought of as right relationship consisting of principles that fulfill rights claims. Principles that render rights, enfolded in the justice of right relationship defended here, include the principle of fairness, which demands equal rights for men and women in broad matters of voting, citizenship rights, the holding of offices, property, education, and employment. Relationships in the family admit of rights as well. Men and women have the (Hohfeldian liberty) right to marry and to decide whether to and whom to marry and thus to incur marriage's obligations to care. Husbands and wives have a positive right to specified forms of care from each other, and children to care from their parents. Husbands and wives have a right to exclusivity in sexual relations. All have rights against forms of mistreatment. The family itself, a form of basic good, has rights, including the broad right of parents to raise and educate their children, against other members of society and the government, as the international human rights documents enumerate.[62]

Care also involves wide duties. As I argued in Chapter Five, many family duties are imperfect duties nested within perfect duties. Compare one father, who provides adequately for his wife and children materially and educationally but is mostly away and rarely present to them, with another who also provides adequately but devotes his time,

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[61] Eileen Hunt Botting, *Wollstonecraft, Mill & Women's Human Rights* (Yale University Press, 2016), 46-57, 70-89.
[62] Universal Declaration of Human Rights, Article 16; International Covenant on Economic, Social, and Cultural Rights, Article 10.

efforts and assiduous and apt attention to them. The difference is not assessed according to a threshold but rather to how the fathers fulfill their imperfect duty to care and is critical to the well-being of the family members. Such familial care, which Wollstonecraft thought was a married person's first priority, belongs to the part of the justice of right relationship that exceeds rights.

Incubating virtues, skills, and practices, the family fashions the common good of a society. In addition to the family's intrinsic worth, this influence gives law and government an interest in encouraging its health and may do so through imperfect duties of care.[63] Bachiochi, Schiltz, and other care theorists call for policies that incentivize men and women to devote more time to caring for dependents within the family. A minimally regulated market, they argue, pressures men and women to sacrifice their families or face penalties in hiring, promotion, wages, salaries, and workplace morale. They call for greater family leave allowances, childcare tax credits, support for childcare, provisions in the workplace for children, and other measures.[64] While these policies may be favored for promoting care, judgements about their acceptable cost, effects on productivity, side-effects, and perverse incentives are situational and contingent. They are uneasily specified or discharged and are thus not amenable to rights. Yet, if they can be judged to promote care and to respect rights in doing so, then they merit favor as a portion of the justice of right relationship.

Care for Life

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[63] See section on friendship below for munificent evidence for the effects of family on physical health, emotional health, and life prospects.

[64] Bachiochi, *The Rights of Women*, 199-237; Schiltz, "West, Macintyre, and Wojtyla," 375-377; Sargeant, *The Dignity of Difference*, 79-102.

Feminist leaders came to advocate a right to abortion by the late 1960s, Bachiochi describes, noting that most earlier feminists, including Wollstonecraft, opposed abortion not only because abortion ended the life of the unborn person but also because it severed the intimate relationship between mother and baby and incentivized men to abandon women. The adoption of abortion rights rode upon a parallel evolution in feminism from a near-total focus on equality in citizenship, education, the workplace, and the family, principles that could be defended as ones of the natural law, grounded in true goods, to the taking up of a partnership with radical autonomy, a liberty severed from the moral order that Wollstonecraft stressed, especially in matters of sexuality. Radical autonomy is a narrative of separation and it is fitting that its most well-known expression, U.S. Supreme Court Justice Anthony Kennedy's statement of 1992 that "[a]t the heart of liberty is the right to define one's own concept of existence, of meaning, of the universe, and of the mystery of human life," lies in an opinion upholding the right to abortion.[65]

How does the justice of right relationship view abortion? Through its blend of obligations that fulfill rights and that exceed rights. The right to life is entailed in the absolute obligation not to kill innocent persons, whose enforcement is one of the most basic duties of governments. It is a human right, found at the core of international law and articulated in the U.S. Declaration of Independence and Constitution. During a century when the justice of due spread globally, this right has met with gargantuan contest: Over one billion abortions have taken place around the world since the USSR first legalized the practice in 1920; today about 25 million per year take place on

[65] Bachiochi, *The Rights of Women*, 200-236.

conservative estimates; and over 64 million have occurred in the United States since the Roe v. Wade decision of 1973.[66]

Like other rights, the right to life is one that people possess apart from their vulnerability or poverty yet is particularly precious when they are vulnerable. The unborn person is the most vulnerable of all persons, poised at the dawn of life, lacking strength, size, and voice and utterly dependent upon the care of the mother. This person is poor. Presupposed is a position that is indubitably disputed in developed countries yet is far less doubtfully disputable—that a human being exists from its conception, at which point it is a complete and unified being, possessing the incipient capacities of personhood, distinct from although reliant upon the mother's body, and embarked upon the growth of all of its capacities. Embryologists agree nearly unanimously on this moment of origin. Once this person exists, its life merits protection, as does that of any person whose vulnerabilities place her in the shadows or twilight of life.[67]

Providing this protection is a matter of care, of ongoing solicitude for the dependent. Care involves upholding the right to life but also measures that do not fulfill rights. The contours of these measures are expanded by the web of relationships in which unborn persons are situated. The mother's relationship with the unborn child, the biological, emotional, and spiritual ligaments with which she nurtures him, are the central node of this web. Mothers considering abortion are vulnerable in their own right,

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[66] The numbers cited here are the most conservative estimates (meaning based on the most verifiable sources). See Thomas W. Jacobson and William Robert Johnson, *Abortion Worldwide Report* (GLC Publications, 2018).

[67] See Stephen Andrew Jacobs, "The Scientific Consensus on When a Human's Life Begins," *Issues in Law and Medicine* 36, No. 2 (2021): 221-233. Jacobs found that 96% (5337 out of 5577) of biologists, or professional experts in biology employed in academic institutions, affirmed that life begins at fertilization. The study cites reams of pages from embryology textbooks that teach the same.

and this vulnerability is alleviated or exacerbated by the strength or the fraying of ties around them – the presence or absence of the father of the child; the role played by family members, friends, doctors, and pastors; and the ambient culture of life, sexuality, and marriage. Vulnerability is often economic. Some 72% of women who have abortions are low-income and 86% are unmarried.[68]

Because the protection of life is a duty of the political order, forms of care that encourage this protection are political whether government or non-governmental institutions provide them. Laws and policies extend care by providing support for the costs of birth, health care after birth, childcare, pregnancy, adoption, and the collection of child support from birth fathers.[69] Pregnancy care centers, which number about 2750 in the United States, support pregnant women with ultrasounds, diapers, prenatal education programs, and encouragement. Another program, Project Rachel, helps women who have had abortions – an estimated one-fourth of U.S. women – to experience healing and forgiveness, a spiritual form of care.[70] These forms of care spur right relationship but are not amenable to rights because they are open-ended in their form, amount, and prudential application. But they are a part of justice, and they complement the right to life. The care that alleviates the vulnerability of the mother may encourage her to support the child in her womb. The care that exceeds due might also help to widen the consensus on what is due to the unborn child in societies in which abortion remains the great divide.

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[68] Isabel V. Sawhill and Kai Smith, *Abortion in the U.S.: What you need to know*, Brookings, May 29, 2024, find at https://www.brookings.edu/articles/abortion-in-the-us-what-you-need-to-know/

[69] Charles C. Camosy, *Beyond the Abortion Wars: A Way Forward For a New Generation* (Eerdmans, 2015), 140-142.

[70] Rachel K. Jones, "An estimate of lifetime incidence of abortion in the United States using the 2021-2022. Abortion Patient Survey," *Contraception* 135 (2024):110445.

The Pattern of Care: Health and the Environment

The pattern of care, enfolding due and beyond-due, natural and supernatural, pertains to other areas of political life, including health care, with which this chapter opens. Consonant with international human rights law and the teachings of the Catholic and certain other Christian churches, the right to health care belongs to justice.[71] Health care is a right because health, the "well-ordered organic functioning of the body as a whole," is a basic good, one that is intrinsic to human flourishing as well as instrumental to most other worthy pursuits.[72] Health not only results from a person's choices but also depends upon the care of others, especially if one is poor, ill, wounded, mentally or physically handicapped, unborn, an infant, a child, elderly, or dying. Health care is a positive right, one to be provided, and a person's health is also a negative right, one not

[71] The right to health care is ensconced in the major international human rights documents, including the Universal Declaration of Human Rights, Article 25(1) (1948); and the International Covenant on Economic, Social and Cultural Rights, Article 12 (1966). See also the Constitution of the World Health Organization, preamble (1946), https://www.who.int/about/governance/constitution. The Catholic Church has articulated the right to health care in its catechism and in several magisterial documents. See *Catechism of the Catholic Church*, 2211 and John XXIII, *Pacem in Terris,* encyclical letter, The Holy See, April 11, 1963, sec. 11, https://www.vatican.va/content/john-xxiii/en/encyclicals/documents/hf_j-xxiii_enc_11041963_pacem.html. The U.S. Catholic bishops have articulated a right to health care since 1919. See, for instance, United States Conference of Catholic Bishops, *Ethical and Religious Directives for Catholic Health Care Services*, Sixth Edition (2018), 8, 9, 14. Other churches such as the United Methodist Church also support the right to health care.

[72] The definition comes from Anthony Fisher, OP and Luke Gormally, eds., *Healthcare Allocation: An Ethical Framework for Public Policy* (The Linacre Center, 2001), 188, which treats health as a basic human good. Compare this definition to that of the World Health Organization, "Health is a state of complete physical, mental, and social well-being and not merely the absence of disease or infirmity." This definition is too wide. The focus on bodily health preserves the distinctiveness and therefore the realistic provision of a human good, even while the relationship between mental and spiritual well-being and bodily health must be recognized. At the same time, recognition of health as a basic good is distinctive to my and other natural law arguments. It treats health differently from a Rawlsian primary good, which is only instrumental to other ends, and distinguishes the theory from liberal accounts that make no commitment to fixed ends, and from utilitarian accounts, which do not consider any basic goods to be untradeable dimensions of human flourishing. On these contrasts, see Fisher and Gormally, *Healthcare Allocation*, 37-72.

to be violated.[73] The providers include a person's family, doctors, clinics, and hospitals but also, necessarily in a modern society, governments, who alone possess the authority to enforce and coordinate the fulfillment of every person's right to health care.[74] The institutions, laws, and policies that deliver health care, though, will differ according to each country's circumstances.[75] Because health care is limitless in the sense that almost everyone can always benefit from more and better, the right to health care, like other rights, must be specified if it is to be fulfilled. Each government must stipulate the basket of goods and services – ones that foster healthy bodily growth, prevent illness,

[73] Natural law also demands certain constraints on the practice of health care with respect to moral absolutes. These are negative duties, ones that forbid actions that would damage life and health. As understood in the Catholic tradition, natural law forbids abortion, euthanasia, sterilization, in-vitro fertilization, embryo destruction, sex change, and contraception. These norms have been at issue in debates over the Affordable Care Act.

[74] On the necessary role of governments, see Joseph Boyle, "Fairness in Holdings: A Natural Law Account of Property and Welfare Rights," *Social Philosophy and Policy* 18 (2001), 13-20.

[75] Countries committed to universal health care for their citizens differ widely in institutions of provision, the respective role of government and private providers, and the role of taxation, redistribution, and the market. The mode of provision that is most efficient, effective, and respectful of the autonomy of persons and associations is a matter of prudence and to be determined in light of a country's history, size, type of economy, and type of government institutions. The principle of subsidiarity calls for provision at the level that best meets the needs of and respects the autonomy of recipients. The assertion of a right to health care does not itself dictate the institutions and policies that enforce and coordinate this right. For a natural law argument for health care, see Fisher and Gormally, *Healthcare Allocation*; for a natural law argument for welfare rights and the obligation of modern political communities to guarantee them, see Boyle, "Fairness in Holdings."

and alleviate illness – that fulfills the right.[76] The criterion of dischargeability implies that what this basket includes will depend on each state's resources and institutional capacities – and will vary sharply from wealthy to poor countries. Governments generally lack the capacity to provide health care to people beyond their borders, nor do international organizations have the capacity to fulfill a global right to health care, though international regimes have a negative duty not to violate the right to health care by preventing its provision to poor countries, for instance, through patent laws that hinder the distribution of drugs that cure deadly diseases.[77]

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[76] Specifying the content of health care is a challenge for a right to health care. Which procedures, medications, and services fulfill the right? A vast array exists and contains vast diversity in cost, potential for healing, technological sophistication, and benefits for a wide population, while change and development is rapid. Reason alone cannot decide what is to be included and what thresholds apply and, as I argue, much depends on the resources of a society and capacity of a government. Some theorists have offered distinctions for deciding which services ought to be guaranteed as a right to everyone. Some have sought to identify some services as "basic" or belonging to a minimum. See Norman Daniels, "Justice and Access to Health Care", *The Stanford Encyclopedia of Philosophy* (Winter 2017 Edition), Edward N. Zalta (ed.), https://plato.stanford.edu/archives/win2017/entries/justice-healthcareaccess/. Fisher and Gormally identify certain categories of services that are basic and others that are non-basic and ought not to be included in a right, including cosmetic procedures, amenities, superhealth promotion, futile treatments, doubtfully effective treatments, and procedures that violate the natural law, see 87. Daniels and James Sabin propose that the choice be left to a fair procedure for determining consensus in Norman Daniels and James Sabin, "Limits to Health Care: Fair Procedures, Democratic Deliberation, and The Legitimacy Problem for Insurers," *Philosophy and Public Affairs* 26 (4) (1997): 303–50. The Affordable Care Act set forth a list of ten "essential health benefits," including ambulatory patient services, emergency care services, hospitalization, maternity and newborn care, mental health services, prescription drugs, rehabilitative services, laboratory services, preventive services, and pediatric services, see https://www.healthcare.gov/coverage/what-marketplace-plans-cover/. Even if reason alone does not deliver a specification of services, though, such a specification may still serve to define what fulfills a right. This specification should be distinguished from a determination, which is a principle that is derived from a more basic principle. The specification defines a principle rather than sets forth a separate one.

[77] Dischargeability refers both to a country's resources and to its institutional capacities for delivering health care to its citizens, a point made with respect to humanitarian intervention. The primary guarantors of health care are governments of sovereign states. It is they who have the obligation to fulfill the welfare rights of their citizens and who have the capacity to perform the enforcement and coordination functions necessary to fulfill a right to health care: legal prescription, legal regulation, taxation, and enforcement of law. Governments do not possess these capacities with respect to the citizens of other sovereign states. Some analysts have proposed that developed countries have distributive obligations to provide health for citizens of poor countries (e.g., Gopal Sreenivasan, "Health and Justice in Our Non-Ideal World" *Politics, Philosophy & Economics* 6 (2) (2007): 218–236. Even should developed countries possess the economic resources to carry out this obligation, though, they lack the institutional capacities to fulfill the rights of everyone. Neither do any international organizations possess such capacities. So, governments of underdeveloped countries have a duty to fulfill the right to health care of their own citizens but must specify this care (the basket of goods and services that fulfills the right) at a level that is quite lower than that of developed countries.

The duty of care, in health as in other matters, though, fulfills but is not fulfilled by rights. Because health care is a basic good, and because levels of provision will be low for the poor, even when rights are fulfilled, governments, international institutions and non-governmental organizations possess a duty to provide health care further, both within and beyond borders, particularly for the people who most lack health, in a manner that is discretionary and ongoing, that is limited by scarcity, costs, efficiency, and effectiveness, yet that is real – an imperfect duty. A commitment to health care is a commitment to development and displays solidarity.[78]

Natural law grounds the right to health care and the imperfect duty of beneficence. The deeds and teachings of Jesus, especially his many healings, expand the meaning of health to the whole person, body and soul, and the meaning of health care to the restoration of the whole person, in body and soul, from illness – the justice of right relationship.[79] Christians may find common ground with non-Christians in many facets of this holistic justice, and will practice it in Christian hospitals, hospices, homes for the

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On the question of the negative duties of international institutions and governments in their role as members of international regimes, ethicists Thomas Pogge and Thana Cristina de Campos have argued that the international intellectual property rights regime prevents millions of poor people from receiving drugs that could cure deathly diseases. See Thomas Pogge, *World Poverty and Human Rights: Cosmopolitan Responsibilities and Reforms* (Polity, 2002), 52-70; and Thana Cristina Campos, The *Global Health Crisis: Ethical Responsibilities* (Cambridge University Press, 2017).

One other consideration: If it is governments who fulfill a right to health care, do they owe this care to immigrants who are illegal or not fully citizens? I hold that they do. The basis for the right to health care is the goods (manifesting the dignity) of human beings, and these persons inhabit the borders and live under the laws of the state and most of them work for employers who function under the same laws. Therefore, the state ought to fulfill their right.

[78] The imperfect duty to extend health beyond borders may be performed through the foreign aid of governments and the actions of international development agencies and international institutions. While they lack the capacities for enforcement and centralization to guarantee a right to health care, they may work to extend and improve health care, even beyond borders, as an imperfect duty demands.

[79] A Christian theology of health also involves concepts such as redemptive suffering and an emphasis on the poor that is arguably not available to reason alone. For a Christian theology of health care ethics that builds upon natural law obligations and enfolds them into supernatural duties, see Fisher and Gormally, *Healthcare Allocation*, 145-162; and Tyler J. Vanderweele, *A Theology of Health: Wholeness and Human Flourishing* (University of Notre Dame Press, 2024).

aged, Christian development organizations, and other organizations and will claim the freedom to do so.

The preservation of the natural environment is another duty of care that is carried out through the political order and is even less amenable to rights. By natural environment, I mean the earth's land, water, and air as well as plants and (non-human) animals. This is a duty of care because the natural environment depends on human action and because human beings depend on the natural environment and can only alleviate damage to it through ongoing action. More precisely, recognizing that the environment is not a person and thus not the subject of right relationship, the duty of care for the natural environment is the obligation that humans have towards other humans and towards God to preserve the natural environment for its importance for these relationships.

Here again, divine justice patterns human justice. Certain features of divine action are the planks of a human ethics of creation. God created the heavens and the earth and all that is in them. What God created is not itself God, although God loves and sustains it. What God created is good and beautiful. Human beings are the pinnacle of God's creation, bearing the image of God. Humans have sinned in desecrating the natural environment, a form of injustice. God's rectifying justice is the restoration of heavens and earth, including the natural environment. Humans are to participate in this restoration through the dominion over this environment that God has given them.[80]

Dominion is best understood as stewardship, and stewardship is none other than care, preserving, and restoring what is fragile and dependent through actions that are

[80] Scriptural support for these points is in: Gen 1:26-28; 2:15; Gen 9:1-3; Ps 19:1; Wis 13:5; Sir 42:23; Sir 43:11, Isa 24:3-5; Isa 30: 23-26; Jer 12:4, Hos 4:3.

attentive and responsive. Dominion is the opposite of exploitation, which is to use the natural environment without regard for its integrity – to conquer it, dominate it, damage it. Human justice is the duty of right dominion, of stewardship and care, and involves actions that establish right relationship with other humans and with God.[81]

Interaction with the natural environment pervades interaction between humans. Habitation in families, communities, villages, cities, states, and relations between states depends pervasively on food, raw materials, and the land and water on which humans dwell and act. The basic goods of life, health, aesthetic appreciation, friendship, indeed all of the basic goods, depend on use of the natural environment. All use will strain the soil to some degree, and this strain will exist on a spectrum from pristine on one end to the degradation of the acidification and littering of the oceans, of smog over Beijing and São Paulo, on the other end.

Moral principles govern interaction with the environment in pursuit of these goods. The one that most governs these actions is fairness. Often, persons, firms, and states pursue economic activity in manners that damage the environment not as the intention of production or exchange but rather as a by-product, and they impose this damage and its costs upon other people. These others are often the poor. A company dumps toxic waste near a favela and damages the health of its inhabitants. Climate change from a society's industrial production causes desertification in sub-Saharan Africa, damaging food supplies and helping to cause armed conflict. A U.S. hamburger restaurant destroys forests in South America in order to graze cattle, destroying the eco-

[81] These actions implicate the third dimension of right relationship – within the self – insofar as one's actions towards God affect the right ordering of the self and vice-versa. Also, this reflects that relationship is between persons and not with the environment itself.

system on which a people depend. Today, climate change and CO2 concentration, the integrity of the biosphere, the acidification of the ocean, and damage to freshwater systems are among several global forms of environmental damage.

In this justice that humans practice towards other humans, the natural environment is instrumental to human goals. Environmental activity overlaps with economic activity. The goodness and beauty of the natural environment, though, is also a reason for its preservation. The first reason for this is the basic human good of aesthetic appreciation – viewing a magnificent sunset, walking on an unlittered ocean beach, canoeing and swimming in a clean river. Second, preserving the natural environment is a human duty towards God – not worshipping nature but rather maintaining its beauty out of gratitude and reverence towards the one whom this beauty reflects. "Laudato si'," Italian for "praise be to you," is the title of Pope Francis's encyclical of 2015 on care for the environment.[82]

Political orders, possessing the authority to coordinate and enforce activity through law, are necessary for care for the environment, which requires coordination among people, firms, and governments. This duty of justice, though, is not easily rendered as one that is due, that is, of fulfilling rights that all persons share.[83] The duty is not specifiable. What exactly does everyone have a right to? A certain level of cleanliness in the air? An average annual global temperature? To live in a world where internal combustion engines do not exist and only electric vehicles do? Nor is it clearly discharged. Justifying any government measure to promote care for the environment

[82] Pope Francis, *Laudato Si*, encyclical letter, The Holy See, May 24, 2015, find at https://www.vatican.va/content/francesco/en/encyclicals/documents/papa-francesco_20150524_enciclica-laudato-si.html

[83] This is not to deny that environmental measures could be the subject of rights in positive law.

requires answers to questions of effectiveness, modes of provision (e.g., market vs. government regulation), cost, efficiency, and effects on other goals of economic provision and development, all of which are highly complex and depend on social and natural science. Environmental care is an important duty but an imperfect one, open-ended with regard to the actions that fulfill it.

Why, then, does health care qualify as a natural, or human right, in my argument, but not "environmental care"? The two entities are different. Health is a basic human good and health care consists of measures that directly further this good – healing, sound development, and the prevention of illness. A basket of such measures is specifiable and dischargeable, I contend. Care for the environment is not like this. "Relationship to the environment" is not a basic human good. Measures that purport to care for the environment – carbon emissions reductions, for instance – potentially affect multiple human goods, including life, health, aesthetic appreciation, and relationship to God, but also work, economic provision, and economic development, which are instrumental to many other basic goods. Should these measures succeed, they will improve the natural environment somewhere on the scale from pristine to filthy while no specific notch on this scale is clearly an entitlement.

Measures that fulfill the duty to care for the environment must instead be judged on balance – as Pareto-optimal, the best of alternatives, maximizing the good. This duty is best pursued through what Pope Francis calls "integral ecology," a concept that builds upon the previous papal teaching of integral human development, which commends the coordination of economic progress, the quality of civic life, culture, the family, health,

and spiritual goods.[84] At their best, governments' efforts to improve the environment that have arisen in the last fifty years have made progress in cleaning up the natural world compatible with economic enterprise and development. This weaving of ends, this interdependence of sectors, is the holistic justice of comprehensive right relationship.

Hospitality

The Greek word for hospitality in the New Testament is *philoxenia*, a word that combines the word for love, *philo*, with that for the stranger, *xenos*. The stranger is an outsider to a community who seeks to enter it on account of some good, including economic opportunity; the protection of her endangered physical security, basic economic well-being, or basic liberties; citizenship in a reasonably just state; and unification with family or friends, among other ends. The action of hospitality means according to the stranger opportunity, protection, respect, recognition, citizenship, or friendship.[85]

Hospitality is a distinctive obligation that belongs to the justice of right relationship and is the sort of obligation that both renders due, that is, meets the stranger's right, and exceeds what is due, that is, welcomes strangers beyond their rights, and in both respects is an obligation in which political orders share. Hospitality reflects mercy, an action that alleviates distress, but not always. A country may naturalize a middle-class engineer on account of his skills and not his poverty or his persecution; a family may host its relatives to renew kinship and not to relieve any

[84] Pope Francis, *Laudato Si*, 109; see also Pope Benedict XVI, *Caritas in Veritate*, encyclical letter, The Holy See, sec. 35.
[85] Christine Pohl, *Making Room: Recovering Hospitality as a Christian Tradition* (Eerdmans, 1999), 31, 43.

particular hardship. In scripture and in contemporary political debates, though, hospitality most often takes the form of mercy. In ethicist Christine Pohl's history of hospitality, she identifies a separation narrative similar to what care theorists claim about care and what Tuckness and Parish claim about mercy. The principle of hospitality exited from the discourse of social ethics by the 1700s as the practice became secularized and privatized, she argues.[86] The justice of right relationship, though, integrates hospitality and favors its revival as a political principle.

Nowhere more has hospitality become a political issue today than in the matter of migration. The United Nations estimates that in 2022, about 281 million international migrants existed in the world, amounting to 3.6 percent of the global population. That year, 5.4 million people sought asylum. The numbers have increased sharply since 1970, when the world contained 84 million migrants, and 1990, when it contained 153 million.[87] Migrants include refugees, whom the 1951 Refugee Convention defines as people who live outside a country from which they are inhibited from returning by a "well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion," but also include the wide range of people who have left their country but have no permanent home, who wish to leave their country, or are living as displaced persons within a country, all on account of the wide range of reasons that people are uprooted: war, lack of food and nourishment, the effects of climate change, and human trafficking.[88] Practitioners of hospitality are

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[86] Pohl, *Making Room*, 53.

[87] McAuliffe, M. and L.A. Oucho, eds. *World Migration Report 2024* (International Organization for Migration, 2024), 21.

[88] A Global Compact on Refugees attained the approval of the U.N. General Assembly on December 17, 2018 and contains updated emphases. Its four objectives are: "The objectives of the global compact as a whole are to: (i) ease pressures on host countries; (ii) enhance refugee self-reliance; (iii) expand access to third country solutions; and (iv) support conditions in countries of origin for return in safety and dignity."

the stable and reasonably just political orders who might host migrants as well as organizations whose activity bears on this practice and thus counts as politics, for instance, Catholic Worker houses of hospitality and Christian ministries to immigrants at the border of the United States and Mexico.[89]

The Bible teaches hospitality as a command of human justice that is authorized and shaped by divine justice. "You shall treat the alien who resides with you no differently than the natives born among you; have the same love for him as for yourself; for you too were once aliens in the land of Egypt," reads the Book of Leviticus in verse 19:34, shortly after which reads a statement that appears several other times in the Old Testament, including at the introduction of the Decalogue: "I, the Lord, am your God, who brought you out of the land of Egypt" (19:36). Reading similarly are other verses in the Torah, most poignantly, Exodus 23:9: "You shall not oppress an alien; you well know how it feels to be an alien, since you were once aliens yourselves in the land of Egypt." Welcome the stranger because God overcame your estrangement, the Bible teaches.[90]

The justice by which God restores right relationship is a justice of hospitality. Besides God's liberation of the Israelites from Egypt, God accomplishes salvation through bringing migrants home in other episodes in the Old Testament such as the journeys of Abraham, Jacob, and Joseph in Genesis and the exile and return of Israel in Isaiah. These episodes prefigure and culminate in God's saving action in the life, death, and resurrection of Jesus Christ, a divine migration in which God sojourns into a world in which humanity is estranged from God by its sin and in which God wills to bring

[89] For examples of ministries of hospitality, see Pohl, *Making Room*, 188-195.
[90] See also Exod 22:21; Deut 10:17-19 27:19; 1 Chr 16:19-22; Job 29:15-17; Ps 16:9; Jer 7:5-7; Ezek 47:22; and Zech 7:9-10.

humanity back home. In this migration, God becomes a migrant, not only by suffering for humanity as a human but also by becoming a human refugee, fleeing with his family to Egypt just after his birth in order to escape the persecution of King Herod.[91]

The justice by which humans welcome migrants is a set of actions that express gratitude for, imitate, and participate in the justice in which God seeks a holistic repair of humans' estrangement from him and from their communities. The Bible commands these actions. In the Gospel of Matthew's passage on works of mercy (25:31-46), the stranger is one of the six figures to whom Jesus says are to be shown mercy because he may be seen in them. In much of Christian history, the Christian church has understood this command to mean welcoming other Christians, but in modern times has taught that it means welcoming any stranger.[92] Hospitality is commanded several times in New Testament letters such as in the *Letter to the Hebrews*: "Do not neglect hospitality, for through it some have unknowingly entertained angels" (Heb 13:1).[93] Human hospitality follows from divine repair.

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[91] Catholic magisterial documents cite these scriptural episodes as foundations for a theology of immigration. The flight of the Holy Family to Egypt is iconic and is the title of the document that is known as the "Magna Carta" of the Catholic Church's teaching on immigration, Pius XII, *Exsul Familia Nazarethana,* Apostolic Constitution, The Holy See, August 1, 1952, https://www.papalencyclicals.net/pius12/p12exsul.htm. Several other documents that the Vatican and the U.S. Bishops have published serve to update and situate this teaching. See, for instance, *Strangers no Longer: Together on the Journey of Hope*, A Pastoral Letter Concerning Migration From the Catholic Bishops of Mexico and the United States, January 22, 2003, https://www.usccb.org/issues-and-action/human-life-and-dignity/immigration/strangers-no-longer-together-on-the-journey-of-hope. My thinking on the divine justice of immigration, especially God's migration into the world through Jesus Christ, a migration enacted in the Eucharist, is influenced by Daniel G. Groody, *A Theology of Migration: The Bodies of Refugees and the Body of Christ* (Orbis Books, 2022), 8-12. See also Ilsup Ahn, "Economics of 'Invisible Debt' and Ethics of 'Radical Hospitality': Toward a Paradigm Change of Hospitality from 'Gift' to 'Forgiveness'," Journal of Religious Ethics, 38, no. 2 (2010), 243-267.

[92] See Antônio José Lemos Junior, "Stranger Things: 'welcoming the stranger' as the least of my brothers in the Gospel of Matthew," ms. [update to published version].

[93] See also Rom 12:13; 1 Pet 4:9; 3 John 1:5.

How is human hospitality both due and beyond due? Every person possesses a right to stay, that is, not to be forced to flee or subjected to dangers or injuries that justify his flight, and a right to migrate should he be unjustly displaced or justifiably seek egress. What unjustifiably displaces people or justifies their escape is a violation of their human rights – the rights that every government, organization, and citizen have a duty to respect and uphold, that protect human dignity and human goods, and that are grounded in natural law. The rights whose violation typically creates migrants include ones not to be killed, tortured, injured, arbitrarily arrested, enslaved, trafficked, sexually assaulted, or deprived of property, freedom of speech, and the practice of religion, and economic rights including thresholds of nourishment and health care.[94] In turn people have a right to a government that upholds and enforces these rights and to be a full citizen in a political order, rights that arise from the natural purposes of government institutions (see Chapter Nine). Political orders and the governments that act on their behalf, ones that are reasonably just, in turn, have an obligation – one of hospitality – to welcome people who lack a home under a government that upholds and protects their basic rights. This duty and its attendant right correspond to the obligation and right of asylum in international law, expanded to a set of basic human rights. The obligation is much like the portion of mercy that corresponds to a right, the obligation of the able swimmer to the drowning toddler.[95]

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[94] On the reasons that justify migration (as well as the right to stay in one's country of origin) in Catholic Social Thought from the nineteenth century through the present, see Antônio Lemos, "The Theological Foundation of The Right to Stay," *Journal on Migration and Human Security* 13 (1) (2025) 168-181. An excellent account of the basis of the right to immigration is also Kevin J. Flannery, "The Moral Principles Governing the Immigration Policies of Polities," in *Catholic Social Teaching: A Volume of Scholarly Essays,* ed. Gerard V. Bradley and E. Christian Brugger (Cambridge University Press, 2019), 365-386.

[95] Catholic magisterial thought upholds a right to stay and a right to migrate. See Pius XII, *Exsul Familia Nazarethana,* apostolic constitution, The Holy See, August 1, 1952, Title I, and *Strangers No Longer*, secs. 30, 34, 37, 38, 68-70.

Towards another kind of migrant, the duty of hospitality is an imperfect one and does not correspond to a right to migration. This is the migrant who seeks an opportunity for a better life for herself and her family but whose deprivation does not fall below the threshold of a human rights violation. Sovereign states' duty of hospitality towards these migrants belongs to the beyond-due portion of the justice of right relationship. The distinction between the two kinds of duties, due and beyond due, pivots on human rights. If people have a natural right to live under a government that protects and upholds their rights, and if governments are wrong to deny entry to the person whose rights are violated or unprotected, then it follows that people do not possess a right to migrate in pursuit of goods that exceed these rights, and that governments are not always wrong not to admit them. Governments possess a real duty of hospitality towards them but this duty is imperfect, open-ended with respect to whom and how many to admit. This duty is a specification of the natural duty of beneficence and is made more particular by the injunction to welcome the stranger and by the supernaturally authorized obligation to respond to God's hospitality and to his presence in the stranger.

Where the duty to hospitality exceeds due, or is imperfect, it is bounded by competing moral duties of governments to limit immigration. These include the duty to prevent criminals and terrorists from entering a state's borders; the duty to prevent chaos and large-scale discord at a state's borders; the duty to ensure the humane treatment of seekers of immigration, including decent shelter and a fair and timely consideration of their claims; the duty to help immigrants settle in their new homeland in an orderly way; and the duty to limit the harmful economic impact of immigrants.

Because the extent of these duties is indeterminate, subject to prudential judgment and social scientific consensus, the duty to hospitality is not specifiable, as rights require.[96]

All in all, states have a duty to admit people whose human rights are endangered, who, in turn, possess a right to migrate; and states have a duty to admit other migrants up to the boundaries of states' duties to limit migration, boundaries that are unfixed and thus yield to duties that do not match rights, or what is due. Herein lies a rubric for the political ethics of hospitality, an ethics delivered by the joint presence of duties that fulfill what is due and that exceed what is due in the justice of right relationship. Such an ethic, like every ethic, does not dispense with judgment. As I argued in previous chapters, the line that demarcates poverty that constitutes a violation of economic human rights must be specified and is not self-evident. Only judgment and prudence can find the policies that put into action the principles that govern the politics of immigration. Social science can help, for instance, in determining the economic and social impact of immigration, a matter that is much disputed in the United States today. While findings are not unanimous, strong evidence exists that immigrants on balance contribute to productivity, innovation, and overall economic growth[97]; that they complement rather than replace American workers, again, though, not uniformly[98]; that they have a minimal effect on the wages of native-born workers[99]; that they contribute

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96 Catholic magisterial thought also recognizes the right of governments to limit immigration. See *Strangers No Longer*, sec. 36; *Catechism of the Catholic Church*, no. 2241.

97 Penn Wharton Budget Model, "The Effects of Immigration on the United States' Economy — Penn Wharton Budget Model," June 27, 2016, find at https://budgetmodel.wharton.upenn.edu/issues/2016/1/27/the-effects-of-immigration-on-the-united-states-economy.

98 Wharton, "The Effects of Immigration."

99 Gianmarco Ottaviano, I.P. and Giovanni Peri, "Rethinking the Effects of Immigration on Wages" (National Bureau of Economic Research, August 2006), https://doi.org/10.3386/w12497.

to both supply and demand in the housing market[100]; that they commit crimes at lower rates than the native-born population[101]; and that they bring a strong commitment to family and community ties and the resultant economic benefits.[102] These findings factored into the balance of principles and prudential considerations, yield a general policy recommendation: a combination of secure borders and generous admission of migrants.

Gifts

Gifts exceed what is due by definition. Any gift possesses a core quality: It is a good that one party gives to a recipient to whom the good is not due.[103] Gift by its nature goes beyond merit, its rule is that of superabundance. Acts that fulfill rights – paying one's bills, fulfilling a contract to repair a customer's roof, allowing citizens to walk in the park during certain hours, and refraining from lying to, murdering, or stealing from another – give no gift. A rough test for a gift is whether a recipient owes thanks for it. A person does not owe thanks for receiving what he has purchased or for not being lied to. A gift must also be a true good, too. A compliment, a day off work, a blouse, a guitar, or

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[100] National Immigration Forum, "Explainer: Immigrants and Housing," October 17, 2024. https://immigrationforum.org/article/explainer-immigrants-and-housing/.

[101] Ramiro Martinez, Jr. and Matthew T. Lee, "On Immigration and Crime," *The Nature of Crime: Continuity and Change* 1 (2000). https://doi.org/https://www.ojp.gov/criminal_justice2000/vol_1/02j.pdf; Ousey, Graham C., and Charis E. Kubrin, "Immigration and Crime: Assessing a Contentious Issue," *Annual Review of Criminology* 1, no. 1 (January 13, 2018), 63–84, https://doi.org/10.1146/annurev-criminol-032317-092026.

[102] The Immigration Initiative at Harvard, "Families." https://immigrationinitiative.harvard.edu/topic/families/; Jennifer Van Hook and Jennifer E. Glick, "Spanning Borders, Cultures, and Generations: A Decade of Research on Immigrant Families," *Journal of Marriage and Family* 82, no. 1 (January 5, 2020), 224–43, https://doi.org/10.1111/jomf.12621; Nicholas Zill, "Most Immigrant Families Are Traditional Families," *Institute for Family Studies*, November 30, 2016, https://ifstudies.org/blog/most-immigrant-families-are-traditional-families.

[103] Pope Benedict XVI writes in *Caritas in Veritate*, "Gift by its nature goes beyond merit, its rule is that of superabundance. It takes first place in our souls as a sign of God's presence in us, a sign of what he expects from us," sec. 34.

any gift that promotes the flourishing of the recipient. A sibling of gift is generosity, whose definition also is to give what is not owed. In the thought of Aristotle, Cicero, and Aquinas, generosity is equivalent to liberality and contrasts with the justice that is owed to others.[104]

The justice of right relationship, by contrast, includes gift and generosity. They are obligations and belong entirely to the portion of this justice consisting of acts that exceed what is due. The Bible commands both and, as Chapter Seven notes, explicitly describes generosity as justice.[105] Gift can be mercy, alleviating wounds, but is not always. The Marshall Plan, the financial aid that the United States transferred to Western European countries in economic hardship after World War II in 1948, was a merciful gift in the political sphere.[106] Other times, gifts promote good but do not relieve distress. An employer awards his workers a bonus in order to appreciate and encourage them but not to salve their wounds.

God's justice is a justice of gift. God's creation of the universe and endowment of it with order, including moral order, and his creation of human beings with life, freedom, and the capacity to love and to enjoy friendship with God, is a gift and an act of (divine primary) justice. God's choice to redeem humanity, Paul describes as both (divine rectifying) justice and a "gracious" and "indescribable" gift.[107] The promise of eternal life, the justice of restored relationship, is a gift. In response, humans owe gratitude and worship to God and are to extend gift to other people. Divine justice

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[104] Aristotle, *Nicomachean Ethics*, 67-72; Cicero, *On Duties*, 19; Aquinas, *Summa Theologica*, II-II, q. 117, a. 5. MacIntyre, by contrast, views generosity as justice. See Alasdair MacIntyre, *Dependent Rational Animals: Why Human Beings Need the Virtues* (Open Court Publishing, 1999), 120-125.

[105] See 2 Cor 9: 6-13; and Ps 112:9.

[106] This is not to say that the Marshall Plan did not have strategic purposes. Consistent with my discussion, gifts often purport to establish relationships. The aid was not a right, though.

[107] Rom 5:15; 2 Cor 9: 15.

shapes the gift in human justice: "The way we came to know love was that he laid down his life for us; so we ought to lay down our lives for our brothers," reads 1 John 3:16. Givers of gift paradoxically find fulfillment. "[M]an . . . cannot fully find himself except through a sincere gift of himself," *Gaudium et Spes* teaches.[108] Gift of self, then, shares in the bilateral character of mercy. It is rewarded with fulfillment, imperfectly in this life, perfectly in heaven.

While gift is not owed, its givers nonetheless often aim to elicit reciprocal acts that establish or strengthen right relationship. This is one of the chief insights of Barclay in his book, *Paul and the Gift*, which Chapter Six summarizes. He contends that in the modern world, described and crafted by Martin Luther and Immanuel Kant, gift has come to mean pure gift – unilateral, gratuitous, and involving no expectation of return. Pure gift is much like another modern notion, altruism, involving no expectation of reciprocity. As gift evolves into pure gift, it recedes and retracts from public life. Modern Western political and economic life rests on exchanges and transactions that are owed and thus relegate pure gift to the private realm. What Barclay describes here is much like a narrative of separation, the same sort of narrative that care theorists, Tuckness and Parish, and Pohl have described in matters of mercy, care, and hospitality. The public world has come to be dominated by due – what is owed, subject to rights, and to be paid as a debt.

Gift, though, does not have to be pure, or unilateral, Barclay explains. A person may deliver a gift in order to accomplish an end. Seneca, for example, thought that the point of a gift is to create social ties, or friendship. Alvin and Alice bring cookies to their

[108] *Gaudium et Spes*, sec. 24: see John Paul II, *Evangelium Vitae*, 52.

new neighbors, Ronald and Ruth – cookies to which Ronald and Ruth do not have a right – so as to begin a friendship. Gifts also create obligations. The recipient of a genuine gift owes gratitude.[109]

Barclay argues that Paul's concept of gift, by which he describes the saving action of Christ, is more like this – conveyed for a purpose, incurring obligation, bringing about relationship. God bestows the gift of creation and redemption to human beings for the purpose of humans living in fellowship with him. In accepting this gift, responding with gratitude, worship, and giving gifts to others, humans merit eternal life, which completes the gifts of creation and redemption. Through gift, God creates friendship with humanity and people with one another. Barclay recognizes that in Paul's thought, God's gift belongs to his justice.[110]

Gift in the Economy

A modern market economy might not seem like a promising site to discover gift.[111] Its component activities, including buying, selling, owning, hiring, working, lending, and borrowing, involve contracts, which are quintessentially matters of what is due: rights, debt, what is owed. A homeowner has a right to have No Squirrels Roofing Company install a roof on his house and the company has a right to be paid, among the millions of contracts that move economies. Have not due transactions, and the

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[109] Gifts can also be expected. Family members and friends expect that they will give one another gifts for birthdays and holidays. My argument, though, is that a principle can be obligatory but not due. We expect one another to give gifts in certain contexts, but they are still gifts and not the right of recipients.

[110] Barclay, *Paul and the Gift*, 475.

[111] The classic work on gift economies, which are prior to and outside the modern West, is Marcel Mauss, *The Gift: The Form and Reason for Exchange in Archaic Societies*, trans. W.D. Halls (W.W. Norton & Co., 2000). See also Charles Eisenstein, *Sacred Economics: Money, Gift & Society in the Age of Transition* (North Atlantic Books, 2021). For an argument for the gift economy, see Lewis Hyde, *The Gift: How the Creative Spirit Transforms the World* (Vintage Books, 2019).

economies that comprise them, produced prosperity, and with it, health, longevity, leisure, and opportunities for higher aims, unmatched in global history? What to make, then, of Pope Benedict XVI's call, in his encyclical of 2009, *Caritatis in Veritate*, penned amidst the economic crisis that began the prior year, for an economy based on gratuity, or gift?

The justice of right relationship judges economic activity, like all action, through principles that direct the pursuit of goods. Economic actions realize basic goods in themselves as well as achieve goods instrumentally though eliciting money that serves as a means to basic goods. The No Squirrels employees realize the basic good of skilled work and of friendship in collaborating for the common good of their firm and, with the payment they receive, realize further goods for their families and themselves – life through the purchase of food, health through medical care, play through membership in a soccer club, family life through owning a home, and countless others.[112] With its profit, No Squirrels invests in expanding its operations and its employees, redounding in the further spread of goods. With a repaired roof, the homeowner realizes the goods that are furthered by a sound home – family life, health, and so on. All economic activity, when conducted justly, realizes the good of interpersonal harmony, for it always involves collaboration for mutual benefit, as well as the wide range of goods that result from the activity. Whether the activity is a corporate merger, the hiring of workers at an automobile plant, the construction of retail outlets, or borrowing money to launch a business, it is intelligible, done for ends that are inherently choiceworthy and that are

[112] On the common good of a firm, see Mark Hoipkemier, *The Price of The Common Good: Markets, Corporations, and Political Economy* (University of Notre Dame Press, 2025), 99.

forms of intrinsic fulfillment, when its performer intends actions that end in basic goods for himself and all who are involved in the activity.

Economic actions are supernatural when, with the help of grace, they are directed further to the glory of God. As I argue in Chapter Eight, supernaturally motivated actions do not cease to seek basic human goods as intrinsically valuable sorts of ends. The one who gives to the poor in order to serve God seeks also to promote their natural flourishing.

This view of economic activity, intelligible when conducted with the intention of realizing basic goods, contrasts with a view that posits the end of economic activity as maximizing money and is indifferent towards any further end towards which this acquisition might be directed. This is the view of human action that the dominant neoclassical school of economics adopts. Its theorists posit the end of rationally maximizing wealth for the purpose of explanation, in order to build a model of economic behavior that accounts for the behavior of consumers, firms, and entire economies. And so they have. The knowledge of market behavior that they have developed has proven invaluable for firms, investors, and policymakers. Their explanation is not neutral, though, for it privileges one form of end that economic actors might pursue over other forms of ends. It becomes even less neutral when theoretical reason bleeds into practical reason, when the "is" of how the economy works migrates to the "ought" of how to pursue the success of a firm or to make policy. In light of basic goods, economic activity that seeks money for its own sake lacks an intelligible reason for action. Undirected acquisition, a common reality in market societies, may be rational in an instrumental

sense but is not rational in a substantive sense, and this is true before it may be deemed greedy, acquisitive, materialistic, and consumeristic.[113]

The principles that direct economic actions in their pursuit of goods are ones that, true to the justice of right relationship, both fulfill and exceed rights. Principles that fulfill rights, again, take up a central place in a market economy. They correspond both to Hohfeldian claim rights – the many forms of contract – and to Hohfeldian liberty (or privilege) rights, including rights to create a business, own property, engage in trade, grant an inheritance, and undertake other economic activities. Rights are also entailed in prohibitions of kinds of economic activity correlative of the Seventh Commandment's prohibition of theft such as exploitation, usury, fraud, and embezzlement. Employees have a right to safe working conditions and a just wage. The principle of beneficence – an open-ended obligation to do good – governs actions that initiate economic endeavors under Hohfeldian privilege rights. One starts a business manufacturing heaters that creates the good of work, creates a collaborative community with a common good, gains profit and salaries with which to realize further goods and pays taxes to the government in order that it may pursue common goods for the political community. Genuine human goods are the end of economic activity.

How, then, does the principle of gift, of giving what is beyond due, govern economic activity? In three ways. First, the gift of creation is the origin of all economic activity. God created and sustains the earth and its raw materials, and the capacities of human beings for labor, creation, techne, and organization, that stand at the beginning of development and production, ownership and exchange. They are gifts. Contracts,

[113] Mary L. Hirschfeld, *Aquinas and the Market: Toward a Humane Economy* (Harvard University Press, 2018), 34-67.

involving hiring, exchange, lending, and so on, operate through rights to enable forms of collaboration that develop, transform, and distribute these gifts to all persons for the realization of their true good. This collaboration, these activities, though, begin with things to which no human had a right. The gift of creation is behind the principle of "the universal destination of goods" in Catholic social thought, holding that the goods that come from the earth are to be directed to all persons for their good through economic activity.[114] While rights are critical for economic activity, this activity begins with things to which nobody had a right, with gifts.

Second, gift is found at the end of the chain of economic activity, not just at the beginning. Holders of the wealth that economic activity generates may then give this wealth away further as a gift. A small business owner gives a portion of his salary to the poor and to his church and offers his home as a place of hospitality. In a year that his business makes a strong profit, he gives a bonus to his workers. Gift characterizes a type of firm known as a social enterprise, which generates profits in order to fund causes that serve the common good in the form of health, education, and care for the natural environment. Gift can be seen in business firms such as the Mondragon Corporation in Spain, which operates as a cooperative, based on solidarity, featuring strong worker participation and management, low wage differentials between management and workers, and cooperatives such as worker owned banks and schools.[115]

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[114] See, for example, Leo XIII, *Rerum Novarum*, encyclical letter, The Holy See, May 15, 1891, sec. 8-9; John Paul II, *Laborem Exercens*, encyclical letter, The Holy See, September 14, 1981, sec. 14; John Paul II, *Centesimus Annus,* encyclical letter, The Holy See, May 1, 1991, sec. 31*;* Pope Francis, *Laudato Si',* encyclical letter, The Holy See, May 24, 2015, 2015, sec. 93.

[115] Nick Romeo, "How Mondragon Became the World's Largest Co-Op," *The New Yorker*, August 27, 2022, https://www.newyorker.com/business/currency/how-mondragon-became-the-worlds-largest-co-op

Gift is not confined to such enterprises, though, and in the aggregate makes up a large portion of economic activity. Most explicit and measurable is a society's charitable giving. In the United States, which has nearly the highest rates of charitable giving in the world, giving amounts to about 2% of Gross Domestic Product and of disposable income and has held steady at this rate for the past fifty years. Yet, while total giving has increased, the number of households that give has decreased.[116] Religious people across nations give at markedly higher rates than non-religious people, though perhaps short of expectations.[117] Whereas 10% of income is the biblical standard of giving, American Christians give 2.56% of their income (in 2009).[118]

The third role of gift is one that Pope Benedict identifies in *Caritatis in Veritate* – a creator of trust and facilitation of reciprocity. Trust is an action by which a person adopts an expectation that another person will act justly.[119] Trust generates reciprocity, which is the performance of a beneficial action in response to another person's beneficial action. Reciprocity is doubtless fostered by contracts and their attendant rights. No Squirrel's willingness to install the roof depends on the homeowner's commitment in writing to pay. Even contracts, though, depend on trust. If the homeowner does not trust No Squirrels to show up on time and to perform sound work,

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[116] Soskis, Benjamin. "The Shifting Landscape of American Generosity." The Generosity Commission. Urban Institute, July 2024, find at https://www.thegenerositycommission.org/wp-content/uploads/2024/07/Generosity-Commission_Landscape-Analysis_072424_Final.pdf

[117] Philanthropy Roundtable. "Statistics on U.S. Generosity," January 9, 2016. https://www.philanthropyroundtable.org/almanac/statistics-on-u-s-generosity/.

[118] Angela Abbamonte, The State Journal-Register. "Study Shows Americans Tithe Just 2.56 Percent." *The State Journal-Register*, November 1, 2009, find at https://www.sj-r.com/story/lifestyle/faith/2009/11/01/study-shows-americans-tithe-just/41728244007/.

[119] Trust is an action in the sense that a person makes a willing decision to bequeath trust in another person. It could also be a more static quality much like a belief. For instance, when polls show that Americans lack trust in their government, they are referring to a set of constant beliefs. When trust takes the form of a virtue, it is something more like trustworthiness, the quality of a person's character, based on her previous actions, that makes her worthy of trust. Consistent with my overall argument, my focus is on action.

she is much less likely to enter into a contract with No Squirrels and to recommend no Squirrels to others. Even though the contract is legally enforceable, making and contesting claims is costly and uncertain to succeed.

All the more so, trust facilitates what political scientist Robert O. Keohane calls "diffuse reciprocity," the performance of a beneficial action not with a commitment to receive a payment but rather with the general expectation that someone will respond favorably in response.[120] A member of a football team acts sacrificially for the other players and inspires the other players to give themselves in like fashion.

Trust is a gift. The receiver of it is not entitled to it and the giver of it bestows it without certainty.[121] Absent trust, economic activity is far more difficult, is less likely to take place, and requires more safeguards and guarantees for it to take place. Aggregated across the millions of actions that make up an economy, trust's role is formidable, as is the importance of its source.

The upshot of this short foray into economics is that rights and gift, due and beyond-due, characterize the principles that make up the justice of right relationship in economic matters. In contrast, most contemporary economics, much like the dominant conception of justice, centers upon the transactions that are based on rights. If gift has a large place in economic activity, so, too, it is of importance for the political economy. Government's role in a market economy is to make legal and to guarantee transactions based on rights, both Hohfeldian sorts, but also to encourage gift, one manner of which is to make laws that facilitate charitable giving.

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[120] Robert O. Keohane, "Reciprocity in International Relations." *International Organization* 40, no. 1 (1986): 4.

[121] Trust always involves risk in the sense that a person bestows an expectation without knowing whether the expected behavior will result. Still, people who trust are more or less willing to do so depending on their view of the recipient's trustworthiness.

Friendship

Friendship is a relationship between people who will the good of each other. Friendship is deliberate and enduring, not fleeting or merely transactional. While each member realizes goods through the relationship, each also experiences the union as an intrinsic good, the basic good of interpersonal harmony. Friendship is paradigmatically between two persons but it can also exist within groups. Family is a form of friendship, as are many other forms of association, including political orders. Groups can be friends with one another as well, as in friendship between nations. To be genuine, friendship, not least in politics, must be a relationship whose members genuinely will one another's true good; the associations are not merely instrumental. The presence or absence of true friendship is a test of a flourishing polity.

Here again, divine justice fashions human justice. God embodies friendship between the persons of the Trinity, Father, Son, and Holy Spirit, a relationship of eternal love. God created every human person for the purpose of friendship with himself, a friendship that draws the person into the fellowship of the Trinity's love. God's desire for friendship with humans involves the two dimensions of God's love – his will for the good of every person, and his affection for, or delight, in each person.[122] This delight is not merely admiration for something external to oneself, as if God simply gazes upon what he has created, but is a will to dwell in, to inhabit, each person, and eventually to bring each person into union with himself. Along with this primary divine justice, God's rectifying justice is also friendship. In the Gospel of John, Jesus tells his

[122] See Chapter Four.

disciples at the last supper that they are friends and that his friendship will take the form of sacrificial love (John 15:15).

In reciprocating God's love, humans live in friendship with God. Naturally, a person enters into right relationship with God by showing fealty and gratitude to God out of a reasoned apprehension of God's existence and basic attributes. This form of right relationship is the natural good of religion. Supernaturally, a Christian enters into friendship with God through baptism and sustains it through repentance, worship, prayer, and keeping the commandments.[123] In the commandments are the connection between right relationship with God and right relationship with others. Breaking the commandments, or sin, estranges a person from God; through repenting and seeking God's forgiveness, he may return to friendship with God. The end of living in friendship with God is eternal friendship, or right relationship, or justice.

Friendship between persons is a natural good and the good that friends will towards the other consists of basic human goods. Once animated by grace, friends direct their friendship and the goods that they will towards one another to the glory of God. They also will one another's good in manners defined supernaturally. They are prepared to sacrifice for one another as Christ has sacrificed for them, and they expand their view of the friend's good to include her friendship with God and his pilgrimage to heaven. A Christian's friendship with God spills over into her friendship with others.

Friendship is not a right. God's extension of friendship to humans is a gift and is not due to or deserved by humans. Human friendship is a duty, an expression of natural beneficence and a tenet of Christian teaching, but it is an imperfect duty, open-ended in

[123] John 15:10.

its discharge. Many sorts of actions realize friendship and often, more than one action may be chosen. If friendship is an enduring, deliberate commitment, a person can be friends with a limited number of other persons and no one person has a right to his friendship. Friendship is rather an obligation to extend a gift.

Certain rights exist within friendship, though, much as certain rights pertain within marriage. Friends have a right not to be mistreated – lied to, insulted, manipulated, and so on. Friends have a general right to their friends' care, a right in which imperfect duties are nested, the form it takes being open-ended. On certain occasions, friends may have a right to their friends' mercy. If a person's friend is hospitalized and she is capable of visiting him, the friend has a right to her visit.

The forming of friendships, though, is not generally a matter of mercy. People do not choose their friends because the prospective friends are in distress but rather because they have qualities that promise friendship. Choosing friends out of mercy risks condescension and paternalism. Yet, in certain cases friendship converges with mercy. A Christian's duty to care for the poor includes befriending the poor, entering into a relationship with them, and avoids condescension by heeding mutuality. A political or civic leader might also promote friendship in the society out of anxiety that a society's decline in friendship has left its members lonely and impaired civic engagement. He aims to alleviate wounds and thus practices mercy on behalf of the society.

Social scientists have shown abundantly that social ties, various forms of friendship, have declined markedly in the United States in recent decades. Family and marriage have frayed. Divorce rates have quadrupled since 1900 and, although they have declined from their peak in 1980, rates of marriage also have declined by 60% since 1970. Some 40% of births take place outside of marriage, up from 28% in 1990,

and African-Americans comprise nearly 70% of those births. Among single-parent households, 80% are headed by mothers. In the past thirty years, religious affiliation, personal friendships, and involvement in civic associations have declined while loneliness has increased. In the past decade, trust in government and patriotism have declined and negative perceptions of citizens in the other political party have increased.[124]

This decline in friendship, personal, familial, and civic, redounds in further wounds to people and to the polity. Children who are raised without fathers, for instance, are far more prone to poverty, drug and alcohol abuse, lower educational achievement, worse health, crime, and teenage pregnancy – personal wounds with social costs. Even more pertinent to politics, friendship correlates with community involvement and civic participation. Church attendance is correlated positively with emotional and physical health and several economic outcomes as well as with civic outcomes. Harvard political scientist Robert Putnam, the most noted scholar of social

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[124] "40 Facts About Two Parent Families," October 3, 2016, https://gillespieshields.com/blog/40-facts-two-parent-families/#:~:text=Research%20also%20shows%20that%20family,11; Jaden Loo, "Divorce: More than a Century of Change, 1900-2022," Bowling Green State University, 2024, find at https://www.bgsu.edu/ncfmr/resources/data/family-profiles/FP-24-11.html; Benjamin R. Carney, "Socioeconomic Status and Intimate Relationships," *Annual Review of Psychology*, 72 (2021): 391–414, find at https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8179854/; John Elflein, "Births to Unmarried Women U.S. Percentage 1980-2022." *Statista*, April 29, 2024, https://www.statista.com/statistics/276025/us-percentage-of-births-to-unmarried-women; Roger Clegg, "Percentage of Births to Unmarried Women," *Center for Equal Opportunity*, February 26, 2020, find at https://ceousa.org/2020/02/26/percentage-of-births-to-unmarried-women; U.S. Census Bureau, "Historical Living Arrangements of Children," *Census.gov,* November 21, 2023, find at https://www.census.gov/data/tables/time-series/demo/families/children.html; *WSJ/NORC Poll*, March 2023, find at https://s.wsj.net/public/resources/documents/WSJ_NORC_ToplineMarc_2023.pdf; Jeffrey M. Jones, "Church Attendance Has Declined in Most U.S. Religious Groups." *Gallup.com*, April 4, 2024, find at https://news.gallup.com/poll/642548/church-attendance-declined-religious-groups.aspx; David E. Campbell, Geoffrey C. Layman and John C. Green, *Secular Surge: A New Fault Line in American Politics* (Cambridge University Press, 2021), 1-21; "Our Epidemic of Loneliness and Isolation: The U.S. Surgeon General's Advisory on the Healing Effects of Social Connection and Community," *U.S. Public Health Service*, 2023, find at https://www.hhs.gov/sites/default/files/surgeon-general-social-connection-advisory.pdf; Peter Bell, "Public Trust in Government: 1958-2024," *Pew Research Center*, June 24, 2024, find at https://www.pewresearch.org/politics/2024/06/24/public-trust-in-government-1958-2024/.

capital (broadly speaking, social ties) deems the church the most important civil society organization. He and his coauthor, political scientist David Campbell, have shown that church membership is correlated strongly with civic involvement. In writer Timothy P. Carney's study of the Republican primary in the 2016 U.S. presidential election, he found that voters in counties with low social ties – low church attendance was prominent among the indicators – were far more likely to vote for candidate Donald Trump in response to his strident appeals to discontent with the political system – the American Dream is dead – than voters in counties with high social ties, who were much likelier to vote for a more moderate candidate.[125] A dearth of local friendship alienates people from trust in the political community and leads them to demand drastic change.

Hope

All of the duties that make up the justice of right relationship, due and beyond due, can be arduous. Respecting rights can be costly. Fulfilling positive rights and

[125] "Poverty Status of Children by Family Structure," *Office of Juvenile Justice and Delinquency Prevention*, find at https://ojjdp.ojp.gov/statistical-briefing-book/population/faqs; Janique Kroese, Wim Bernasco, Aart C. Liefbroer, and Jan Rouwendal. 2020, "Growing up in Single-Parent Families and the Criminal Involvement of Adolescents: A Systematic Review," *Psychology, Crime & Law* 27, no. 1 (2020): 61–75; Vanessa Hemovich and William D Crano, "Family Structure and Adolescent Drug Use: An Exploration of Single-Parent Families." *Substance Use & Misuse* 44, no. 14 (2009): 2099-2113, find at https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3075408/; Edward Kruk, "Father Absence, Father Deficit, Father Hunger," *Psychology Today*, May 23, 2012, find at https://www.psychologytoday.com/intl/blog/co-parenting-after-divorce/201205/father-absence-father-deficit-father-hunger; Jane Anderson, "The Impact of Family Structure on the Health of Children: Effects of Divorce," *The Linacre Quarterly* 81, no. 4 (2014): 378-87, find at https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4240051; Rob Schwarzwalder and Natasha Tax, "How Fatherlessness Impacts Early Sexual Activity, Teen Pregnancy, and Sexual Abuse," *Family Research Council*, December 2015, find at https://downloads.frc.org/EF/EF15L32.pdf; Daniel A. Cox, "America's 'Friendship Recession' Is Weakening Civic Life," *The Survey Center on American Life*, August 24, 2023, find at https://www.americansurveycenter.org/newsletter/americas-friendship-recession-is-weakening-civic-life/. Timothy P. Carney, *Alienated in America: Why Some Places Thrive While Others Collapse* (HarperCollins Publishers, 2019), 125-127, 203-235; Robert Putnam, *Our Kids* (Simon and Schuster, 2015), 224; Robert D. Putnam, *Bowling Alone*: *The Collapse and Revival of American Community* (Simon and Schuster, 2001); 55; Robert D. Putnam and David E. Campbell, *American Grace: How Religion Divides and Unites* (Simon and Schuster, 2010), 454.

carrying out imperfect duties can be strenuous and uncertain in their outcomes, succeeding fragmentarily or not at all. Where does the practitioner of this justice find motivation? In hope.

Traditionally the Church has taught that hope is a virtue by which its practitioner desires eternal life in heaven. It is a theological virtue, one that God gives to the Christian as a gift. Hope involves trust, based on an expectation of something promised but not yet delivered and only evanescently previewed. The expectation is underwritten by the Empty Tomb, the grounds for confidence.

Is hope an obligation? That seems strange if hope is a gift. Yet an infused virtue, received from God, is one that a Christian also may exercise, living out what he has been given. Hope's obligatory force seems weakened, too, by its being what Aquinas calls an "arduous and difficult" good.[126] Hope, though, is made possible by the grace through which it is granted. Christians, then, have a responsibility to exercise hope.[127] Certain verses in scripture enjoin hope in imperative form: "Rejoice in hope" (Rom 12:12); "let us be sober, putting on the breastplate of faith and love and the helmet that is hope for salvation" (1 Thess 5:8); and "[l]et us hold unwaveringly to our confession that gives us hope, for he who made the promise is trustworthy" (Heb 10:23). Hope is a virtue of the will, one that people choose to exercise.

What does hope have to do with justice? If justice is comprehensive right relationship, a great deal. Justice is hope's object. The eternal life for which a Christian hopes is the new heaven and the new earth, in which all things are renewed – a condition of justice, as Second Peter holds (3:13). It involves the consummation of right

[126] Aquinas, ST I-II, q. 40, a. 1, resp; ST II-II, q. 17.
[127] Germain Grisez, *The Way of the Lord Jesus*, 2, 87-97; see also ST II q. 22, a. 1.

relationship with God, a union between persons and God, and of right relationship between persons – citizenship in the New Jerusalem, the household of God, a banquet, and the healing of nations. What hope desires is the completion of God's rectifying justice.

A criticism of Christian hope is that it undermines efforts for justice in this life. Two forms of the criticism are modern separation narratives, ones that detach hope from justice. One form is that an expectation of eternal life turns the Christian's attention away from this life.[128] The other is that heavenly reward makes earthly justice mercantile, mere currency for eternal payoff, and is an incentive to devalue the world.[129] Detaching hope from justice are also the major alternatives to hope that Aquinas poses. One of these is despair, the judgment that labor for justice is futile and that this life is all that exists, unconnected with any promised future completion. The other is presumption, the belief that heaven's justice is easy, guaranteed, and gained without the grace of repentance and forgiveness.[130]

Christian hope, though, motivates and intensifies a Christian's commitment to justice in this life. Divine rectifying justice fortifies human justice. It is crucial that what God promises is an actual restoration of the heavens and the earth and not the spiriting off of this justice to a paradisical island or the mere balancing of a moral ledger sheet. Nor is heaven only an intellectual existence but rather a place in which bodies will be

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[128] See Nicholas Wolterstoff, "Seeking Justice in Hope," in *The Future of Hope: Christian Tradition Amid Modernity and Postmodernity*, ed. Miroslav Volf and William Katerberg (Eerdmans, 2004), 77-100. See the discussion of Dominic Doyle, *The Promise of Christian Humanism: Thomas on Hope* (Crossroad Publishing Company, 2011), 46-47.

[129] See Timothy P. Jackson, *Love Disconsoled: Meditations on Christian Charity* (Cambridge University Press, 2010), 160-166, and David Elliot's critique in *Hope and Christian Ethics* (Cambridge University Press, 2017), 75-82.

[130] Aquinas, ST II-II, q. 21; Elliot, *Hope and Christian Ethics*, 110-138.

united with minds, a perfected happiness in which people enjoy the goods that fulfill them as mind-body unities.[131] In promoting, realizing, and respecting the goods of this world, goods that God created as good, containing intrinsic value, but realized only fragmentarily on earth, humans participate in the restoration of goods that will be completed in heaven. This ultimate restoration motivates temporal participation.

In heaven, we will find our works again, now "freed of stain, burnished and transfigured" as *Gaudium et Spes* put it.[132] Theologian David Elliot writes that we may hope that:

> our flawed earthly projects may be redeemed and perfected by divine mercy in the *eschaton*. The things we loved and cared for will be "fulfilled" rather than "abolished" in a pattern of glory perfecting grace as grace perfects nature. Were this not the case, it might suggest that everything we care about in the world is, *in itself*, a waste of time from the perspective of hope, and surely that is a thought too many. Instead a cosmic fulfillment and reconciliation of earthly projects is envisioned . . ..[133]

Heaven is continuous with earth in that God perfects what he first established. It is discontinuous with earth in its radical contrast with earth's woundedness. Motivation for human justice thus gains strength. It is worth undertaking because it will be perfected even if it is now disfigured.

If God takes up and restores works of human justice in heaven, then it is through works of justice, enabled by and participating in grace, that humans ready themselves for heaven. Justice is all of the actions through which humans realize right relationship with God, others, and in their souls. Because love of God and neighbor are not conformity to arbitrary rules but rather the way to happiness and to the fulfillment of

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[131] Grisez, *The Way of the Lord Jesus*, 80-86.
[132] *Gaudium et Spes*, 39.
[133] Elliot, *Hope and Christian Ethics*, 194. Italics in original.

genuine goods, such action prepares the materials for heaven as much as it meets moral standards. Heaven's reward is an intrinsic one, not an extrinsic payoff. Achieving it yet requires free decision. Human justice is protected and sustained by the prospect of its realization in heaven, as theologian Dominic Doyle argues.[134] Confident expectation is a good reason not to despair, and the call for a willed decision forbids presumption.

The heavens and the earth that are perfected include political orders, right relationship in political community.[135] The ultimate consummation of right relationship includes civic friendship. "The expectation of a new earth must not weaken but rather stimulate our concern for cultivating this one," continues *Gaudium et Spes*.[136] This expectation also constrains political action in certain respects. The obligation to follow the moral law forbids adopting evil means – killing civilians in war, coercing the religious faith of others, lying to get elected – to which a person might be tempted in her quest for justice. The confidence that justice eventually will be realized instills moderation and a willingness to accept imperfection.[137]

Displaying brightest hope's ability to motivate love for the world are pursuers of justice who persist when their cause carries few prospects for success in the foreseen future or risks great danger. Elliot illustrates hope through a list of reformers in which he includes St. Vincent de Paul, William Wilberforce, Elizabeth Fry, Martin Luther King Jr., Leonard Cheshire, and Dorothy Day.[138] Mention is merited also for Pope John Paul II in his opposition to communism in Eastern Europe, 19th century feminists in the

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[134] Doyle, *The Promise of Christian Humanism*, 119-133.
[135] See Chapter Nine.
[136] *Gaudium et Spes*, 39.
[137] For this insight I am indebted to conversations with Tyler Castle.
[138] Elliot, *Hope and Christian Ethics*, 184.

United States and England, Abraham Lincoln, Frederick Douglas, Emperor Karl of Austria-Hungary, Henry Dunant, Sophie Scholl and her companions, advocates for the lives of the unborn in the 20th century, and many others including people whose works and in some cases martyrdom are unknown – a mixture of fates that mimics the honor roll of faith that appears in Hebrews 11. For these *viators*, hope was help along their *via*.

Conclusion

A wider justice arises. The justice of right relationship, consisting of all of the biblical commandments, enfolds beyond-due principles as well as rights. Enactors of this justice work to realize these principles in politics. Because the principles are intelligible, they can be shared and a consensus can be built with people across traditions. Contemporary politics knows instances of the practice of beyond-due principles but does not admit them into its concept of justice, which consists only of rights. To admit beyond-due principles into justice would place them at center stage in politics, whose central governing principle is widely considered to be justice.

Due and beyond-due principles differ in the action they beckon. Rights call for specified and dischargeable actions to be performed or avoided, and their violation is a wrong. We justly demand, then, that people and governments uphold rights. Beyond-due obligations, all of them imperfect in this chapter, are ones that, by definition, are not fulfilled through a single right action. Two or more mutually exclusive actions – laws, policies, measures – may fulfill them and the choice for one depends on prudence – balances, tradeoffs, feasibility. Outrage directed at the choice or absence of a preferred law or policy, as if it were the only way to fulfill the duty, is often misplaced, whereas loud protest is warranted for a large violation of basic rights. Beyond-due principles are

advanced best through creativity, the building of coalitions, and what *Gaudium et Spes* terms "the noble art of politics."[139] Mercy, care, hospitality, generosity, friendship, and hope, realized through humanitarian action, health care, and charitable giving – a just society is one where these principles are realized and are considered part of its justice.

[139] *Gaudium et Spes,* sec. 76.

Chapter Eleven: Elaborating The Justice That Exceeds Due: Rectifying Justice

In the past half-century, geysers of political initiative around the globe have carved out a new definition for rectifying justice, the set of actions that aim to respond to wrongs rightly. In my study of countries addressing the past injustices of war, genocide, and dictatorship, I discovered one paradigm of justice based on rights and judicial punishment and another paradigm of reconciliation based on healing, reparation, repentance, the restoration of communities, and forgiveness, usually advocated by religious leaders. Along similar lines, western scholars have advocated restorative justice as the purpose of judicial punishment. Indigenous peoples have practiced restorative justice for centuries. Now, communities such as Chicago have taken up restorative justice, especially as a response to youth crime. Popular non-violent resistance movements against dictatorships have grown in frequency and success. Apologies for past injustices have risen among heads of state and church leaders such as Pope John Paul II, who apologized over 100 times for at least 21 episodes of injustice in the Catholic Church's past. Reparations have also become more common in global politics and are advocated within western democracies. What common principle animates these actions?

When the justice of right relationship takes the form of rectifying justice rather than primary justice, it involves the restoration of right relationship (see Table 2-1). It is a restoration of persons and relationships with respect to the wounds that injustices have inflicted upon them. Here, too, the justice of right relationship combines the principles of rendering what is due, which take the form of retribution when past wrongs are involved, with principles that exceed what is due, which enjoin a wider, holistic restoration of right relationship. Here, too, justice blends natural and

supernatural principles. Again, this justice is found distinctly in the Bible. This chapter explores how the rectifying justice of right relationship might take shape within political orders given their limits and their possibilities. It takes up judicial punishment, war and peacebuilding, apologies, and reparations; Chapter Twelve then takes up forgiveness and reconciliation.

Mercy arrives on the scene once again and proves particularly important for rectifying justice. Purporting to alleviate distress, mercy quintessentially aims to restore what wrongdoing has rent. On the global scale, it was John Paul II's personal awareness of the travails of the twentieth century that led him to proclaim mercy "the sign of our times." In rectifying justice, too, mercy is a principle that exceeds due but also fulfills rights in certain respects. In the justice of right relationship, mercy surprisingly animates punishment, which enacts, though is wider than, the principle of retribution, which expresses the justice of rendering due.

Punishment

Strewn in previous chapters are strands of doctrine on sin, debt, wounds, the standing victory of injustice, and God's responses to sin that may now be woven into an account of punishment in human affairs that contributes and conforms to the justice of right relationship. This punishment renders what is due, honoring the justice of retribution, and exceeds what is due, also seeking to heal the wider range wounds that wrongs inflict on persons and communities, mirroring God's reconciliation of the world, which the Bible describes as God's justice. In politics, this justice finds its strongest expression in restorative justice, practiced most often on the local level, sometimes

coordinated by civic organizations, but also in the efforts of nation-states to confront pasts of violence and large-scale injustice.

Punishment is an action by which an authority communicates censure to a wrongdoer for his wrong by imposing hard treatment upon her. While this definition is not a justification, features of it adumbrate the morality of punishment. Namely, punishment always responds to the wrong of a wrongdoer – that is, to a sin, which is a violation of a moral norm and which is also a crime when it violates a public law. A wrong is a deed that the wrongdoer committed freely and for which he is responsible. It is upon this person for this deed that the punishment is inflicted. Punishment is an act of justice, not simply a response to a malady, a tragedy, an injury, a disaster, or a problem.[1]

The moral character of the misdeed and of the reactive measure that is punishment is a prime plank in the retributivist's rejoinder to the utilitarian in the oscillating dispute about punishment that has taken place in the West since the late 18th century. As a doctrine of morality, utilitarianism holds that the only principle for evaluating an action is that it ought to maximize overall utility.[2] The fathers of utilitarianism, Cesare Beccaria and Jeremy Bentham, argued that a government's response to crime may seek only to reduce the overall harm that crime causes, the means to which are the deterrence of crime and the rehabilitation of criminals. Retributivists respond that by delinking punishment from deed, guilt, and desert,

[1] This is to say, punishment is not simply an effort to alleviate a problem or to bring about a better state of affairs, say through rehabilitation or deterrence. For a seminal essay on the place of freedom in reaction to wrongdoing, see P. F. Strawson, "Freedom and Resentment," in *Freedom and Resentment and Other Essays* (Routledge, 2008), 1-28.

[2] For an excellent description of utilitarianism, see Anthony Ellis, "Utilitarianism and International Ethics," in *Traditions of International Ethics*, ed. Terry Nardin and David R. Mapel (Cambridge University Press, 1992), 158-179.

utilitarians treat lawbreakers like machines to be reprogrammed or, as G.W.F. Hegel charged, like dogs to be retrained, and fails to respect them as responsible moral agents. They reason that utilitarianism cannot rule out punitive measures for a famous though innocent person in order to deter crime, for apprehending and coercively rehabilitating an innocent person whom authorities deem likely to commit a crime, or for foregoing the punishment of a wrongdoer in purporting to rehabilitate him. Utilitarianism is prone to unjust punitive measures and, in addressing only harm and not at all guilt, neuters their punitive purpose. Punishment, rightly and by definition, is a response to wrongs.

The Wounds of Injustice

What, though, makes punishment a justified response to wrong? In what way does it rectify? An answer begins with wounds, the ongoing privations of flourishing that moral wrongs elicit. Wounds are forms of damage to the basic human goods that constitute flourishing. Recall that some goods involve forms of harmony. They are ones that correspond to the three dimensions of right relationship: between persons and God, between persons, and between the parts of the soul within persons. Every wrong damages right relationship. All wrongs damage the harmony between a person and God and within a person's soul, and most, though not all, wrongs also damage right relationship between persons.[3] The wrongs that demand punishment in the political order are mainly ones that damage relationship between persons. They violate the norms that define right relationship, for example, prohibitions of stealing, insult,

[3] Concepts in this passage refer to previous chapters. Chapter Three defines wounds. Basic goods that involve harmony are discussed in Chapter Eight. Chapter Three notes wrongs that damage the self and not others such as acts of gluttony.

assault, murder, and cheating. The wrongs that damage harmony usually also damage other basic goods such as life, health, knowledge, play, and skilled work. Charles fouls Michael in a game of basketball, provoking rash accusations, mutual contumely, then fisticuffs. Their violations of the moral law – calumny, insult, assault – damage both the harmony between Charles and Michael as well as other goods such as health (physical injury), play (the disruption of the game and the other players' enjoyment of it), and esteem (a sense of self-worth that is a form of internal harmony).

What, specifically, are the wounds of injustice? What will prove most centrally important to punishment, standing closest to its retributive core, is the standing victory of injustice, the perduring moral fact of the wrong.[4] The mother of Teddy in Chapter Three reprimanded Teddy and insisted that he apologize for wronging Patrick. Carlos, a journalist, was publicly insulted by his colleague, Caroline, and now refuses to work with her as long as she does not admit to it and apologize for it. Mr. Shelob was discovered stealing from his employer three years ago and his colleagues lament that he was never sanctioned for it. Racial injustices of past decades persist as a stain on the national community of the United States. The crimes of the Japanese against the Chinese in the 1930s and the 1940s prevent comity between the two nations. In many countries in the past half-century making transitions away from war or dictatorship, citizens claim that a just and stable peace settlement or democracy requires confronting war crimes and political injustices. The standing victory of injustice is a wound to the good of interpersonal harmony, that is, to civic friendship, friendship between sovereign states, personal friendship, right relationship in business dealings, and diverse other forms of

[4] I introduce the standing victory of injustice in Chapter Three.

right relationships. The wrong stands in the sense that it continues to sunder relationship and that it has not been authoritatively unrepudiated. Its standing victory invites a response, which may take the form of an apology, restitution, revenge, forgiveness, or punishment.[5]

Beyond the standing victory of injustice is a wide range of other wounds that wrongs inflict. They are too many to number and arise from petty and personal wrongs and monstrous and political ones, but dimensions of them are relevant to how right relationship is broken and potentially restored. All are at bottom diminishments of the basic goods that make up flourishing. They include the many privations to well-being that victims suffer ranging from death, death to loved ones, bodily injury, psychological impairment and trauma, humiliation, damage to reputation, sexual violation, loss of employment, and defilement of a person's race, ethnicity, religion, nationality, or sex. Ignorance of the source and circumstance of the wrong one has suffered, as truth commissions have discovered, is a wound.[6] Wounds to relationships ripple beyond perpetrator and victim, further wrecking families, friendships, and forms of collaboration. The worst wound of sin in Christianity, as in other religious traditions and in philosophical thought such as that of Plato, is that to the soul of the wrongdoer. "His soul is in jeopardy as his victim's is not," philosopher Herbert Morris puts it.[7] All of these wounds may then redound in secondary wounds through a chain of memory,

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[5] On the standing victory of justice, I have found the arguments of philosopher Jean Hampton helpful. See Jeffrie G. Murphy and Jean Hampton, *Forgiveness and Mercy* (Cambridge University Press, 1988), 124-138.

[6] For a discussion of wounds of injustice, see Daniel Philpott, *Just and Unjust Peace: An Ethic of Political Reconciliation* (Oxford University Press, 2012), 31-41.

[7] Herbert Morris, "A Paternalistic Theory of Punishment," *American Philosophical Quarterly* 18, no. 4 (1981), 268.

emotion, judgment, and further wrongs, as takes place vividly in Northern Ireland, Kashmir, the Balkans, Rwanda, and other sites of historical cycles of violence.[8]

Wounds bear certain collective dimensions, too. Wounds are suffered and stamped not only by the acts of individuals but also by people who act on the authority of collectivities: a soldier in uniform commits a war crime; a legislature passes a law preventing African-Americans from receiving benefits; a head of state orders an invasion; a CEO approves of selling a product he knows is harmful. This collective valence of wrongs is important for apologies and reparations, as we shall see. Wounds inflicted in political contexts – through the crimes of citizens, the injustices of the government, or acts of opposition to the state –when not rectified contribute to disrespect for the rule of law, a lack of trust in the government, and incentives to defy the law. "A culture of impunity" is what human rights activists believe needs to be overcome in countries emerging from civil war and dictatorship. Political injustices may also be suffered collectively, as they are when a country is conquered or a government overthrown through sedition. All of these dimensions of wounds define the predicament that punishment addresses.

A Rationale for Punishment

Punishment takes two forms. First is the natural consequences of wrongs. A man suffers a stomachache for binge-eating at a party. A person who betrays a friend suffers the loss of the friendship. Soldiers who commit war crimes typically suffer alcoholism, nightmares, and suicide, studies have shown.[9] Second is the penalties that authorities

[8] See Philpott, *Just and Unjust Peace*, 41-47
[9] A good summary of social scientific knowledge is Alexander C. McFarlane, "The Impact of War on Mental Health: Lest We Forget," *World Psychiatry* 14, no. 3 (October 2015), 351-353.

impose on wrongdoers. Such authorities are most familiarly governments, though heads of businesses, schools, families, nursing homes, and myriad other organizations also punish violations of their rules. The Bible describes both forms of penalty and not merely natural consequences. It is the second kind, that which authorities impose, that is of concern at present.[10]

What is the rationale for punishment? The wrongdoer, who is guilty, stands in debt for his wrong. The obligation of justice belongs to the one who is wronged to exercise. It is the wrongdoer's victim(s) to whom he is obligated and who has (or have) a right to see him punished. If the wrong is a crime (or a violation of the laws of an organization) then all of the community's members share this right, for they all share in the right relationship that is defined and knit together by the laws under which they live. It is the political authority (or the authority in the organization) that acts on behalf of the community in administering the punishment; this authority possesses a Hohfeldian power right. Punishment, then, is a matter of what is due. It is due to the perpetrator in the sense that he deserves it, but more strictly, it is due to his victims, to whom he owes it. This is the principle of retribution: A wrongdoer has an obligation to undergo punishment for his wrong; and his victims, and, in the case of crimes, his fellow citizens, for whom the authority acts, have a right to see this punishment inflicted.

The retribution principle, I have argued, is axiomatic, or self-evident. The intellect grasps its validity without deriving it from prior premises as in a syllogism. The self-evidence of retribution evokes the thought of Immanuel Kant, who articulated what

[10] The discussion here echoes the discussion of Klaus Koch's understanding of punishment in the Old Testament. By natural consequences, I mean ones that are caused by the act and not from another person imposing hardship through a reactive act (retribution, retaliation, revenge). The point echoes the discussion in Chapter Six.

stands as history's purest and sparest defense of retribution in his *Metaphysics of Morals* of 1797, and has stood as the flagbearer of retribution in the debate over punishment to this day.

Kant insists that wrongdoers ought to be punished because and only because they deserve punishment. A failure to punish is a failure of justice. Kant's view of punishment emanates from his more general view of morality, which is that an action has moral worth only if a person performs it out of duty and not in pursuit of happiness, flourishing, her interests, or on the basis of reasons derived from human nature or human experience.[11] An action ought to be consistent with the categorical imperative, one formulation of which is, "[a]ct as if the maxim of your action were to become through your will a universal law of nature," and another formulation of which holds, "[a]ct in such a way that you treat humanity, where in your own person or in the person of another, always at the same time as an end and never simply as a means."[12]

Accordingly, Kant argued, "the *ius talionis* is by its form always the principle for the right to punish since it alone is the principle determining this Idea a priori (not derived from experience of which measures would be most effective for eradicating crime)."[13] *Ius talionis* is a reference to the Bible's *lex talionis* (eye for an eye), the principle of retribution; and "the Idea," Kant explained a few lines earlier, is "a civil constitution among men." The purpose of punishment is not reforming society or

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[11] I have benefitted on this point from Alex Tuckness and John M. Parrish, *The Decline of Mercy in Public Life* (Cambridge University Press, 2014), 226.

[12] Immanuel Kant, *Grounding for the Metaphysics of Morals*, trans. James W. Ellington (Hackett Publishing, 1981), 30, 36, parentheses in original.

[13] Immanuel Kant, *The Metaphysics of Morals*, trans. Mary Gregor (Cambridge University Press, 1991), 168.

reforming criminals, both of which make the wrongdoer a means. "Punishment by a court," Kant wrote,

> can never be inflicted merely as a means to promote some other good for the criminal himself or for civil society. It must always be inflicted upon him only *because he has committed a crime*. For a human being can never be treated merely as a means to the purposes of another . . .. The principle of punishment is a categorical imperative, and woe to him who crawls through the windings of eudaemonism in order to discover something that releases the criminal from punishment or even reduces its amount by the advantage it promises, in accordance with the Pharisaical saying, 'it is better for *one* man to die than for an entire people to perish.' For if justice goes, there is no longer any value in men's living on the earth."[14]

Kant's rhetoric takes on ever more color in this passage that follows shortly thereafter in which appears his most well-known statement of retribution:

> Even if a civil society were to be dissolved by the consent of all its members (e.g., if a people inhabiting an island decided to separate and disperse throughout the world), the last murderer remaining in prison would first have to be executed, so that each has done to him what his deeds deserve and blood guilt does not cling to the people for not having insisted upon this punishment; for otherwise the people can be regarded as collaborators in this public violation of justice.[15]

Retribution is the simple and sufficient reason for punishment. Kant allows that deterrence and rehabilitation are worthy goals that may accompany punishment but are not the justification of punishment.[16] Kant categorically spurns eudaimonism.

But, does Kant establish that retribution justifies punishment? Is his spare assertion – "only because he has committed a crime" – really self-evident? He must pay!

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[14] Kant, *The Metaphysics of Morals*, 140, italics and parentheses in original.

[15] Kant, *Metaphysics of Morals*, 142.

[16] Jeffrie Murphy argues that multiple strands of arguments for punishment can be found in the writings of Kant. I have looked here at his famous arguments for retribution in order to consider this approach to the principle. See Jeffrie G. Murphy, "Does Kant Have a Theory of Punishment?" *Columbia Law Review* 87, no. 3 (1987): 509-32. See also Peter Karl Koritansky, *Thomas Aquinas and the Philosophy of Punishment* (The Catholic University of America Press, 2012), 40.

She will get what is coming to her! Such reactions to malice are common among victims and onlookers. But are they only understandable emotions or do they also express a principle for action? Ought people to act on this construal or rather to pause, think better of it, and channel their emotions into a different course of action? Move on? Wish the wrongdoer repentance and reform? Forgive? It is reason, the captain of the emotions, that must decide, and decide on the basis of principle. Kant's reason, though, is too thin. A principle stands as self-evident not only if people grasp it as intelligible but also if a denial of it leads to contradiction or incoherence with our considered actions and judgments, human nature or basic data of experience.[17] Kant's assertion alone does not establish that retribution is more intelligible than its alternatives. It does not answer: What does retribution accomplish?

One answer emerged in the 1960s, when retributivism made a comeback after utilitarianism had dominated Anglo-American criminal law for a century-and-a-half. Utilitarianism's logical problems combined with the widespread perception that rehabilitation programs were not working led theorists to retrieve Kant's notion that retribution was the core principle of punishment but to update it with a fuller account of retribution. The most influential of these accounts has been the "unfair advantage" theory of punishment, and the seminal statement of this theory is the philosopher Herbert Morris's article of 1968, "Persons and Punishment."[18] Following John Locke, Morris conceives of society as a system of cooperation in which people agree to laws that accord them the benefits of life, liberty, and property in exchange for the burden of

[17] See Chapter Eight on this point.

[18] Herbert Morris, "Persons and Punishment," *The Monist* 52, no. 4 (1968), 475-501. On the reemergence of retribution and other scholars who participated in the trend, see Koritansky, *Thomas Aquinas and the Philosophy of Punishment*, 39-67. See also John Tasioulas, "Punishment and Repentance." *Philosophy* 81, no. 2 (2006): 297.

refraining from interfering with another person's sphere of interest. Acting unfairly, the criminal takes advantage of others' restraint (their compliance with the law) to secure for himself benefits, and, in doing so, incurs a debt. Punishment exacts this debt and thereby restores the balances of benefits and burdens. Morris and other proponents of this argument regard retribution as a self-evident principle but they offer a fuller explanation than Kant does of what is self-evident. Punishment's purpose is to restore the balance of benefits and burdens.

Does the unfair advantage argument succeed? Critics have called into question its description of a crime as a benefit.[19] Some crimes may seem like a benefit on the surface. Most forms of theft – robbery of possessions, tax evasion, embezzlement – involve criminals taking advantage of others' restraint (i.e., their compliance with the law) in order to secure for themselves a measurable, material gain. But what of the murder of a spouse's lover out of rage and revenge? Rape? The massacre of civilians in war? Slander? In what sense do these crimes benefit those who commit them? Sometimes alleged benefits are decidedly mixed – a robber injures his leg in a burglary or a rapist contracts syphilis, to take two examples that philosophers John Braithwaite and Phillip Pettit cite in their critique of retribution.[20] The difficulty of assessing benefits cripples one of retributivism's most important criteria, proportionality: greater crimes deserve more severe punishment. If benefits are the measure, then how to scale a murder for revenge vs. the embezzlement of $20,000? $2,000,000? The larger issue, though, is what a benefit is. The word implies good. A true good, though, is fulfilling of the person,

[19] See Koritansky, *Thomas Aquinas and the Philosophy of Punishment*, 64-67.
[20] John Braithwaite and Philip Pettit, *Not Just Deserts: A Republican Theory of Criminal Justice* (Oxford University Press, 1990), 158-159.

as are basic human goods. Revenge, the domination or humiliation of another person, or a feeling of power are not goods, nor is money an intrinsic good but rather instrumental to the good when a person so directs it. If a crime does not realize true goods, if it does not render its performer genuinely better off, then benefits, or still less, the balance of benefits and burdens, cannot be the reason for punishment.

Does a better account exist of the principle of retribution? I propose one that is rooted in the justice of right relationship. Recall that the principles that make up the justice of right relationship are intelligible in terms of their point, which is the promotion – the direction, regulation, and protection – of human flourishing, which comprises basic human goods. This synthesis of principles and the good, I argued in Chapter Four, is that of classical Christianity and found in the Bible. The principle of retribution follows suit. Punishment is due to a wrongdoer because he has violated a principle and in turn the human goods that it promotes – that is, for having wounded right relationship.

Here, lies the importance of wounds. These are, again, the standing victory of injustice and the range of other wounds that a wrong inflicts. The standing victory of injustice is the enduring moral fact of the violation of the principles that make up the justice of right relationship and the damage to the basic good of interpersonal harmony that these principles define. In the case of a crime, what the wrongdoer violates is the public law, a determination of the justice of right relationship, and the active respect and collaboration between citizens for the common good that the laws define. The logic runs the same for business, schools, families, and other organizations: a violation of their norms is also a violation of the good of interpersonal harmony. Additionally,

wrongs violate the goods of persons and associations in other respects, many of which are named just above, that are as numerous and variegated as are forms of wrong.

A thickened understanding of retribution emerges. The wrongdoer is responsible for the wrong she chose freely and is indebted to his victims and to other members of a political or other form of community if she has violated its norms; and it is for this wrong that her victim and possibly the other members of his community have a right to see her punished. In contrast to Kant, the punishment is deserved not solely because the wrongdoer committed a crime or a wrong, but rather because in violating a principle, he damaged human goods, whose promotion is the point of the principle. The justice of right relationship affirms the principle of retribution but not Kant's adamant rejection of eudaimonism. Nor does this justice envision wounds as unjustly acquired benefits but rather as damage to true goods. Unlike utilitarianism, though, this justice understands wrongs not merely in terms of their effects but also as violations of principle. So, to pay back the debt is both to satisfy a principle, as Kant demands, and to bring repair to wounded persons and relationships, as utilitarians desire. The two goals are rightly woven and wrongly unraveled, as they have been in the oscillating clash between retributive and utilitarian accounts of punishment over the past two-and-a-half centuries. What leaves wrongdoers indebted, the simple reason for retribution, is the synthesis of principles and goods that make up the justice of right relationship.

The purpose of punishment is to restore the relationship that the crime has wounded. How does punishment do this? Crucially, it communicates censure to the wrongdoer for his violation of the justice of right relationship. Why is communicating censure important? The standing victory of injustice is the persistence of a message that the wrongdoer communicated implicitly or explicitly, a message that the goals of his

wrong were superior to the principles of justice and the goods that they further. The teenage vandals who cut down the century-old oak tree in Mr. Glimfeather's front yard late one night communicated that adventure, daring, and the thrill of defiance are superior to Mr. Glimfeather's property rights and the value of his venerable tree. The colonel who tortures the enemy's prisoner in obedience to his commander communicates that the regime's orders are superior to his obligation to respect human rights and human dignity. The wrongdoer stands by his message unless he has repudiated it, and the wrong stands in the eyes of the victim and the members of the community in whose eyes justice has been impugned, dishonored, and defiled every time they see the vandals or the torturer walk free.

Punishment serves to restore right relationship by delivering a message that authoritatively counters the message of the wrong. It invites the wrongdoer to repent and participate in the restoration of right relationship, including the repair of the wound to his soul. Even should he refuse to participate, though, the communication of censure counters the message of injustice. The message must be delivered by one who possesses authority to speak in the name of the justice of right relationship and to enforce the law. In the case of crimes against the public law, it is the government who possesses this authority. Other organizations have authorities who enforce their rules; usually they have procedures for addressing violations, and sometimes they have tribunals. In the case of moral wrongs that are not crimes or infractions of an organization's norms, it is the victim who has the authority to carry out apposite and proportionate retribution. In response to Caroline's public insult, Carlos breaks off his friendship with Caroline, refusing to attend her parties and share her company, thus communicating his censure to Caroline.

The communication of censure is an important feature of what may be called the expressive theory of punishment, a third way that has emerged between retributivism and utilitarianism in recent decades. The question for expressive punishment is: Why punishment's hard treatment? If punishment is a message, then why ought it to involve more than words – prison, fines, restitution, and community service in public law; firing, demotion, or fines in businesses; disqualification from competition in athletics; grounding or time outs for children; and so forth? Why does not the wrongdoer's apology alone serve to negate the message of the wrong? It is a countervailing message after all.

Part of an answer is that hard treatment communicates a message commensurate with the severity of a wrong or crime.[21] Further, hard treatment mirrors the importance of the will in wrongdoing.[22] In acting against the norms of right relationship, the wrongdoer acted freely to advance an end – wealth, power, adventure, domination, social acceptability, humiliation – in defiance of a norm or law's prohibition. Out of reciprocity and fairness, it is fitting to confine her exercise of the will to denying her actions that she desires to perform. Imprisonment confines her freedom to pursue many ends; fines prevent her pursuit of what she otherwise would have done with her money; prohibiting competition prevents the athlete from participation in the sport that she wants to play; time out prevents a child from playing as she likes.

Finally, punishment serves to restore the equality of treatment that laws embody. Laws and norms treat the people who live under them as equal in that they are subject to them in the same respect. Nobody is above the rule of law, it is said, when a president

[21] Tasioulas, "Punishment and Repentance," 287.
[22] Finnis, Aquinas, 212-213; Koritansky, *Thomas Aquinas and the Philosophy of Punishment*, 104-106.

breaks the law or a CEO is found guilty of corruption. The standing victory of the wrongdoer's injustice includes his message that he regarded himself superior to the other people who are subject to the law. The hard treatment of punishment, reciprocating with a confinement of his will, defeats his defiance of equality.[23]

Punishment, then, authoritatively communicates a message of censure through hard treatment that communicates the gravity of the wrong, confines the will of the wrongdoer, and restores equality. It is directed at a wrongdoer for his wrong and for its resultant wounds, including the standing victory of injustice and a potentially wide range of other wounds. Directed at goods, more precisely, the repair of damaged goods, this principle is no less self-evident than the more abstract retribution in Kant's *Metaphysics of Morals*. The intellect grasps it without deriving it from prior premises.

Just punishment is subject to norms that derive from the retributive principle, are widely accepted in constitutional orders, structure the typical proceedings of courts of law and the disciplinary procedures of other organizations, and are thus folded into the justice of right relationship. Namely, punishment is to follow upon a fair procedure for determining guilt. It presupposes that the wrongdoer has a free will and affords him the chance to defend his actions. The form and severity of punishment ought to be broadly proportionate to the severity of a crime and are dependent upon the intentionality of a crime – the deliberateness, awareness of criminality, and degree of duress under which the crime is committed. Forms of punishment must respect the dignity of the person punished, including the integrity of her body and her mind-body

[23] Equality features prominently in John Finnis's sympathetic account of Aquinas's views of punishment. See Finnis, *Aquinas*, 212-215

unity.[24] The person judged guilty ought to be punished only for his crime and not to further social goals beyond the crime. If punishment is to be directed at a wide range of wounds, it only ought to be directed at those wounds inflicted – and stamped – by the injustice. The retribution principle seeks to limit punishment as much as it does to justify it.

Retribution is not revenge, for which its critics sometimes mistake it. Contrary to the natural purpose of punishment as a restoration of the good, revenge is forbidden in both the Old Testament and the New Testament.[25] Philosopher Robert Nozick offers five factors that distinguish revenge from retribution in his book of 1981, *Philosophical Explanations*. Paraphrased and adapted, they are, first, that agents of retribution address an actual wrong, no more and no less, whereas victims seeking revenge might

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[24] Torture violates mind-body unity, in integral dimension of the basic goods of life and health and is thus intrinsically wrong. I hold, too, that the death penalty is intrinsically unjust on the grounds that it involves intentional killing. While I affirm the principles of retribution and proportionality, as I have been arguing, I also hold to the principle, "no intentional killing," meaning that a person never ought to act with the intention of ending the life of another person, the reason for which lies in the dignity, or intrinsic worth, of the person, which remains intact even after the person has committed a grave crime.

The "no intentional killing" position is an interpretation of the Fifth Commandment and was developed prominently by Germain Grisez, see Grisez, *Living a Christian Life*, 470-481. It has received a more recent defense in Christopher O. Tollefsen, *Killing and Christian Ethics* (Cambridge University Press, 2026), 150-162. The position allows for the fighting of a just war and the use of lethal force in it on grounds that its intention is to defend against attacks on persons and communities, not to kill per se. The position retains the distinction between innocents and non-innocents. A non-innocent would be a person who is engaged in an unjust attack.

The justice of the death penalty has been heavily discussed in Catholic circles in recent years following John Paul II's encyclical of 1995, *Evangelium Vitae*, in which he argued against the death penalty. A debate has taken place whether he considers the death penalty an intrinsic evil or a practice to be ended at this time but not wrong at all times. Pope Francis amended section 2267 the *Catechism of the Catholic Church* in 2018 to read, "[t]he Church teaches, in the light of the Gospel, that 'the death penalty is inadmissible because it is an attack on the inviolability and dignity of the person', and she works with determination for its abolition worldwide."

On Catholic grounds, the position that the death penalty is intrinsically unjust must be defended as being in continuity – that is to say, not in contradiction – with previous Catholic teaching on the death penalty. For a defense of the intrinsically unjust position on Catholic grounds, see E. Christian Brugger, *Capital Punishment and Roman Catholic Moral Tradition*, 2nd ed. (Notre Dame, IN: University of Notre Dame Press, 2014). For a skeptical view of this position, see Edward Feser and Joseph M. Bessette, *By Man Shall His Blood Be Shed: A Catholic Defense of Capital Punishment* (San Francisco: Ignatius Press, 2017).

[25] See for instance Lev 19:18, Matt 5:38-29; Rom 12:17-21; 1 Pet 3:9.

respond to a harm that is not a wrong against them. Second, retribution respects proportionality, but not revenge. Third, an agent of retribution may have no personal relationship to the victim, and acts for the public good, while seekers of revenge are always animated personally. Fourth, retribution is motivated by principle and the good whereas revenge takes pleasure in a perpetrator's suffering. Fifth, retribution is motivated by principles that apply generally whereas revenge heeds not impartiality.[26] Revenge, then, is not a form or an excess of retribution but is rather a violation of retribution.

The punishment defended here is thoroughly restorative. It is wholly directed at the restoration of persons and relationships from the wounds that they have inflicted and suffered through wrongs and crimes. Punishment that incorporates the retributive principle addresses most directly the standing victory of injustice, the central wound to harmony between persons that a crime inflicts. A punishment whose purpose is to restore persons and relationships, though, is one that ought also to address the other wounds wrought by crime. How measures of punishment address the wide range of wounds depends upon what the wounds of any given crime are and in what ways persons and relationships might be restored. The manner of such restoration is situational, shaped by realism and prudence, and is always subject to partial achievement. In principle, though, punishment is holistic in its intent. Appositely called restorative punishment, it furthers the rectifying justice that involves a restorative of comprehensive right relationship.[27]

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[26] Robert Nozick, "Retributive Punishment," in *Philosophical Explanations* (Harvard University Press, 1981), 366-368.

[27] The concept of restorative punishment is developed and advanced by Christopher D. Marshall, *Beyond Retribution: A New Testament Vision for Justice, Crime, and Punishment* (Eerdmans, 2001), 131.

Restorative punishment defies the dichotomies, punishment vs. mercy, and punishment vs. reconciliation, that are common among theorists of criminal justice, in ordinary parlance in the modern West and in countries' efforts to face pasts of large political injustice in recent history. If mercy is the will to restore, then restorative punishment is a practice of mercy as well as of the justice that restores. If reconciliation is the restoration of right relationship, then punishment is likewise a practice of reconciliation.

Like other practices in the justice of right relationship, restorative punishment both corresponds to and exceeds what is due. The retributive principle, which restorative punishment honors, is a matter of due. But punishment's task of addressing the wide range of the wounds of crime is an open-ended one, subject to discretion, and thus beyond due.

Restorative punishment also blends the natural and the supernatural. The principle of retribution is natural: axiomatic, self-evident. Reason, too, grounds the authority of the state to enforce and coordinate retribution for crimes. The principle of healing the wide range of wounds to relationship, though, exceeds the natural law. In Christianity, it is supernaturally grounded, divinely revealed, and authorized. Consistent with the intelligibility of determinations, the logic of restorative justice is apprehensible and is found widely in religious traditions, including many indigenous traditions.[28] The argument is rather that reason alone – reason's knowledge of principles of the natural law – does not deliver the principle. In Christianity, it is the Bible that contains the divinely revealed and authorized teaching of restorative justice.

[28] John Braithwaite, "Traditional Justice," in *Restorative Justice, Reconciliation, and Peacebuilding*, ed. Jennifer J. Llewellyn and Daniel Philpott (Oxford University Press, 2014), 214-239.

Punishment of Biblical Proportions

Restorative punishment finds expression in the Bible, which affirms the retributive principle as it does punishment's promotion of the good and its end of restoring persons and relationships in communities. The case is compiled from strands from previous chapters.

Divine rectifying justice in the Old Testament entails retribution. God punishes wrongdoers for their sins, by which they incur moral debt. God does not punish for the sake of principle alone, though. Rather, his punishment is purgative, aiming to restore the purity of Israel and other nations; protective of Israel, the covenant community; and disciplinary, aiming to elicit repentance and reform among his followers. God punishes to advance his centuries-long aim of restoring his creation, purifying his covenant community, and bringing about salvation. God's response to injustice entails not only punishment but also, in other instances, restraint from punishment and forgiveness.[29]

In the New Testament, the Cross and Resurrection, the climax of divine rectifying justice, involve a payment for the debt of sin even as they are also a merciful gift, an act of forgiveness, and a winning of grace for the restoration of persons, relationships, and the world. Yet, punishment remains a real possibility for people who definitively reject this grace and remain unrepentant in sin. Jesus speaks of divine punishment many times.

Human rectifying justice, found in the Old Testament in God's instructions to the Israelites, also entails retribution. The *lex talionis*, found in the Torah, affirms the principle of retribution and its attendant principle of proportionality. The Bible's

[29] See Chapters Three and Six.

extensive laws for the community of Israel, based on the justice of *mishpat*, call for judges and, later, kings, to punish wrongdoers through just judgment. When prophets denounce rulers for punishing unjustly they presuppose just punishment. Bible scholar Christopher J.H. Wright finds that the rights and dignity of the accused, equality before the law, and proportionate limits to punishment are all expressed in the Torah's prescriptions and that they are comparatively absent from the far rougher justice of nearby contemporary Near Eastern cultures.[30]

Does the Old Testament's punishment also involve alleviating wounds and restoring goods? Capital punishment, which the Torah prescribes for twenty crimes, appears to defy restoration, yet the scripture speaks even of this measure as purgative, a cleansing of the holy community.[31] All the more so, the most common punishment for non-capital offenses was restitution, which mandated the perpetrator's payment of twice, fourfold, fivefold, or sevenfold what he damaged or stole, communicating a message of contrition in addition to compensating. Restitution affirms the debt of wrongdoing yet also aims to restore the victim in his possessions and his dignity, the soul of the wrongdoer, the wrongdoer's status in the community, and the integrity of the community's laws. Wright finds five purposes in the Torah's punishments: retribution, the purging of guilt, the deterrence of crime, the restoration of the offender, and compensation to the victim. Israel's laws and punishments, he finds, also aim to meet human needs, including those of a refugee slave (vis-à-vis the claims of his owner), those of a female prisoner (vis-à-vis the rights of a soldier), those of a debtor (vis-à-vis

[30] Christopher J.H. Wright, *Old Testament Ethics For The People of God* (InterVarsity Press, 2004), 309-310. See Chapters Four and Seven in this book.
[31] Nonetheless, I reject capital punishment as intrinsically wrong. See footnote 26.

the claims of a creditor), and those of the landless (vis-à-vis landowners). All of this is restorative, particularly for the poor.[32]

Jesus demotes retribution as human justice in the New Testament. In his teaching on the *lex talionis*, he does not refute or abrogate the retributive right but rather tells his followers to forego it, abjure retaliation, and instead practice active love for their enemies. Yet, the New Testament, through the Letters of Paul and Peter, affirms and does not abrogate punishment on the part of the state.[33] Might this punishment take the form of restorative punishment, enfolding retribution and addressing a wider range of wounds? Punishment in the state, like principles of political action in general, are matters about which the New Testament offers a small amount of guidance, especially in contrast to the Old Testament. A case can be made, though, for restorative punishment in the temporal realm in the New Testament. The principle can be found in Paul's teaching in his First Letter to the Corinthians on discipline in the Christian Church whose purpose is to protect the community, encourage repentance, and restore the sinner.[34] In the Gospel of Luke, Zacchaeus the tax collector promises restitution on Old Testament standards for his cheating in his penitential response to Jesus's invitation.[35] Most importantly, as I argued in Chapter Nine, the justice of right relationship, *dikaiosune*, is the principle that governs state action and so Christians ought to seek to expand the practice of this justice to political action as a part of their

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[32] Wright, *Old Testament Ethics For The People of God*, 310-314.

[33] Acts 25:11, Rom 13:4, and 1 Pet 2:13-14. Arguably Jesus affirms it implicitly in John 19. In the next Chapter, I will argue that the bible's forgiveness does not negate temporal punishment based on retribution.

[34] 1 Cor 5:1-13. See Marshall, *Beyond Retribution*, 151-155, 161.

[35] Luke 19:8.

love for the world and their efforts to assimilate political action to the redemptive work of God.

Restorative punishment also finds a place in the thought of classical Christian thinkers. Augustine discerns the principle of retribution, especially in the final judgment, when God will reward people who availed themselves of his mercy and followed him faithfully and punish people who persisted unrepentant in sin. Did Augustine think, therefore, that temporal punishment administered by a magistrate ought to replicate divine punishment? That was not his view.

As Bishop of Hippo, Augustine urged a Christian view of punishment upon the Roman magistrate repeatedly in his writings.[36] Augustine did not reject temporal punishment and thought that the magistrate had a right to administer it, just as Paul taught in Romans 13. He does not reject retribution as utilitarians later did and thought that punishment should inflict deprivation on the wrongdoer for his wrong. He does not hold Kant's view, either, though, that the perpetrator's punishment is required on the basis of principles alone. Mercy, an expression of love, which Augustine understood in the Christian sense as a broad will to restore, ought to govern the ends, degree, and form of punishment, not in opposition to justice but rather in shaping justice. What would punishment restore? Weighty for Augustine was the soul of the wrongdoer, to whom he thought punishment could bring "the medicine of repentance."[37] He also thought that punishment benefitted society through deterring and preventing crime and conveying respect for the rule of law. Augustine also worried about the soul of the magistrate and

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[36] In this section, I follow the interpretation of Augustine on punishment of Tuckness and Parrish, *The Decline of Mercy in Public Life*, 99-108.

[37] Quoted in Tuckness and Parish, *The Decline of Mercy in Public Life*, 106; quoted in Augustine, *Political Writings*, eds. E.M. Atkins and R.J. Dodaro (Cambridge University Press, 2001), 133 (1), 62. The notation here refers to a sermon of Augustine.

did not want his motives to become violent, just as he worried elsewhere in his writings about the soul of the soldier fighting in battle.[38]

Augustine did not equate mercy with leniency. He wrote that in some cases "it is mercy that prompts punishment, and cruelty that prompts leniency," a view that he could hold only because he regarded mercy as restorative and did not generally regard it as pardon or mitigation.[39] In other cases, though, mercy would call for a lesser punishment. Elsewhere, Augustine argued that those interceding with magistrates on behalf of wrongdoers plead not merely for equity or for the avoidance of excess punishment but rather for the "abandonment or mitigation of punishment even where there is agreement about the guilt" of the wrongdoer.[40] His two recommendations can be reconciled: Augustine thought that the magistrate ought to choose the punishment that was most likely to restore everyone it affected, most of all the wrongdoer, though never in excess of what he deserved. Punishment ought to be pursued so as to prepare everyone for the ultimate judgment.[41] Augustine wrote in *The City of God* that Christian emperors are "happy"

> if they rule justly . . . if they are slow to punish and quick to pardon; if they enforce punishment only as necessary for governing and defending the republic, not to satisfy their personal animosities; if they grant pardon not to let wrongdoing go unpunished but in the hope of its being corrected; if they compensate for the harsh decisions they are often compelled to make with the leniency of mercy and the generosity of beneficence . . ..[42]

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[38] Augustine, "From *Against Faustus*, Book 22," in *From Irenaeus to Grotius: A Sourcebook in Christian Political Thought, 100–1625*, ed. Oliver O'Donovan and Joan Lockwood O'Donovan (Eerdmans, 1999), 117-119.

[39] Tuckness and Parrish, *The Decline of Mercy in Public Life*, 106; quoted in Augustine, *Political Writings*, 153 (10), 81.

[40] Tuckness and Parrish, *The Decline of Mercy in Public Life*, 102, quoted in Augustine, *Political Writings*, 153 (6), 76.

[41] Tuckness and Parrish, *The Decline of Mercy in Public Life,* 103.

[42] Augustine, *The City of God*, 178.

The Bishop of Hippo respected the magistrate's prerogative to choose though did not envy it.

Aquinas, like Augustine, whom Aquinas cites in the *Summa Theologica* more than any other person, does not relinquish retribution.[43] Wrong incurs debt and the wrongdoer deserves punishment, the infliction of suffering.[44] Yet punishment is entirely restorative. It restores the order of justice that the wrongdoer ruptures through exercising his will against other persons who are equal in dignity, and, in the case of crimes, against the other citizens who live under the same public laws.[45] To restore the order of justice, the magistrate has a right to punish. Aquinas's argument here presupposes something much like the standing victory of injustice, the wound to right relationship between people that the injustice itself creates. In Aquinas's earlier *Commentary on the Sentences of Peter Lombard*, he argues that punishment is a medicine "ordered against fault," implying the restorative aim of punishment's redress of the moral order.[46] Again using the image of medicine, Aquinas argues in the *Summa* that just punishment has other purposes, too – restoring the soul of the wrongdoer, deterring crime, and restoring respect for the rule of law.[47] In some cases, a sovereign may remit a

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[43] My understanding of Aquinas's doctrines of punishment is indebted to the clear exposition of Koritansky, *Thomas Aquinas and the Philosophy of Punishment*, 103-157. On Aquinas's citations of authorities, see https://www.ncregister.com/blog/which-church-fathers-most-influenced-st-thomas-aquinas. This count does not note his citations of the Bible, which are more frequent than his citations of any person.

[44] ST I-II, q. 87.

[45] ST II-II, q. 108, a. 4.

[46] Thomas Aquinas, *Commentary on the Sentences of Peter Lombard*, Book II, Distinction 36, Article 3, ad. 3. In cases of capital punishment, he argues that such punishment is not to restore the soul of the wrongdoer but rather furthers the good of the community. His argument here resembles the Old Testament justification for capital punishment.

[47] ST I-II q. 87, a. 6, ad. 3.

penalty or a judge may show mercy when she has discretion.[48] Like Augustine, Aquinas holds that God exercises retribution in the final judgment, but that punishments in this life are medicinal in character.[49]

What Augustine and Aquinas affirm is the Bible's principled eudaimonism, a justice that comprises obligations ordered to the human good. The synthesis persists. "Legitimate public authority has the right and the duty to inflict punishment proportionate to the gravity of the offense," reads the *Catechism of the Catholic Church*. Retribution, though, has an end: "Punishment has the primary aim of redressing the disorder introduced by the offense," a disorder that may be understood as wounds to the order of justice. Punishment, though, also "assumes the value of expiation" when it is "willingly accepted by the guilty party," has the "medicinal purpose" of "contributing to the correction of the guilty party," and carries the aims of "protecting people's safety" and "preventing crime."[50] The principle of retribution finds its justification in the good – the good of right relationship – that it restores.

Restorative Justice

Restorative punishment and the principles behind it have gained a foothold in modern democracies in their courts, in civic organizations, and in truth and reconciliation commissions, through what is known as restorative justice. A teenager's vandalism introduced me to the practice of restorative justice in the late 1990's when I trained to be a mediator in the Victor-Offender Reconciliation Program (VORP) in

[48] ST II-II q. 67, a. 4. ad 2, ad 3.
[49] ST II-II q. 108, a. 3, ad 2
[50] *Catechism of the Catholic Church*, no. 2266 and 2267.

Elkhart, Indiana.[51] A local population of Mennonites, a branch of Christianity with a strong theology and practice of peacemaking and reconciliation, makes Elkhart a fitting site for restorative justice. After a court tried and convicted a teenage boy for damaging a retail store, breaking its windows, flooding it with water, and inflicting several thousand dollars' worth of damage, a judge sent him to a restorative justice panel. A forum in which victim, offender, and other "stakeholders" come together, the panel – or a variant such as a conference or a circle – defines restorative justice. Here is where crime is treated as a breaking of right relationship and potentially addressed through the restoration of right relationship. In the panel that I mediated, the store owner spoke of the loss and anguish that the vandalism caused him, the teenager expressed regret and shared the hardships of his own life, while the boy's mother, who was also in attendance, listened. Empathetic listening, a tenet of restorative panels, softens hearts. The parties reached an agreement: The boy would work at the store long enough to repay the damage while learning the value of work, gaining experience for the future, and regaining a sense of worth. Most of all, trust would be restored between the boy and the owner. Had the parties failed to come to agreement, or had the boy failed to keep the agreement, he would return to court for sentencing.[52]

Three principles, composed from the many theories that scholars have developed since the concept took hold in the 1970s and situated in the justice of right relationship articulated here, define restorative justice. First, crime not only violates the law but also inflicts a range of wounds on persons and relationships – the victim, the wrongdoer, and

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[51] Elkhart is the site of the first Victim-Offender Reconciliation Program (VORP) introduced in the United States in 1978. See Daniel Van Ness and Karen Heetderks Strong, *Restoring Justice: An Introduction to Restorative Justice*, 5th edition (Anderson Publishing, 2015), 33.

[52] I recounted the story in *Just and Unjust Peace*, 67, and retell it here for its value in illustrating restorative justice.

members of the community. Second, a response to crime aims to restore persons and relationships with respect to this range of wounds. It aims to defeat the standing victory of injustice; to encourage wrongdoers to learn of the consequences of their wrongs, repent for them, and find a gainful life; to elicit acknowledgment of the suffering of victims; to alleviate this suffering materially where possible; and to restore trust between victims, wrongdoers, and members of the community; and to uphold the community's principles. It is in the panel or similar circle that the terms of these measures are developed, contoured to the particular wounds and resources to alleviate them that the parties bring to the table. The third principle of restorative justice is the involvement of the mediator, victims, wrongdoers, family members, coworkers, friends, pastors, and sometimes representative members of the community. Their freedom is respected, they are not mandated to arrive at an agreement, yet often the experience of empathetic listening will lead to breakthroughs and restorative possibilities, perhaps ones not envisioned in advance, such as the ones that I witnessed in Elkhart.[53]

Restorative justice embodies the principles of the justice of right relationship. Situated in societies' efforts to address injustices, those of individual criminals and those of civil wars and dictatorial regimes, it also fits the profile of restorative punishment. As the word punishment implies, it does not abandon the retributive principle. Restorative justice would make little sense were it not a response to a wrong that a wrongdoer freely committed and involves a censure of the wrong through the imposition of a penalty against the wrongdoer's will. The teenage boy would not spend tens of hours working in

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[53] A classic work on restorative justice (with a theological orientation) is Howard Zehr, *Changing Lenses: Restorative Justice for Our Times*, 25th anniversary ed. (Herald Press, 2015). An excellent introduction is Daniel W. Van Ness, Karen Heetderks Strong, Jonathan Derby, and L. Lynette Parker, *Restoring Justice: An Introduction to Restorative Justice*, 6th ed. (Routledge, 2022).

the store without wages were it not for his crime and the panel's response to his crime. Restorative justice is connected to the court system (which ensures a harsher sentence should the boy fail to comply). The purpose of restorative justice, like that of punishment, includes upholding the moral purpose of the law – right relationship among citizens. Restorative justice also heeds retributivism's commitment to the limits of punishment. Its measures do not reach beyond the wrong in addressing social problems and are proportionate. Yet, its punishment, much like penance in the Christian tradition, is integrative, designed to restore right relationship insofar as that is possible given the particulars of the crime and the parties involved. While punishment is due, its restorative action is open-ended, beyond due.

Where have people practiced restorative justice? Virtually everywhere, argues John Braithwaite, one of the concept's most prominent theorists. Braithwaite claims it is the most prevalent form of justice globally and historically, and that the West's pure and palpably punitive form of retributivism is anomalous.[54] Restorative justice is implicit in the practices of indigenous peoples such as Bantus, who follow the philosophy of Ubuntu, in Southern Africa, the Maori in New Zealand, the Acholi people in Uganda, and First Nation peoples in Canada, whose peacemaking circles have become widely adopted in restorative justice forums in the West. Certain Christian churches have affirmed the idea explicitly – most thoroughly, the Mennonite Church, but also a wide

[54] John Braithwaite, "Restorative Justice: Assessing Optimistic and Pessimistic Accounts," *Crime and Justice*: *A Review of Research* 25, no. 1 (1999):6.

array of other churches. Many theorists of restorative justice defend the principle in secular terms.[55]

Restorative justice arose as an explicit modern concept in the 1960s, was first adopted into a court system in the form of VORP in Canada in 1974, and has spread since in Canada, New Zealand, the United Kingdom, the United States, Australia, Finland, and elsewhere. Programs take three major forms: VORP; the conference, which includes families and friends; and circles, which include an even wider array of members of the community. Court systems have integrated all of them, while civic organizations or religious communities may conduct them, reflecting the diverse practitioners of the politics of right relationship. Restorative justice programs also take place within prisons, among prisoners as they are released into society, and other contexts.[56] An indicator of their spread is a study published in 2000 showing that 300 "victim programs" existed in the U.S. and 700 in Europe.[57]

Restorative justice can aspire to an even wider transformation, that of the wounds that a society's unjust structures inflict, argues scholar Jason Springs in his book of 2024, *Restorative Justice and Lived Religion: Transforming Mass Incarceration in Chicago*.[58] Springs visited and documented the work of Precious Blood Ministries, founded by a Catholic priest in 2004 in the Back of the Yards community of

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[55] Virginia Mackey offers a survey of statements of Catholic, Quaker, Lutheran, Presbyterian, Baptist, Episcopal, United Methodist, Unitarian, Mennonite, Mormon, and Greek Orthodox Churches as well as the National Council of Churches and Jewish groups in Virginia Mackey, *Punishment in the Scriptures and Tradition of Judaism, Christianity, and Islam* (National Religious Leaders Consultation on Criminal Justice, 1981), 59-68.

[56] See, for instance, the work of Prison Fellowship International, https://restorativejustice.org/who-we-are/prison-fellowship-international/

[57] Mark S. Umbreit, *Family Group Conferencing: Implications for Crime Victims* (U.S. Department of Justice, Office of Justice Programs, Office of Victims of Crime, 2000), 3.

[58] Jason Springs, *Restorative Justice and Lived Religion: Transforming Mass Incarceration in Chicago* (New York University Press, 2004).

South Chicago. Through peacemaking circles, conducted in a ministry of accountability, radical hospitality, accompaniment (a form of friendship), hope, and encouragement of spirituality – all examples of beyond-due obligations of the last chapter – Precious Blood reintegrates youth who have been involved in crime into jobs, families, friendships, and communities. The success of it and other restorative justice programs has led judges and magistrates to integrate them into Chicago's criminal justice system.[59]

The task of restorative justice does not end here, though, Springs argues. Drawing on writer Michelle Alexander's book of 2010, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*, Springs reports that U.S. prison population is the highest in the world.[60] For the Back of the Yards community, mass incarceration means the absence of young men, their return to crime and failure to find opportunity upon their release, the disintegration of families, and the further fracture of community. Mass incarceration is colossal and structural, affecting entire communities and inheriting huge historical injustices, beginning with slavery, continuing with the Jim Crow South, and taking on new forms in northern cities, where, having migrated in the millions, African Americans suffered housing discrimination that left them in poor and violent neighborhoods. Legislatures responded in the 1970s and 1980s with draconian drug laws and sentencing standards. As a result, the number of prisoners sharply increased, swelling from 200,000 in 1973 to 1.9 million in 2022, or to 5.7 million if one

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[59] Springs, *Restorative Justice and Lived Religion*. For Springs's argument that Precious Blood Ministry's work is indeed justice, and thus his engagement with the argument of this book, see 74-86, 117-151.

[60] Springs, *Restorative Justice and Lived Religion*, 1. The U.S. also has the highest incarceration rate of any democratic sovereign state. For statistics and evidence, including on disproportionate racial incarceration rates, see https://www.prisonpolicy.org/global/2024.html.

includes people on probation and parole.[61] Restorative justice, Springs argues, is an alternative, not just a reform, to a system that destroys persons and communities, and promises to rebuild them.

Entire societies also have practiced restorative justice – or, synonymously, reconciliation – in their responses to past war and dictatorship. Restorative justice was how Archbishop Desmond Tutu described the work of South Africa's Truth and Reconciliation Commission, of which he was Chair when it took place in 1996-1998 following the country's transition from *apartheid* to a multiracial democracy under President Nelson Mandela.[62] In exchange for amnesty, perpetrators of political violence during apartheid could testify truthfully about their deeds to the commission, which produced a comprehensive report of the injustices of the *apartheid* period, brought recognition to the suffering of victims who testified at hearings, some of them nationally televised, elicited the apologies of some high *apartheid* officials, legitimated human rights and the rule of law in the new democracy, and led to the practice of forgiveness on the part of many victims. This panoply of practices renders South Africa's response to the past one of restorative justice rather than a pragmatic relinquishment of retribution. Just as Chile's Truth and Reconciliation Commission had inspired South Africans, restorative justice in South Africa inspired later responses to past injustices elsewhere such as Rwanda's *gacaca* courts, which tried crimes of the 1994 genocide through village level gatherings that involved the recounting of truth, apologies, forgiveness, and prison sentences; Acholi rituals that sought to reintegrate perpetrators in Uganda's civil war in the 2000s, involving truth-telling, apology, restitution, forgiveness, and a village

[61] Springs cites these numbers in Springs, *Restorative Justice and Lived Religion*, 24-25.
[62] See Desmond Mpilo Tutu, *No Future Without Forgiveness* (Image Books, 2000).

ceremony of reconciliation; and Canada's Truth and Reconciliation Commission of 2008 to 2015, which documented crimes against indigenous people in Canada's residential schools, held public hearings, paid a large restitution settlement, and elicited the apologies of top government and church leaders. In these and other settings, restorative justice expanded to a national scale.[63]

Does restorative justice work? Scholars have measured its results in western criminal justice systems in over one hundred studies. Some are inconclusive and mixed in their findings, but others show that in comparison with either standard criminal justice or no justice at all, restorative justice reduces recidivism; increases the welfare of victims on an array of outcomes such as post-traumatic stress; increases chances of offenders receiving justice; reduces victims' desire for revenge and increases their satisfaction with the justice process; increases contrition and empathy for victims on the part of offenders; increases chances that offenders will complete their restitution obligations; and yields high rates of satisfaction among participants in circles.[64]

Is restorative justice successful at the nation-state level? In the efforts of nation-states to confront the past, restorative justice typically emerges as a compromise to intractable political conflict, not as a blueprint crafted in antiseptic seminar rooms. Imperfect justice results. In South Africa, perpetrators of political violence who testified

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[63] On restorative justice and peacebuilding on the national scale, see Jennifer J. Llewellyn and Daniel Philpott, eds., *Restorative Justice, Reconciliation, and Peacebuilding* (Oxford University Press, 2014).
[64] For evidence of the success of restorative justice, see Development Services Group, Inc. 2010. "Restorative Justice." Literature review. Washington, D.C.: Office of Juvenile Justice and Delinquency Prevention. https://www.ojjdp.gov/mpg/litreviews/Restorative_Justice.pdf; "The Data on Restorative Justice: A Report By the Restorative Justice Coalition of Oregon," December 2023, find at https://6rivers.org/wp-content/uploads/2024/01/RJCO-Data-Report_12.11.23.pdf; "MoJ evaluation of restorative justice," https://restorativejustice.org.uk/resources/moj-evaluation-restorative-justice, a set of studies conducted by the University of Sheffield commissioned by the government of the United Kingdom.

did not receive the punishment that they deserved by design, but worse, few of the ones who refused to testify faced the prosecution that they were supposed to have met. Those who did testify were disproportionately blacks who fought apartheid rather than white apartheid officials who committed the preponderance of crimes. Critics have taken the TRC to task also for failing to pay reparations and for failing to address vast economic inequality which, along with crime rates, persist to this day. Likewise, Rwanda's *gacaca* courts were saddled with danger to witnesses and rough standards of justice.[65] Still, shortcomings of restorative justice must be scaled against its achievements and weighed against the exigency of building peace and democracy in the aftermath of massive violence and injustice.

Restorative justice embodies the rectifying justice of right relationship, rendering what is due yet also addressing wounds to persons, cities, and nations through open-ended measures. It enacts in human political communities the justice of the precious blood.

War and Peacebuilding

How does the justice of right relationship look upon war? War, after all, is always about justice. It is organized armed coercion on the part of two or more communities (governments, opposition groups) who each intend to bring about greater justice in the political order – a state of affairs that reflects their view of how politics ought to be. What they seek is peace, and peace is always a condition characterized by a view of justice. War is habitually imagined as a foreign endeavor, sovereign states fighting with other sovereign states and sometimes with terrorists, whose criteria are the

[65] Philpott, *Just and Unjust Peace*, 207-250.

grundnorms of the United Nations Charter, political sovereignty and territorial independence. Since World War II, though, the vast majority of major wars have been civil ones, fought over the governance of a sovereign state. Death tolls in Sudan, Cambodia, Angola, Nigeria, Bangladesh, Indonesia, Sierra Leone, and the Democratic Republic of Congo have numbered in the hundreds of thousands and sometimes millions.[66] And, while war is usually thought to be armies fighting armies, the activity shares in its definition and purpose with police action within states.

Principles governing war are ones of human rectifying justice. War always involves actions that respond to what its lead purveyors perceive to be injustice. In the modern sovereign states system, in the eyes of international law and the leading doctrines of justice, war's purpose is to put an end to injustice and not to carry out retribution as a judicial act. True, since the Nuremberg and Tokyo Trials after World War II and since the International Criminal Court (ICC) began operating in 2002, judicial punishment for top perpetrators has become an aim of war, but it is not the central aim nor is it carried out through the war itself. Rather, the combatants are handed over to these courts, who (especially the ICC) are under their own authority. The purpose of war remains putting an end to injustices, or at least what war's organizers perceive to be.

The set of principles governing war that have taken shape over centuries in the Christian tradition is known as the just war ethic. The ethic finds its roots in Augustine, was advanced by Aquinas, and has been developed by later thinkers. The ethic is one of

[66] Between 1900 and 1945, 80% of wars were fought between states, whereas between 1945 and 1976, 85% of all wars were fought between states. See Michael W. Doyle and Nicholas Sambanis, *Making War & Building Peace* (Princeton University Press, 2006), 11; *The Human Security Report: War and Peace in the 21st Century* (Human Security Centre, 2005), 23. In 2005, civil wars constituted 95% of wars.

the strongest instances of Christian principles being imprinted on the world's political institutions, these being international law, humanitarian law, and the ethical standards of armed forces in many countries. The justice of right relationship incorporates these principles, which mostly correspond to rights, or what is due, and reflect natural law. Yet, certain manners in which military force serves justice involve principles such as beneficence and mercy that exceed what is due. Incorporated into the justice of right relationship, they expand its rectifying remit.

A Right to War

Is killing compatible with love? The question is existential and visceral on contemplation of hand-to-hand combat among thousands at the Battle of Gettysburg, the brutal killing that today's drones inflict remotely, or the five million deaths in the war in Democratic Republic of Congo from 1998 to 2004, whose death toll was the largest of any war since World War II. Can killing in war be reconciled with the love of Jesus?

St. Augustine confronted the question in 420, late in his writing career, in a letter to his friend, Boniface, a general in the Roman army. He had visited the question of war several times during previous decades. As Bishop of Hippo, he exercised a grave duty to counsel young Christians on whether they could serve in the Roman Empire's police and army at a time when Christian faith had become legal and was often favored.

That Augustine confronts the question of love presupposes his conviction that if a Christian may wage war, he ought to do so out of love. Contrary to some of his 20th century interpreters, Augustine was no "realist" who looks upon war as a "necessary evil" in the sense that it condones actions that are contrary to love's principles or that

flout the teaching of Romans 3:8 that one should not perform an evil in order that good may come of it.[67] Augustine begins his letter to Boniface by restating the Christian's duty to love God and neighbor. He then avers, "[d]o not think that it is impossible for any one to please God while engaged in active military service." Is Augustine right?[68]

To love (or at least one major dimension of love) is to will the good of others. I have argued that love is equivalent to the justice of acting to bring about right relationship. Augustine says as much in the *City of God*, where he defines justice as love of God and neighbor.[69] If war entails love, or the justice of right relationship, in what way does one who fights it promote the good of people and communities?

A tempting answer is: War minimizes the loss of life. War tragically involves killing and being killed but is preferable to the deaths that would come about if a country did not take up arms. War ought to be minimized, but is sometimes necessary. The moral standard for war is whether it is necessary to prevent a greater evil, most importantly, a larger loss of life, the answer runs.

While this answer rightly discerns that respecting life is integral to why and how war justly may be fought, it is inadequate and misses the purpose of war, the good that it purportedly brings about. In May 1940 the British Cabinet came close to deciding to sue for peace with Hitler's Germany, whose armies nearly had driven British soldiers out of France across the English Channel. Peace terms might have meant that Britain would accept Hitler's conquests on the European continent in return for Hitler's acceptance of

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[67] Augustine writes in his Letter to Count Boniface of 418 that "war should be waged only as a necessity," but he does not mean that it is an evil that is performed in order that good may come from it. Rather it is a necessary action for achieving peace in the face of attack and rebellion. See Augustine, "Letter 189," in O'Donovan and O'Donovan, *A Sourcebook*, 135.

[68] See Augustine, "Letter 189," in O'Donovan and O'Donovan, *A Sourcebook*, 134.

[69] See Chapter Two.

Britain's government and empire. Favoring this peace was its sparing of hundreds of thousands of British lives – the price that Britain had paid in the Great War a generation earlier. Under Prime Minister Winston Churchill, though, the decision prevailed to fight Nazi Germany. Why? Because Churchill and his allies in the Cabinet held that freeing the continent of Hitler and his puppets' governments and protecting Britain from Hitler's potential betrayal was worth fighting for even at the enormous prospective cost of lives and treasure. Not minimizing the loss of life but rather achieving a certain political order was the end for which Britain would fight. This order manifested a conception of justice, a set of principles that would govern the common life of states and behavior between states. These principles included constitutional liberal democracy and its attendant rights, and the rights of sovereign states to their political independence. This justice in turn promoted the good of the inhabitants of these states. To fight war was to promote their good.[70]

War, then, is compatible with love, with willing the good of others. Its rightful purpose is to bring about peace, Augustine wrote to Boniface. Peace is the "tranquility of order," as Augustine defined it enduringly in the *City of God*, a condition of calm and quiet that is more than a cessation of armed conflict and that attends right order.[71] The Christian tradition has come to hold that "there is no peace without justice," as Pope Paul VI put it pithily in 1972.[72] If justice is right relationship, then it is the goal of war. The norm that governs war is not, "killing is permissible when necessary," but rather,

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[70] A riveting account of the Cabinet debate is John Lukacs, *Five Days in London, May 1940* (Yale University Press, 1999).

[71] Augustine, *City of God*, 368.

[72] Pope Paul VI, " If You Want Peace, Work for Justice," message for the World Day of Peace, January 1, 1972, The Holy See, https://www.vatican.va/content/paul-vi/en/messages/peace/documents/hf_p-vi_mes_19711208_v-world-day-for-peace.html.

"one ought to restore justice in the political realm by repelling attacks against justice, and do so in a just manner."

A just war aims to bring about a just peace by bringing an end to the injustices that threaten it. A war fought to end an injustice is one that meets the criterion of "just cause," the most important of the criteria for a just war that emerges from Augustine's thought and has come to define the just war ethic. Just cause aptly expresses a purpose that advances justice and is the criterion by which lethal coercion and the attendant prospect of killing and suffering death is to be judged. If the purpose of armed force is to end injustice, then its purpose is not killing *per se* and is only to be directed at persons who are actively cooperating with injustices – soldiers – and never to be directed at persons who are not so cooperating – civilians – and must cease when the soldiers' cooperation with injustice ceases. Enemies must be taken prisoner when possible, given medical care, and treated as the Geneva Convention requires.[73]

Today, the injustices against which war is fought include invasions of entire sovereign states, the conquest of land or seizure of economic assets, terrorist attacks, tyrannical rule, unjust usurpation of authority, violence or sharp discrimination against racial or ethnic groups, and many others. A war against any of these injustices is a war of defense. In the international realm, sovereign states and their political communities fight to protect themselves or another state against attacks on themselves, their members, a portion of their land, or any good that they rightly govern. Theorists of war have given much less thought to war within states despite the prevalence of such war since World War II. Can a rebellion be just? If political authority is grounded in justice,

[73] I hold to the "no intentional killing" position, as mentioned in footnote 26 [[confirm]] on the death penalty.

then, as Aquinas held, an attack on the authority of a just ruler, sedition, is unjust, but the overthrow of a tyrant, a ruler who has forfeited his authority, can be just. This measure must not be undertaken lightly. Is the rebel likely to rule more justly than the tyrant? Is the likely cost of rebellion in death and disorder proportionate to the likely justice gained? The scale of civil war in Indonesia, Yugoslavia, and Congo fortify the gravity of last resort. In principle, though, the overthrow of a tyrant, as well as the suppression of sedition, are just purposes of armed force.[74] All of these injustices, international and domestic, against which war may be fought, are violations of rights (Hohfeldian claim rights) – the rights of political communities and the rights of their members.

It is to enforce and coordinate the justice of right relationship – internationally and within states – that political authority is established. "Right authority" is the second criterion for the use of force in the just war ethic that emerged from the writings of Augustine. To paraphrase Max Weber, the government has a "monopoly on the use of coercive force."[75] This authority is also a matter of rights. It is a Hohfeldian power right, a prerogative to coerce and to order others to coerce.

The third criterion of the just war ethic that Augustine established is "right intention." Augustine worried most about this one: "The real evils in war are love of violence, revengeful cruelty, fierce and implacable enmity, wild resistance, and the lust of power, and the like."[76] The just purpose of the war ought to be the reason that a

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74 For Aquinas's argument for just deposition of tyrannical rulers, see ST II-II, q. 42, a. 2; Aquinas, *On Kingship*, 27.

75 I prefer this phrasing of Weber's quote to "monopoly on violence." Violence, by definition, is unjust force, that which "violates." What governments may rightly do is use force for just ends and through just means.

76 Augustine, "From Book 22" in O'Donovan and O'Donovan, *A Sourcebook*, 117.

soldier fights, and not hatred of the enemy, the emotion that war is prone to stir. "A real soldier does not fight because he has something that he hates in front of him. He fights because he has something that he loves behind his back," G.K. Chesterton wrote.[77] Augustine thought that a soldier could even love his enemy in the sense of halting his sinful violation of justice. He counseled Boniface to be a peacemaker. Right intention is right relationship in the parts of the soul. [78]

The core tenets of the just war ethic converge with the justice of right relationship and are described in important part by rights. War is justified as a rectification of the violation of rights; and holders of political authority possess a right to use coercive armed force in order to restore justice – a just peace. Certain aspects of military action and of coercive action in politics more generally, though, aim to bring about right relationship in manners not contained by rights. These involve obligations beyond due.

A Duty of War?

If rights define injustices that merit war and if states have the right to wage war, the question remains: Do states have duties to fight war? If so, do these duties correspond to the rights of others? If a state and its citizens suffer an injustice, do its citizens have a right to the government's war in response? Does that state have the right to the armed assistance of other states? Following the logic of rights, if people have a right to a state's waging of war, then the state would commit a wrong in deciding against waging war. It would have a perfect duty. Is that the case, or is the duty to fight imperfect, one that is subject to discretion? Is war due, or is it a duty beyond due?

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[77] Chesterton wrote this line in the *Illustrated London News*, December 31, 1910, see https://www.chesterton.org/quotations/war-and-politics/

[78] Augustine, "Letter 189," in O'Donovan and O'Donovan, *A Sourcebook*, 135.

It is not obvious that states have perfect duties to fight, even when they or their allies suffer injustices. Here arise additional criteria of the just war ethic that emerged in centuries after Augustine and Aquinas. One is "reasonable chance of success." A state has no obligation to fight a war that it judges unlikely or impossible to bring about a just peace. Another is proportionality. The value of just peace ought to be proportionate to the likely cost of the war in blood and treasure.

Both of these criteria are scalular and dependent on judgments of capabilities, will, and strategy. The larger and more direct an attack is, that is, the greater the injustice that it inflicts, and the more a state possesses the capability of repelling that attack (taking into account military capacity, will to fight, strategic advantage, probable losses, and so forth), the more the government of a state has a duty to wage war. It has this duty first and foremost to the political community and its common good, which entails the good of citizens. It is the citizens who possess the right to war on their behalf. States may also have duties to come to the aid of other states under attack, again depending on the scale of the injustice and their capacity to repel it. In this case, it is the states under attack – the political community and its members – who possess the right. While no point exists on this scale where a right to war obtains, at one end of the scale, a right surely obtains, while at the other end, it clearly does not obtain.

Consider again the British Cabinet's decision of May 1940. Nazi Germany had crushed the rights of surrounding states brutally and summarily. Did these states have the right to Britain's war for their liberation? The Cabinet debated proportionality and reasonable chance of success. While I join the retrospective consensus of historians and popular opinion in favor of Churchill's case for continuing to fight, I doubt that Britain's action was a perfect duty, one to which British citizens, or other European states, had a

right. Proportionality and reasonable chance of success at that time did not render a choice that stood clearly at one of the scale. The decision was rather a just fulfillment of an imperfect duty (and arguably a heroic one in Churchill's part). Then, that September, three months after Britain decided to continue its fight, Germany attacked London with its Blitz, killing over 40,000 civilians. Did British citizens have the right to see the Royal Air Force fight in their defense? My judgment is that the British government possessed a duty to fight the London Blitz and that British citizens had a right to this defense. The attack was large and salient; chances of success were reasonable; losses were proportionate. Similarly, I judge that the decision of a coalition of states, authorized by a U.N. resolution, to undertake war to liberate Kuwait from Iraq's direct invasion of 1990, was a war to which Kuwaitis could claim a right. The injustice was large and salient; the capacity to reverse it was strong. Conversely, it was not clear that either Britain or other Europeans possessed a right to the U.S. entering a war against Nazi Germany and Fascist Italy on their behalf prior to December 8, 1941. The U.S. government did not possess the capacity for war given the size of domestic opposition and the just need for democratic support. While, again judging retrospectively, I favor such a decision for war, as I favor the aid that the U.S. gave Britain under the Lend-Lease Act, such a decision for war would have been, and actual U.S. aid was, the just fulfillment of an imperfect duty. Often, decisions for war are just but do not correspond to rights.

Fitting the description of imperfect, or beyond-due, duties is humanitarian intervention, a form of military action that has become more frequent and more internationally legitimate since the end of the Cold War. Like humanitarian aid, discussed in Chapter Ten, humanitarian intervention is a duty of mercy, but differs in

aiming not only to alleviate suffering but also to counter an injustice. It is rectifying justice, not primary justice.

Humanitarian intervention is the use of military force by a state or coalition of states to quell a large-scale human rights violation within the borders of another state without the consent of that state's government. Humanitarian intervention stands in tension with the United Nations Charter's affirmation of state sovereignty and non-intervention and so failed to elicit the approval of the U.N. Security Council during the Cold War even in cases of human rights disasters in Uganda, Cambodia, and Bangladesh in the 1970s. After the Cold War ended in 1989, though, a newfound international consensus enabled the Security Council to approve of intervention in Iraq several times in the 1990s and in Bosnia, Somalia, Rwanda, Haiti, Liberia, Sierra Leone, and Libya.[79] In 2005, the U.N. General Assembly approved of the "responsibility to protect" principle, holding that state sovereignty is not absolute and did not immunize a government from outside intervention if it committed or failed to stop genocide, war crimes, ethnic cleansing, or crimes against humanity.[80]

Now, with the approval of the U.N. Security Council, states hold the right authority to conduct humanitarian intervention, whose just cause lay in protecting human rights.[81] In an address to the United Nations in 2008, Pope Benedict XVI endorsed the responsibility to protect, basing it on traditional principles in Christian thought: universal human rights, based on natural law and the dignity of the human

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[79] I explore this intervention in Daniel Philpott, "Liberalism, Power, and Authority in International Relations: On the Origins of Colonial Independence and Internationally Sanctioned Intervention," *Security Studies* 11, no. 2 (Winter 2001/2002), 117-163.

[80] UN General Assembly, "2005 World Summit Outcome," A/RES/60/1, adopted October 24, 2005, paras. 138–39, undocs.org.

[81] Some interventions arguably have been justified morally but not legally such as NATO's intervention in Kosovo in 1999.

being created in the image of God. Appealing to Francisco de Vitoria, the Dominican Spanish Scholastic of the sixteenth century, who argued for universal principles as the sovereign state system was taking shape in Europe, Benedict agreed that sovereignty is not sacrosanct but rather conditional upon justice.[82]

Humanitarian intervention is a duty of mercy, aimed at alleviation of suffering. If states have a right to perform it to protect the rights of citizens of other states, does it follow that these citizens have a right to it such that states have a duty to intervene wherever such injustices take place? Here again arise obstacles of the sort that face the duty of humanitarian aid. The world's humanitarian crises outstrip the present capacity of states to alleviate it through military intervention, while states lack the requisite resources to put an end to every violation as well as the ability to stop some violations with a reasonable chance of success. Humanitarian intervention is not generally a dischargeable obligation, and not one to which people have a standing right.

Motivating the United Nations to adopt the Responsibility to Protect principles was the failure of the international community to stop genocide in Rwanda in 1994 and to prevent the massacre of some 8000 Muslim men at Srebrenica, Bosnia in 1995. Some military experts have judged that intervention could have saved lives in both cases. The overall record of humanitarian intervention, though, is mixed. Some, such as Iraq in 1991, Bosnia in 1995, and Kosovo in 1999, succeeded in halting war or massacres. Others, though, produced more suffering than they alleviated. A coalition of states, led by Britain and France, intervened in Libya in 2011 to overthrow Muammar Gaddafi, who

[82] Benedict XVI, "Address of His Holiness Benedict XVI," address to the General Assembly of the United Nations, New York, NY, April 18, 2008, The Holy See, https://www.vatican.va/content/benedict-xvi/en/speeches/2008/april/documents/hf_ben-xvi_spe_20080418_un-visit.html.

had been attacking civilians, yet created a vacuum of power that led to two civil wars that took over 20,000 lives through 2020 and gave rise to a radical Islamist organization. In December 1992, the U.S. led a coalition of countries in delivering food aid to Somalia but foundered in the ensuing task of quelling factional armed conflict and rebuilding state institutions.

Humanitarian intervention is a duty of mercy but not one that states have an obligation to fulfill whenever or wherever large-scale suffering takes place. They must choose to conduct it where they judge that they possess the military capacities and the reasonable operational prospects for success. The duty of mercy also calls states to develop greater cooperative capacities for humanitarian operations, as Responsibility to Protect principles call for. For the time being, it is a duty beyond due.

A Duty of Non-Violence?

Campaigns of non-violence are often contrasted with war, but they are a strategy for achieving the same end of a just war and follow the norm that expresses this end: "Repel injustice." They are a form of rectifying justice involving coercion to end injustices and restore a just peace. What distinguishes non-violence is that it wields weapons that are designed not to kill or injure: protests, coordinated acts of non-cooperation, boycotts, and strikes. The campaigns of Mahatma Gandhi and Martin Luther King are most imprinted in global consciousness, but many others have taken place: the Solidarity movement in Poland in the 1980s, the People Power protests in the Philippines in the 1980s, the opposition to the Shah of Iran in the late 1970s, the protests of Suharto in Indonesia in the late 1990s, and the anti-apartheid movement in

South Africa in the 1980s, for instance. Non-violence is a beyond-due, imperfect obligation that is commanded by certain teachings of Jesus.

I have argued that the obligation to end injustice through coercive means is often an imperfect, or open-ended, one, subject to discretion as to whether, how and when. Non-violence is a manner of fulfilling this obligation, especially on the part of popular movements opposing tyrannical regimes or demanding an end to foreign occupation or self-determination. In some cases, only military action can repel injustice. Yet, non-violent action can serve the same end as, and sometimes better fulfill criteria, of the just war ethic.

One of these criteria is reasonable chance of success. A common charge against non-violent movements is that they rarely succeed and only against civilized democratic governments. Researchers Erica Chenoweth and Maria J. Stephan have shown otherwise. In their 2011 book, *Why Civil Resistance Works: The Strategic Logic of Non-Violent Conflict*, they study 323 resistance campaigns, both non-violent and violent, between 1900 and 2006 and find that "non-violent resistance campaigns were nearly twice as likely to achieve full or partial success as their violent counterparts." Non-violent campaigns rose both in frequency and as a percentage of all resistance campaigns during this period. Anticipating their skeptics, Chenoweth and Stephan show that the success of non-violent resistance, both absolutely and relative to violence, is not dependent on whether the regime it opposes is democratic or non-democratic, weak or powerful, or conciliatory or repressive. Non-violent campaigns are successful because, in comparison to armed movements, they are able to elicit far larger and more diverse levels of participation, enable far more forceful non-cooperation and disruption, make repressive measures more likely to backfire, attract more international support, remain

more resilient in the face of repression, and adapt and innovate better in their tactics. Non-violent campaigns do not always succeed, one in four having failed, and violent campaigns sometimes succeed, one in four having succeeded. Non-violent protesters sometimes die in the face of tanks and guns, as they did at Tiananmen Square in Beijing in 1989 and in other episodes. On the whole, though, non-violence has a surprisingly reasonable chance of success.[83]

Inflicting far fewer deaths and injuries, non-violent campaigns fulfill the proportionality criterion of the just war ethic far better than war. Relatedly, they fulfill still another criterion of the just-war ethic, last resort. Even when war is just, it remains tragically destructive and calls for considering strategies that counter injustice at far less of a cost, if they are available. Non-violent campaigns are such an alternative strategy.

Non-violent campaigns also fulfill two commandments of Jesus, both imperfect obligations. One of these is to love one's enemies (Matt 5:44). While, as Augustine argued, war does not necessarily violate such love, non-violent resistance fulfills the commandment more thoroughly and commonly. It refrains from killing and injuring one's opponent, invites her to conversion and to participation in a just political order, and leaves open the possibility of repentance and conversion. A common scene of non-violent action is the defection of army and police officers who refuse to attack non-violent protesters. In the mass protests against the Marcos regime in the 1980s, for instance, soldiers refused to fire on protesters and exited their tanks.

[83] Erica Chenoweth and Maria J. Stephan, *Why Civil Resistance Works: The Strategic Logic of Nonviolent Conflict* (Columbia University Press, 2011), 7, 10, 11, 220-221. An exception to the high success rates is movements for secession, both non-violent and violent.

The other commandment is to be a peacemaker (Matt 5:9). While a just peace is the rightful goal of a just war, non-violent campaigns are more successful in bringing about a just peace. Chenoweth and Stephan show that non-violent campaigns that succeed in overthrowing autocrats are much more likely to bring about a lasting and peaceful democracy than are violent overthrows. Their manner of waging their struggle against injustice carries over into the practice of politics once the struggle has been won.[84]

In the past half-century's wave of democracy movements, religious officials and communities played a leading or supporting role in 48 out of 78 of these movements. The vast majority of these religious leaders were Christian.[85] When Pope John Paul II led open-air gatherings of hundreds of thousands of people on three pilgrimages to Poland between 1979 and 1987, he gave indispensable support to the Solidarity movement's resistance to, and eventually the toppling of, the Communist regime in 1989. Likewise, thousands of East Germans conducted candlelight protests against their Communist regime in October 1989 from their headquarters at the Protestant Nikolaikirche in Leipzig. This was fitting in that Jesus's commandments and the non-violent actions that fulfills them are determinations – deepenings, specifications – of the more general commandment to love one's neighbor by acting to end injustice and to

[84] Chenoweth and Stephan, *Why Civil Resistance Works*, 201-219.
[85] Monica Duffy Toft, Daniel Philpott, and Timothy Samuel Shah, *God's Century: Resurgent Religion and Global Politics* (W.W. Norton, 2011), 82-109.

promote a just peace in its stead. They steer the pursuit of a duty that is beyond due in fulfillment of rectifying justice.[86]

Apology

As old as Genesis but relatively new in the politics of modern states is the principle of apology. In the past fifty years, German chancellors and presidents have apologized for the crimes of the Third Reich; Australian and Canadian prime ministers against native peoples; Pope John Paul II over 100 times for sins committed in the name of the Catholic Church in at least 21 historical episodes; and many other heads of state and of other organizations have apologized publicly for misdeeds committed in the name of their group. Performing the rectifying justice of right relationship, apology's new and expanded place in politics defies the narrative that would separate it from politics on account of its being private, religious, and personal.[87]

An apology is a wrongdoer's expression of remorse for a sin with five parts: the wrongdoer 1) admits that he performs the wrong; 2) acknowledges that the wrong was a wrong; 3) expresses regret for having committed the wrong; 4) accepts responsibility for the wrong; and 5) promises not to repeat it.[88] To apologize is an obligation of a wrongdoer, grounded in both reason and the revealed teaching of the prophets culminating in that of Jesus. It is rectifying justice because it aims at repairing wrongs, restoring right relationship with respect to the wounds that rupture it.

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[86] In Chapter Twelve, I briefly discuss that warring states may also pursue a just peace through measures that seek to bring about reconciliation, unity, and stability following a victory. The set of questions surrounding obligations to carry out such measures has become known as "jus post bellum." Whatever these obligations are, they constitute open-ended, beyond-due duties, subject to judgments of capacity and reasonable chance of success, not to which people have a right.

[87] This section draws from and significantly develops the analysis in Philpott, *Just and Unjust Peace*, 198-206.

[88] Philpott, *Just and Unjust Peace*, 198.

Apology renders what is due.[89] A wrongdoer owes it to his direct victim(s), and, if he has committed a wrong in the name of a state or an organization, to his fellow citizens, or employees, or church members, or family members, or the like. They, in turn, have a right to the apology. The duty to apologize shares much of the rationale for punishment. The wrongdoer freely committed a wrong, is thus responsible for the wounds that she caused, and incurs a debt to the one(s) whom he has wronged. The wounds are the standing victory of injustice, the ongoing moral fact of the wrong that wounds right relationship, as well as other wounds that the wrong has inflicted. Whereas punishment aims to counter the standing victory of injustice, to pay the debt, through censuring the wrongdoer in a way that constricts the will and restores equality, apology is different. It is an act performed by a different person, the wrongdoer (or one speaking in her name), that defeats the standing victory of injustice in a different way, that is, by naming the wrong as a wrong, denouncing it, and expressing remorse that she committed it and for the harm that it did to the victim(s). Because her wrong violated the wrong of right relationship and left a wound in right relationship, the wrongdoer owes it to the victim to repair that wound through his apology. Apology takes place separately from, though sometimes in conjunction with, punishment.

Apart from being due to victims, apology can also bring forms of repair to wider dimensions of right relationship in manners that are more open-ended – matters of degree, dependent on circumstances. While not ceasing to be owed, apology becomes

[89] This is true in the focal sense. That is, the moral logic of wrongdoing renders apology an obligation of the wrongdoer that the wronged claimed as a right. Apology, at least in its focal sense, requires certain conditions to obtain – e.g., the person wronged is present (not dead or otherwise absent) and that he is potentially receptive to the apology. There are other conditions required for public apology, as I shall argue. When these conditions are not present, the obligation and the right are diminished. It is also the case that an apology might take place in a non-focal way. For instance, a head of state might apologize for a previous crime of his predecessor yet the (primary) victims of the crime are no longer alive.

more fully an act of mercy. Apology can restore the soul of a wrongdoer, for, as long as she does not repent for the wrong, it stands in his own soul as a rupture between his rightly ordered will and his endorsement of the desires that led him to the wrong. An apology contributes to the repair of the soul of a victim by aiding him to abandon his resentment, drop his moral protest against the wrong and the wrongdoer more readily, and become more willing to forgive. If the apology is for a crime, and its performer is a political leader, an apology can grant recognition to a victim, restore his standing in the eyes of his fellow citizens, give legitimacy to his rights and his status as a citizen, strengthen the legitimacy of the principles that were violated, and contribute to reconciliation. When Chilean President Patricio Aylwin apologized to the nation of Chile in 1990 for the violations of human rights – illegal killings, torture, wrongful detainment – that took place under the regime of President August Pinochet from 1973 to 1988, he contributed to all of these restorations. In all of these matters, apology is an act of justice that not only fulfills but also exceeds rights.

This duty to apologize is a natural duty. Apology and its basis in freedom, responsibility, indebtedness, the standing victory of injustice, and the various forms of repair that an apology might bring about – that is, the justice that it effects – are apprehensible by reason, and the principle of apology is one of the natural law. In light of what God has revealed, apology, or repentance, is also a supernatural form of justice and takes on new forms with respect to the three dimensions of right relationship. A person sins, or commits injustice, above all against God, separating himself from right relationship with God. The response of repentance is an act of human justice, a commandment of God written in the Old and New Testaments. Ultimately, repentance is a response to God's justice in the Cross and Resurrection, through which Christ

forgives and merits grace. Repentance is the act through which a person enters (or re-enters) the grace of this justice and friendship with God. Once renewed, a person is enabled by grace to live justly, to keep the commandments, remaining in friendship with God. Restored by God, a person then seeks to restore relationship with other persons. Repentance shares in the human justice that is shaped by divine justice. Apology is an invitation to forgiveness and reconciliation with the one wronged, or can be a response to the victim's prior forgiveness. Finally, repentance brings about the justice of right relationship between the parts of the soul. Repentance begins with contrition and sadness at the acquiescence of one's will to desires that led it away from right relationship with God and other persons. Through the reception of the grace of forgiveness, the soul gains strength to overcome these desires and to follow the desires that lead it to live justly. It is the configuration of repentance into God's justice, realized in the Cross and Resurrection, that gives it a supernatural form.

Political Apologies

The justice of apology is practiced in politics in cases in which political injustices take place. A political injustice is a form of a collective injustice, an act committed by a person who possesses authority in violation of the norms that govern the organization to which she belongs. A political injustice involves a government official violating the just laws of the state or the norms of his organization – a county clerk's act of voter fraud, a legislator's vote for a racist law, an army sergeant's war crime, and a president's ordering of an invasion. A collective apology is one that a leader voices on behalf of a collectivity – a CEO on behalf of a business corporation, a bishop on behalf of a church, a coach on behalf of a football team, or, our concern here, a political official on behalf of

a polity. U.S. President George H.W. Bush's apology to Japanese-Americans in 1990 for President Franklin D. Roosevelt's internment of them in camps during World War II is a collective political apology.

Political apologies, voiced by heads of collectivities, have exploded in the past generation. Legal scholar Roy L. Brooks wrote in 1999 that our time is an "age of apology."[90] A psychiatrist who has tracked these apologies, Aaron Lazare, finds that political apologies spiked sharply upwards in the 1990s.[91] The Institute for the Study of Human Rights documents 738 instances of political apologies between 1990 and 2020.[92]

"The Germans: unsurpassed both at the crime and at repenting it," wrote journalist Daniel Vernet.[93] Beginning with Chancellor Konrad Adenauer in 1952, continuing through the globally viewed image of Chancellor Willy Brandt's *kniefall* at the monument for victims of Nazism in Warsaw, Poland in 1970, through to apologies voiced by President Johannes Rau and Chancellor Angela Merkel in the 2000s and 2010s, German heads of state have apologized for Nazi crimes. None repented as consequentially as did President Richard von Weizsäcker in 1985 in a passionately contrite speech to the Bundestag amidst a national public argument over remembrance of the past that culminated in a wide public consensus for continued apology and remembrance – a consensus that prevails to this day. Followers of political apologies often contrast Germany's with Japan's frailer, more delayed, and more fraught apologies

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[90] Roy Brooks, ed., *When Sorry Isn't Enough: The Controversy over Apologies and Reparations for Human Injustice* (New York University Press, 1999), 3.
[91] Aaron Lazare, *On Apology* (Oxford University Press, 2004), 80.
[92] See "Political Apologies," *Institute for the Study of Human Rights*, https://www.humanrightscolumbia.org/ahda/political-apologies.
[93] From *Le Monde*, quoted in Jennifer Lind, *Sorry States: Apologies in International Politics* (Cornell University Press, 2008), 101.

for World War II-era atrocities. Japanese prime ministers began voicing such apologies only in the 1990s and they were met with intense nationalist backlash.[94] Many other heads of state have voiced collective apologies, not only for the crimes of World War II and the Holocaust but also for those committed by settlers against native peoples in Australia, New Zealand, and Canada and for many other misdeeds elsewhere.

Churches have delivered apologies in Christian, supernatural terms. No church leader has apologized more frequently and prominently than Pope John Paul II did for wrongs that previous Catholics committed in the name of the Church. These are political apologies in the broad sense of politics, for they address injustices, most of them violations of human rights, of the kind that political orders rightly uphold. During John Paul II's pontificate, spanning from 1978 to 2005, he delivered over 100 apologies for at least 21 historical episodes, including anti-Jewish attitudes and deeds, an "integralism" by which Catholics tortured and killed Protestants in the religious wars of the sixteenth and seventeenth centuries, and crimes committed during the Crusades.[95] John Paul II viewed apology as practicing the teaching of the Second Vatican Council, whose Dogmatic Constitution, *Lumen Gentium*, states:

> While Christ, holy, innocent and undefiled knew nothing of sin, but came to expiate only the sins of the people, the Church, embracing in its bosom

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[94] On the history of and contrast between Germany and Japan, see David Art, *The Politics of the Nazi Past in Germany and Austria* (Cambridge University Press, 2006); Thomas U. Berger, *War, Guilt, and World Politics After World War II* (Cambridge University Press, 2012); and Yinan He, *The Search for Reconciliation: Sino-Japanese and German-Polish Relations Since World War II* (Cambridge University Press, 2009).

[95] See Luigi Accattoli, *When A Pope Asks Forgiveness The Mea Culpa's of John Paul II*, trans. Jordan Aumann, OP (Pauline Books and Media, 1998). JPII apologized for integralism at European Parliament in Strasbourg in 1988. See John Paul II, "Address of His Holiness John Paul II during his Visit to the European Parliament," October 11, 1988, https://www.vatican.va/content/john-paul-ii/en/speeches/1988/october/documents/hf_jp-ii_spe_19881011_european-parliament.html.

> sinners, at the same time holy and always in need of being purified, always follows the way of penance and renewal.[96]

John Paul II quoted this sentence in his apostolic letter of 1994, *Tertio Millennio Adveniente*, where, looking ahead to the turn of Christianity's third millennium in 2000, he called the church to an examination of historical conscience. Just prior to this sentence, he wrote:

> Hence it is appropriate that, as the Second Millennium of Christianity draws to a close, the Church should become more fully conscious of the sinfulness of her children, recalling all those times in history when they departed from the spirit of Christ and his Gospel and, instead of offering to the world the witness of a life inspired by the values of faith, indulged in ways of thinking and acting which were truly *forms of counter-witness and scandal*. Although she is holy because of her incorporation into Christ, the Church does not tire of doing penance: before God and man *she always acknowledges as her own her sinful sons and daughters*.[97]

On Ash Wednesday of the Jubilee Year, March 8, 2000, John Paul II voiced several *mea culpas* on behalf of the Church, most memorably towards Jews.

On what basis are collective apologies justified? The question is one of vicariousness, representation, and authority. What gives the Prime Minister of Italy, the Governor of California, the CEO of Exxon, the Pope, or the head of any collectivity standing to apologize for a crime that her predecessor committed decades or centuries ago? What gives him standing to speak in the name of the people inhabiting the collectivity under her?

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[96] Second Vatican Council, *Lumen Gentium*, Dogmatic Constitution, The Holy See, November 21, 1964, sec. 8, https://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_const_19641121_lumen-gentium_en.html.

[97] In the next sentence, John Paul II quotes the passage from *Lumen Gentium* quoted above. Find at John Paul II, *Tertio Millennio Adveniente,* Apostolic Exhortation, The Holy See, November 10, 1994, sec. 32 https://www.vatican.va/content/john-paul-ii/en/apost_letters/1994/documents/hf_jp-ii_apl_19941110_tertio-millennio-adveniente.html.

The indebtedness – the guilt, the responsibility – that a collective injustice creates has two dimensions, an individual and a collective one. On one dimension, the perpetrator of the injustice is guilty as an individual. The prime minister who ordered an illegal invasion, the legislators who passed a bill denying educational benefits or hindering homeownership for African-Americans, and the county clerk who orchestrated voter fraud are guilty as individual persons for their crimes. The political character of the injustice may magnify its wounds, but the crime is his. Only he can apologize, be tried, fined, imprisoned, or forgiven for it. When this person dies, no-one may alleviate his guilt or make his soul just by apologizing for him. After his death, God will judge him and only him for his deeds. The major accomplishment of the Nuremberg Trials, revived today in the International Criminal Court, is its trial of individual perpetrators of large war crimes, judging them for their responsibility as individuals.

It is the other dimension of guilt, the collective sense, for which the head of a collectivity may apologize vicariously, or representatively, for the misdeeds of a previous head. The rationale for this collective sense lies in the purpose of political authority, to enforce and coordinate the justice of right relationship, as argued in Chapter Nine. This justice embodies and promotes the common good, which entails and promotes the good of persons and associations. The duty of the head of state, or of any official of the political order, is to promote this good, and the duty of the citizens is to contribute to this good and to the government's promotion of it.

When the holder of political authority violates justice, she violates his duty to promote the common good and does so in the name of the people. It is not merely the prime minister, the legislator, and the county clerk who acts but also Italy, Kentucky, and Allegheny County. The victim may perceive most clearly the difference between the

individual and collective dimension. One is mugged by a ruffian, another is roughed up by the police. One is swindled by his neighbor's ponzi scheme, another by a company who sells her a deficient leaf blower. One member of an ethnic group suffers the calumny of her neighbor belonging to another ethnic group. The latter victim in each pairing suffers from the malice not only of a person but also of a collectivity, and it is from this collectivity that she demands a response.

If injustice has a collective dimension, so, too, does its standing victory. The injustice becomes a historical wound, a moral fact in the life of the collectivity. Evidencing historical wounds in political orders is their freshness in the discourse of Americans who speak of the wounds of slavery and racial discrimination, of Armenians who keep alive memories of Turkey's genocide in 1915, and of Kashmiris, Irish, Bosnians, Palestinians, Israelis, Ukrainians, Russians, Hutus, Tutsis, Japanese, Koreans, Chinese, and people in political orders everywhere, virtually all of whom bear historical wounds of some sort. Often disputed in their origins, extent, and historical trajectory, wounds erode the legitimacy of contemporary political orders and relations between states and can lead to renewed war and violence.

Historical wounds persist as long as collectivities persist, that is, as long as Germany, California, Exxon, and the Catholic Church persist. These collectivities persist across changes in leadership, membership, and, in the case of political orders, regimes and constitutions. The nation of France has persisted across five republics, a restored monarchy, two empires, one commune, and one Vichy regime, and so do the injustices that people committed in France's name in any one of these regimes. The leaders of collectivities today have standing to take action towards historical injustices by virtue of the laws that confer their right to speak on behalf of the collectivity. Their members

share in the collective responsibility for these injustices by virtue of their membership in the collectivity whose leader acted in their name and from whose common good they derive benefits and obligations. So, a leader may repudiate a collective injustice that persists and may act to defeat its standing victory through an apology. This logic about the persistence of injustices and the standing of leaders to speak to them is presupposed by the hundreds of collective political apologies that have taken place in recent decades and by the apologies of bishops, CEOs, football coaches, and the patriarchs of feuding clans. In the case of Christian churches – Pope John Paul II's apologies, for example – this natural basis for standing and persistence is overlaid by a supernatural one, the mystical body of Christ, spanning across time, binding present and past Christians.[98]

Critics of collective guilt charge that the concept imputes guilt on an entire population for its leader's injustices and leads to the settling of scores through vigilante violence, kangaroo trials, and mob unrest. Collective guilt as defended here, though, neither eliminates nor exaggerates individual responsibility, nor does it subsume individuals into a collective mind or superbeing.[99] The people living under a holder of authority who commits injustice variously collaborate with, oppose, carry out, stand by, remain justifiably ignorant of, or remain wrongfully oblivious to the injustice. The guilt and the culpability of citizens is determined by their knowledge, freedom of action, and intent, which are in turn framed by circumstances. Nobody is subject to punishment unless he committed a crime, and this is always to be determined by a fair judicial

[98] Theological and ethical issues surrounding papal apologies were explored in International Theological Commission, "Memory and Reconciliation: The Church and the Faults of the Past", December 1999 find at https://www.vatican.va/roman_curia/congregations/cfaith/cti_documents/rc_con_cfaith_doc_20000307_memory-reconc-itc_en.html.

[99] For a classic defense of collective guilt, see Karl Jaspers, *The Question of German Guilt*, trans. E.B. Ashton (Fordham University Press, 2000), originally published in 1948.

procedure. For most citizens of the political order, and for those living long after the injustices took place, it is the moral responsibility that they share by virtue of being a participant in the order and its common good that grounds their duty to support apology as well as reparations, the retrieval of historical truth, and historical remembrance. They are not called to repentance so much as to solidarity. Favoring their freedom still more is their right to support, dissent from, or ignore a public apology (or other act of remembrance), just as the citizens of a democracy may publicly dissent from any law or policy.

Paralleling questions about the deliverance of collective apologies are ones about their receipt. To whom should such apologies be directed? The easiest part of an answer is: living victims. In cases such as U.S. President Bush's apology in 1990 to surviving Japanese-Americans who were interned in World War II, and Chilean President Patricio Aylwin's 1991 apology to human rights victims under the Chilean government, victims were alive to hear and receive the apology.

Might apologies also be received vicariously and representatively? Harm to victims, like the guilt of perpetrators, also can carry an individual and a collective dimension. Jews, Tutsis, Ukrainians, Maoris, African Americans, Communists, and bourgeois are killed, tortured, displaced, or discriminated against on account of being members of a collectivity. Only these victims may receive an apology for the harm done to them as individuals, and, once they are dead, nobody else may receive an apology for them. Other Jews, Tutsis, and Armenians, though, may receive an apology for the harm that these victims suffered by virtue of being members of a collectivity. Useful here is philosopher Trudy Govier's distinction between primary victims, who are directly harmed by an injustice; secondary victims, friends and family members of victims who

are harmed by the harm to the victim – i.e., they lost a friend, brother, or sister; and tertiary victims, who share membership in the same communal group as the victims. It is tertiary victims who possess standing to receive an apology for injustices done to members of their collectivity even long after these members have passed. A Jew today, for instance, might receive a German president's apology for the crimes of the Holocaust, receiving it on account of what was done to his people and to him as a Jew, but not on behalf of the individuals who suffered.[100]

Apologies are not always received well. Sometimes victims and victim groups may spurn and denounce them and political orders become ever more divided over them. An apology on the part of the U.S. government for its use of the atomic bomb against Hiroshima and Nagasaki in 1945, for instance, probably would garner criticism more than contrition among U.S. citizens if public opinion polls about these events are any indication. Four factors favor the success of collective political apologies, political scientist Ji Eun Kim found in her wide survey of them. First, the performer of the apology ranks high politically, adopts sincere language, and stages a strong ceremony. Second, she behaves consistently, avoiding, for instance, undermining the welfare of the group of victims to whom she apologizes. Third, the apology is not overtly opportunistic, associated, say, with an upcoming election or momentary political advantage. Fourth, the apologizing authority prepares the apology through careful negotiation and collaboration with victim groups.[101]

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[100] Trudy Govier, *Forgiveness and Revenge* (Routledge, 2002), 93.
[101] Ji Eun Kim, "Good and Bad Apologies: Determinants of Successful State Apologies" (PhD diss., University of Notre Dame, 2017), 210.

This latter factor and, even more so, the reality that in many cases, communities of victims and citizenries who are prepared to receive public apologies favorably are not present, places limits on the ability of heads of government to issue public apologies that will repair political wounds effectively. Political apologies often are not dischargeable. Government cannot apologize for everything, many of them for very few things, and some of them for anything at all. For this reason, the claim that apology renders what is due ought to be loosened. Especially in political cases, governments are not always obligated to apologize, as they would be if they possess a perfect duty to apologize for every wrong, one that corresponds to a right of victims.[102] Rather, political apologies are an open-ended obligation, one governed by all the reparative logic of an apology but to be pursued according to prudential judgments about the restorative potential of any one prospective apology. Public apologies are a beyond-due obligation. The case for one increases with the magnitude of the injustice and the presence of factors that make an

[102] Imagine Country X, whose government and armies committed atrocities against the citizens of Country Y fifty years earlier. The president of X contemplates an apology to Y, which he considers just, yet then weighs that five years earlier, his predecessor had vetted such an apology, being met with an intense backlash in his own country among nationalist politicians, sparking a public furor that left the public less contrite for its misdeeds and even more resistant to contrition and reconciliation than prior to that president's proposal. The current president decides against issuing an apology, at least at the present moment. Is he right? Was he failing in his obligation to apologize? Did the citizens of Y have a right to an apology that was violated? I argue that the president decided correctly. He had no obligation to perform an apology that was unlikely to achieve its intrinsic reparative purpose. Had the president performed the apology, the citizens of Y would have received justice in some measure, yet the repair of strained relations between Country X and Country Y would not have been achieved if the citizens of Country X had become all the more unrepentant towards the citizens of Country Y. True, the lack of apology in some sense amounted to unfulfilled justice, but it is justice that conditions did not allow to be achieved and that would even have been set back. The obligation to perform an apology is open-ended or beyond due. It may be refrained from on grounds of prudence. See Chapter Fifteen.

It might be objected that my argument gives nationalist opponents of apology a veto power. By opposing the apology, they can render it "unrealistic" and thus defeat it. My argument, though, is not morally neutral about the stance of opponents of apology. If the apology is just, then their opposition is unjust. Given the probability that a presidential apology will not achieve effectively its just purpose, though, a president would be justifiable to refrain from it on grounds of prudence. On cultures of contrition versus cultures of victimhood, see Art, *The Politics of the Nazi Past*.

apology propitious. Successful historical instances confirm that they may carry out the rectifying justice of restoring right relationship.

Reparations

Reparations are apologies materially fortified. Reparations are another principle of rectifying justice that find application in politics. They are transfers of goods, money, and services to a victim or group of victims in response to the injustices they have suffered. Reparations can also encompass other forms of repair such as memorials and even apologies, but, here, material transfers are the focus. They are integral to civil law in common law systems and also may be incorporated into restorative justice. Reparations may also be paid by governments to victims of injustice, which again is the focus here.

Along with apologies, reparations have widened their place in politics in recent decades. Again, Germany leads. Its pledge of three billion Deutschmarks to the state of Israel in the Luxembourg Agreement of 1952 is a prototype of a government's payment to victims and is the largest to date. Over the years, the German government has paid about 70 billion dollars in additional reparations to victims of Nazism.[103] Standard bearers in the modern wave of transitions to democracy are the reparations that Argentina paid in the 1980s to victims of its Dirty Wars of 1974 to 1983 and that Chile paid in the 1990s to victims of the Pinochet dictatorship between 1973 and 1990. The Government of the United States accompanied its apology to interned Japanese-Americans with reparations, as it did towards African-American victims of its Tuskegee

[103] J.D. Bindenagel, "Justice, Apology, Reconciliation and the German Foundation: 'Remembrance, Responsibility, and the Future,'" in *Taking Wrongs Seriously: Apologies and Reconciliation*, eds., Elazar Barkan and Alexander Karn (Stanford University Press, 2006), 294.

experiments from 1932 to 1972. The governments of Poland, the Czech Republic, and Hungary sought to compensate former owners of property confiscated by Communist governments after they fell in 1989. The Government of Canada, along with churches, agreed in 2006 to pay two billion dollars to survivors of Indian Residential Schools. The Government of Australia agreed in 2021 to pay 380 million Australian dollars to the "stolen generation," indigenous peoples whose families the government had broken up, removing children from parents, decades earlier. These are some of the best known, but not the only, cases of official reparations. Other collectives too, have paid reparations for injustices, for instance, the U.S. Catholic Church's payments of more than three billion dollars to victims of clerical sex abuse in recent decades. Recognizing the growth of reparations, the United Nations General Assembly issued Basic Principles and Guidelines for Reparations in 2005.

The obligation of reparations, like the obligation to apologize or undergo punishment, arises from a wrongdoer's moral debt to his victim. All wrongs rupture right relationship not only by violating a principle but also by damaging some set of goods, and in this case the goods are material. The wrongdoer has injured another person physically, materially, mentally, or emotionally. Because the wrongdoer is responsible, she is indebted to pay restitution, a term that is narrower than reparations and denotes the material transfer that a wrongdoer is obligated to perform. If it is not possible to restore a person or her property to its condition *ex ante*, restitution takes the form of compensation. Amounts must often be determined imperfectly and may exceed the value of what is stolen or damaged as a measure of punishment and in recognition of violated honor, dignity, anguish, and other losses. This payment, restitution, is what is

due, is that to which the victim has a right, and serves to defeat the standing victory of injustice, a rupture in right relationship.[104]

As with apologies, payments bring about the restoration of right relationship in wider manners, with respect to a wider range of wounds, in which case they become reparations. As with apologies, reparations are a wide form of mercy. Reparations can confer recognition on victims and often do so best when they are accompanied by acknowledgment, apology, and care. One victim of serious clerical sex abuse in the Catholic Church with whom I spoke tells that she refused a compensatory payment from a bishop because it made her feel like a prostitute, one who was being paid off in order to stop complaining. What she wanted instead was pastoral care from priests and the bishop, expressing ongoing sorrow and solicitude. Her plaint is widely voiced among victims of political crimes: They are more receptive of restitution if it is accompanied by sincere care and does not appear as a forced transaction. In the public setting, reparations can confer recognition on the rights, citizenship, and dignity of victims and build the legitimacy of a regime – that is, national healing. These forms of restoration, wider than what is due, are open-ended, subject to circumstance, and thus, imperfect, beyond-due obligations.

The obligation of reparation can be grasped by reason as a principle of the natural law, both insofar as it is due and as it exceeds due, and is determined further in a

[104] As with apologies, the logic of the focal case obtains. The wronged possess a right to restitution. If a thief has stolen another's lawnmower, he has an obligation to return it as well as an additional payment as a matter of punishment and compensation for the victim's anguish and financial loss (say in his son's use of the lawnmower to earn money mowing lawns). Yet, even more so than with apologies, conditions may not obtain for the payment of restitution. The wrongdoer may no longer possess the lawnmower or the resources to compensate the wronged; in some cases, the wronged may no longer be present; and so on. It can be said that restitution is owed in the focal case when the conditions obtain for it to be paid, acknowledging that these conditions are not always present.

supernatural manner in the Bible. In the Old Testament, restitution, its forms, and its amounts are commanded in the law of Moses in the Torah. It is a judicial precept, which, as Aquinas argues, is a determination. Scholars Duke L. Kwon and Gregory Thompson summarize the teaching of three passages on restitution in the law of Moses, which involves: 1) the wrongdoer's realization of and repentance for his guilt; 2) the return of stolen goods with additional penalties; 3) the possibility that restitution can be given to relatives of the injured party if the victim is deceased; 4) the sacrificing of a ram by a priest for atonement; and 5) the remission, or forgiveness of sins.[105] In the New Testament, whereas Jesus fulfills the judicial and ceremonial precepts of the Israelite law, he appears to affirm restitution in the Gospel of Luke, when a converted Zaccheus proclaims, "[b]ehold, half my possessions, Lord, I shall give to the poor, and if I have extorted anything from anyone I shall repay it four times over," to which Jesus responds, "[t]oday salvation has come to this house because this man too is a descendant of Abraham" (Luke 19:8-9). Twofold, fourfold, sometimes in other proportions, restitution in the Bible does not merely reflect the quantity of material damage, but also, tending towards reparation, expresses contrition for the wrong and addresses further forms of damage. As with apologies, reparations in the Bible become repentance, repairing the wrongdoer's relationship with God, with the victim, and in the order of his self. Reflecting God's saving, restorative justice, reparations aim at the holistic restoration of right relationship.

Like apologies, reparations face the question of vicariousness and representation when they take a collective form. On the same rationale for collective apologies, the head

[105] Duke L. Kwon and Gregory Thompson, *Reparations: A Christian Call for Repentance and Repair* (Brazos Press, 2021), 139-141. The passages are Exod 21:33 – 22:15; Lev 6:1-7; Num 5:5-8.

of a collectivity may deliver reparations in the name of that collectivity for a crime that a predecessor committed but for which a collective dimension of guilt exists. The recipients of reparations, though, must meet a higher standard. They may include people who were not direct victims but are members of a group that suffered, yet they must show that they have suffered materially from an injustice. Children or grandchildren of indigenous people whose rights were violated in Canada or Australia, for instance, must show that the mistreatment has left them worse off. The required counterfactual calculation – how much better off would you be were it not for what was done to your grandfather? – can be a difficult one, especially for a class of victims who number in the thousands or millions and whose loss is impossible to determine carefully in the way that a civil trial attempts to do. Often the best that can be done is a group reparations payment in which recipients who can demonstrate a tie to the direct victims receive a standard amount of restitution.[106] Political reparations also seek to confer recognition, social unity, and other goods – its open-ended, beyond-due dimension.

The factors that limit whether apology in the political realm is dischargeable are also present in reparations along with an additional burden: the availability of material resources. Reparations, their occurrence, their amount, and their form, are also open-ended. They are a beyond-due obligation. As with apologies, successful cases demonstrate that this form of the rectifying justice of right relationship may be practiced.

Apologies and Reparations for Racial Injustice in the United States

[106] On the problem of counterfactuals, see Jeremy Waldron, "Superseding Historical Injustices," *Ethics* 103, no. 1 (1992); 4-28; Waldron, "Settlement, Return, and the Supersession Thesis," *Theoretical Inquiries in Law* 5, no. 2 (2004): 237-268; Pablo de Grieff, "Justice and Reparations," in *The Handbook of Reparations*, ed. Pablo de Greiff (Oxford University Press, 2006). For my discussion of Waldron, see Philpott, *Just and Unjust Peace*, 194-195.

Grounded in the justice of right relationship, reparations and apologies may in principle be practiced by governments in the United States (federal, state, and municipal) in an effort to heal the wounds of historic racial injustices.[107] The injustices upon which holders of political authority have standing to act are laws and policies through which their predecessors enslaved, subordinated, separated, and denied resources to people on account of their race. While racism's reach has been far more thorough than the acts of past office holders, it is past collective acts – those practiced by governments – for which present political authorities may perform rectifying justice.

A just response to injustice flows from an account of the justice that is violated. The justice of right relationship appeals to human dignity as the core of racial justice. Dignity grounds principles of fairness and respect for human goods, which translate in turn to the principle of racial equality, an obligation that corresponds to rights. These principles and rights are ones that reason can know as natural law.[108]

By this standard of justice, government officials and public law fomented three major historical episodes of injustice. First is the chattel slavery that was practiced in the

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[107] I make a more extended case for reparations in Daniel Philpott, "A Christian Case for Racial Reparations," *The Journal of Social Encounters* 7, no. 2 (2023): 112–136.

[108] Recall from Chapter Eight that respect for human dignity, meaning the inestimable intrinsic worth of the human being, is a core principle of morality and grounds many rights and obligations that merit the endorsement and enforcement of political authority. The principle of fairness means that a person ought not to prefer one person's dignity over that of another on arbitrary grounds. It is the intermediate principle behind the injustice of racism, which is to take from a person what is rightfully her – often, a Hohfeldian liberty right (to compete for or hold a job, to enter the restaurant, or to ride on any seat of a public bus for instance) – on grounds of a person's race. Acts of racism always violate both human dignity and attendant rights and goods, as well as fairness. It is the fairness dimension that makes racist acts distinct from acts of injustice which violate human dignity or human goods alone.

Slavery in particular is an act of theft. The practice of chattel slavery also involved numerous other injustices such as torture, rape, and assault, but it distinctively involved owning another person for the purpose of extracting her labor. It is a violation of the Seventh Commandment that is knowable by natural law. See *Catechism of the Catholic Church*, no. 2414. In the development of the Catholic Church's teaching on slavery, see Avery Dulles, "Development or Reversal?" *First Things*, no. 156 (October 2005), 53-56.

American colonies and the United States between 1619 and 1865, a period during which it is estimated that 10 million slaves lived in the United States and performed 410 billion hours of labor.[109] Second is the Jim Crow period, which took shape after 1877 and lasted through 1965, during which seventeen states established segregation and discrimination through a network of laws, enforced a social system that stymied the economic and social advancement of African-Americans, and sustained the system through fear by failing to enforce against the lynching of 4000 African-American men, women, and children between 1877 and 1950.[110] Third, much less known, was what can be called distributive discrimination – laws and policies that deprived African Americans of economic transfers. The largest such transfers in U.S. history, the New Deal and Fair Deal in the 1930s and 1940s, largely excluded African Americans and kept them from joining the middle class after World War II. Relatedly, from the 1940s to the 1960s, at a time when homeownership was expanded greatly among Americans, redlining policies and related measures hindered African-American families from purchasing a home, especially in white-controlled areas. Distributive discrimination cemented and extended inequalities.[111]

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[109] J. David Hacker, "From '20 and odd' to 10 million: the growth of the slave population in the United States," *Slavery & Abolition* 41, no. 4 (2020): 840-855. Estimates of hours of slave labor vary greatly and depend on counting methodology. Jason Hickel argues that the total hours between 1619 and 1865 is 222,505,049 in *The Divide: Global Inequality from Conquest to Free Markets* (W.W. Norton, 2018), quoted in Brennanna Hare and Doug Criss, "Six questions about slavery reparations, answered," August 15, 2020, find at https://www.cnn.com/2020/08/15/us/slaveryreparations-explanation-trnd/index.html.

[110] See William A. Darity, Jr. and A. Kirsten Mullen, *From Here to Equality: Reparations For Black Americans in the Twenty-First Century*, Second Edition (The University of North Carolina Press, 2020), 207-218. On lynchings, see *Equal Justice Initiative, Lynching in America: Confronting the Legacy of Racial Terror* (3d Ed., 2017), find at https://lynchinginamerica.eji.org/report. Most lynchings were conducted by private actors but they were typically unprosecuted by governments. It is in this sense that they are a public, collective injustice.

[111] See Ira Katznelson, *When Affirmative Action Was White: The Untold History of Racial Inequality in Twentieth-Century America* (W.W. Norton, 2005), 22-23; Darity and Mullen, *From Here to Equality*, 219-236.

Committed in the name of collectives – the U.S., North Carolina, or Chicago – these injustices leave behind a standing victory, one expressed in assertions that racism is "America's original sin," "unatoned for," or an open wound. It is a rupture in right relationship between 41 million African Americans and other citizens. Another major persistent wound is material disparity between African-Americans and the rest of the population. True, the economic plight of African-Americans is diverse, has improved markedly in the aggregate over the past half-century, and, where it is still weak, results from several factors, including the fracture of the African-American family.[112] These trends and factors, however, alone do not explain the sharp disparity between African-Americans as a group and the rest of the population, a contrast whose only plausible explanation is the relative recency of massive distributive discrimination added to the disparities that slavery and Jim Crow bequeathed.

Indicating this disparity most saliently is the gap in wealth, or total net assets, between African-Americans and whites, which is about $350,000 per individual according to scholars William A. Darity and Kirsten Mullins in their book, *From Here to Equality*. Wealth is important because it measures the total goods that persons possess and reflects accumulation from previous generations and thus the effects of past discrimination. Darity and Mullen observe that "significant *relative* differences exist at all points along the income distribution." The median wealth of all African-American households combined is less than that of white households found in the bottom 20% of the nation's income distribution. The level of wealth possessed by the African-American professional-managerial class is two to three times lower than the level possessed by the

[112] While African-Americans have increased their income and wealth since 1970, the gap between their wealth and that of white Americans has increased while the gap in income has remained about the same.

white working class, they point out.[113] Disparities persist on many other measures ranging from rates of imprisonment, to the ability to obtain a loan or buy a house, to births to non-married parents, to the holding of executive positions in business, the non-profit sector, and politics.[114]

To material disparities may be added emotional and psychological wounds, a deprivation of recognition, respect, and reception of voice in the political community. Attitude surveys conducted in the past five years show that African-Americans widely perceive discrimination in law and in practice, believe that discrimination is still a primary obstacle to success, and are pessimistic that inequality will improve soon. While

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[113] Darity and Mullen, *From Here to Equality*, xii. Italics in original. Another study found that in 2016, the net worth of a typical white family was $171,000 while that of an African-American family was $17,150. See Kriston McIntosh, Emily Moss, Ryan Nunn, and Jay Shambaugh, "Examining the Black-white wealth gap," February 27, 2020, find at https://www.brookings.edu/blog/upfront/2020/02/27/examining-the-black-white-wealth-gap. Darity and Mullen discuss reasons for different estimates, including judging from the median rather than the median.

[114] African-Americans are imprisoned at six times the rate of whites and in 2014 made up 34% of the total U.S. prison population (at 13% of the general population); middle-class African-Americans fare worse in their aggregate health profiles than do working-class whites; African-Americans with high levels of education and incomes and no criminal record prove less likely to receive a second job interview than white people with a criminal record; African-Americans are less likely to obtain a home loan than White Americans, even when other factors are controlled for, including their credit score and the value at which their home is appraised. They are disadvantaged in buying or selling a house, opening a bank account, and gaining employment, and disproportionately pulled over by police officers, arrested for low levels of offense, and wrongfully convicted of serious crimes, disparities that are not explainable apart from racism. See Michael O. Emerson and George Yancey, *Transcending Racial Barriers: Toward a Mutual Obligations Approach* (Oxford University Press, 2011); Brandon Vaidyanathan, "Systemic Racial Bias in the Criminal Justice System is Not a Myth," June 29, 2020, find at https://www.thepublicdiscourse.com/2020/06/65585/. The Sentencing Project, "Growth in Mass Incarceration," 2020, find at https://www.sentencingproject.org/research/; Cyndi Suarez, "The Perils of Black Leadership," *NP*: https://nonprofitquarterly.org/the-perils-of-black-leadership/. Rates of poverty: https://www.statista.com/statistics/200476/us-poverty-rate-by-ethnic-group/. Tami Luhby, "These charts show how economic progress as stalled for Black Americans since the Civil Rights Era," *CNN*, July 5, 2020, https://www.cnn.com/2020/07/05/politics/inequality-black-americans-civil-rights-economicprogress/index.html

African-Americans show high levels of patriotism, they widely believe that they don't fully belong in American life.[115]

An apology for past racial injustices voiced by the United States federal government -- the President, the Congress, or some combination of the two – and by state and local governments would serve to defeat the standing victory of racial injustices that past executives, legislators, and other administrators committed. In the past 30 years, numerous Christian churches, some colleges and universities, and a few municipalities have apologized for racism, segregation, and cooperation with slavery. As of yet, neither the federal government nor any state government has apologized.[116] Following Kim's findings, a good apology is one that would be voiced directly to representative leaders of the African-American community – political, civil society, and religious – and would be crafted through their participation.

Reparations would also be conferred by one who speaks authoritatively for the collectivity and would be levied through its members, whom, I have argued, share in the responsibility of the collectivity even while most of them are not culpable for the

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[115] By "widely," I do not mean unanimously but rather in high numbers and at sharply different levels from whites. Denise N. Obinna, "Warring" Ideals: Black Citizenship and the Struggle for Inclusion in the USA," *Journal of African American Studies* 26, no. 4 (2022), 472-84, https://link.springer.com/article/10.1007/s12111-022-09600-7; *Pew Research Center*, August 2022, "Black Americans Have a Clear Vision for Reducing Racism but Little Hope It Will Happen," https://www.pewresearch.org/2022/08/30/black-americans-views-on-reparations-for-slavery/; Frank Newport, "American Attitudes and Race," Gallup, June 17, 2020, https://news.gallup.com/opinion/polling-matters/312590/american-attitudes-race.aspx

[116] Proponents of reparations for African Americans have advanced proposals for several decades. Congressman John Conyers annually introduced H.R. 40, the Commission to Study and Develop Reparation Proposals for African Americans Act, from 1989 up until his death in 2019. At that point, Congresswoman Sheila Jackson Lee took up the lead sponsorship of the bill and mobilized a coalition of over 300 groups in its favor. On April 14, 2021, the House of Representatives Judiciary Committee voted to move the bill to the House floor for full consideration. The bill proposes to establish a commission to study slavery and discrimination, a step towards actual reparations. Reparations efforts have also been advanced in California and in several U.S. cities. The House of Representatives in 2008 and the Senate in 2009 passed resolutions apologizing for slavery, but no joint congressional resolution came about, while both resolutions remained relatively obscure.

injustices. Who would be the recipients of reparations? Material inequalities and psychosocial wounds resulting from the injustices of the three periods noted are inherited from virtually all African-Americans during these periods, during which discrimination was cast upon all of them – those who never sought or knew about opportunities and benefits as well as those who were directly denied them. Eligible recipients of reparations, then, would be African-Americans who lived in the United States up to about 1970 (the Fair Housing Act, outlawing redlining, was passed in 1968) or can demonstrate a relational tie to those who lived then.[117]

At what level ought reparations to be paid? One method of calculation is a historical counterfactual – how much better off would a given person be were it not for his grandfather's exclusion from the GI Bill or his great-grandfather's being lynched by the Klux Klan under Jim Crow? Such determinations are highly difficult in individual cases and even more so when making policies for 41 million African-Americans. A better method centers upon the undeniable connection between collective historical injustices and present disparities. Again, the wealth gap is the best measure of the cumulative effect of racism over time. This measure, aggregated and averaged over the population of African-Americans, would compensate them for the material legacy of the past. Reparations payments might be staggered over years and might take other forms such as grants for homeownership, business start-ups, and education.[118]

Apologies and reparations purport to pay the collective debt of the sin of racial injustice. When Martin Luther King Jr. spoke of civil rights and racial progress as a

[117] Much more can be said about who merits reparations and what forms they might take See Darity and Mullen, *From Here to Equality*, 256-270.
[118] Darity and Mullen, *From Here to Equality*, 256-270.

"promissory note" and "cashing a check," he used the language of what is due.[119] In a wider sense, the performers of apology and reparations would direct these acts towards the wounds present in the souls of African-Americans who do not yet believe they are recognized as full and equal participants in American society. That Americans sharply diverge over reparations – 86% of Black Americans versus 28% of White Americans favored them in 2021[120] – illustrate sharp differences over their perceptions of the problem and the remedy. The size of the difference, in turn, illustrates both the need for its abridgment and the difficult and prolonged road to national reconciliation. Addressing the division present in attitudes, perceptions, and social differences is a beyond-due obligation, one that is compelling but open-ended in its application, likely to remain incomplete for a long time, and dependent on the virtue of hope.

Apologies and reparations, along with non-violence, war, and punishment, then, are practices that belong to the rectifying dimension of the justice of right relationship. Most characteristically, this justice aims to restore what has been broken and that stands as a wound. Having such an aim, this justice converges with the principle of mercy, which centrally aims to relieve the distress of another. Mercy is the chief principle of rectifying justice. It both fulfills and exceeds rights, and it takes both a natural form as well as a supernaturally defined, biblical form – admixtures that characterize the practices described here. Mercy even animates punishment, which is

[119] King used this language in his "I Have a Dream" speech of August 28, 1963.
[120] Ashley V. Reichelmann and Matthew O Hunt, "How we repair it: White Americans' attitudes towards reparations," December 8, 2021, https://www.brookings.edu/blog/how-we- rise/2021/12/08/how-we-repair-it-white-americansattitudes-toward-reparations/. The study from which they draw was conducted at the University of Massachusetts, Amherst and can be found at https://www.umass.edu/news/article/umass-amherstwcvb-poll-finds-nearly-half

typically posed as being at odds with mercy. If punishment is restorative, though, then there is no reason not to think of it as manifesting mercy, much as Augustine did. Two other practices participate in this same justice and mercy, forgiveness and reconciliation. They are the subject of Chapter Twelve.

Chapter Twelve: Elaborating Rectifying Justice: Forgiveness and Reconciliation

Among the principles that make up the justice of right relationship, it is forgiveness that most departs from that which is due. Christian forgiveness does not invalidate what is due but calls people who have been wronged directly and plainly to forego what is due. Consequently, forgiveness performs the drama of surprise. Due, by contrast, merits moral satisfaction but does not surprise or inspire. When No Squirrels Roofing Company receives its payment, an embezzler is imprisoned, or a racial minority receives fair treatment, rights are fulfilled, injustices are averted, due is rendered, and what is properly expected has taken place. Forgiveness, by contrast, is a reversal of momentum, a last second goal in soccer, the rescue of a driver from a burning car, the sudden victory found in the third chapter of Paul's *Letter to the Romans*, where, after two-and-a-half chapters of starkly depicting God's wrath towards sin, Paul pivots, "[b]ut now . . . the saving justice of God has been disclosed," or the despairing disciples' discovery of the empty tomb. Accompanying this surprise is the supernatural character of forgiveness. It is the principle of justice whose grasp most eludes reason alone, whose practice relies most exclusively on grace, and whose shape most is dependent on the Cross and Resurrection. In this surprising departure from due lies the power of forgiveness to restore persons and polities yet also the reasons why critics find forgiveness objectionable.

Surprise, drama, reversal, and controversy also mark the rise of forgiveness in global politics in the past half-century. The separation narrative has been stark. Forgiveness has had little place in the political realm in the thought of almost every political philosopher from Machiavelli to Rawls and in the practice of modern sovereign states. In modernity, forgiveness is theological, personal, and private, arrayed against

the secular, political, and public – the very field of discourse from which separation narratives draw. Pope Benedict XV's call for European nations to forgive in the aftermath of World War One is rare in modern politics and was ignored by the nations. Potent in introducing forgiveness back into the political realm was the movement against *apartheid* in South Africa, upon whose victory in the early 1990s President Nelson Mandela and Archbishop Desmond Tutu forgave and brought forgiveness global fame. Pope John Paul II, who forgave his assassin and taught forgiveness in politics, also magnified the idea in global public consciousness. Even just after the terrorist attacks of September 11th, 2001 – a time when forgiveness was not in the public mind – he offered one of his most forceful statements of forgiveness in the political realm.[1] Forgiveness has arisen in speech and practice in countries confronting pasts of war and dictatorship, including South Africa, Rwanda, Sierra Leone, Uganda, Northern Ireland, Germany, Guatemala, Chile, El Salvador, and Timor Leste. In the United States, forgiveness gained national attention when Amish residents of Nickel Mines, Pennsylvania forgave the shooter of their children in a school house in 2006 and when members of an African-American church in Charleston, South Carolina forgave Dylann Roof, a white supremacist who killed members of their family at their church in 2016.[2] Moral philosophers, political scientists, psychologists, and theologians have taken up

[1] Pope John Paul II, "No Peace Without Justice, No Justice Without Forgiveness," Message for the XXXV World Day of Peace, The Holy See, January 1, 2002, https://www.vatican.va/content/john-paul-ii/en/messages/peace/documents/hf_jp-ii_mes_20011211_xxxv-world-day-for-peace.html.

[2] Another highly public case of forgiveness as that of Erika Kirk of the killer of her husband Charlie Kirk, a political activist. See Lauren Gambino, "Erika Kirk, Charlie Kirk's Widow, Says She Forgives Man Accused of Murder," *The Guardian*, September 21, 2025, https://www.theguardian.com/us-news/2025/sep/21/erika-kirk-charlie-kirk-killing.

forgiveness, some of them applying the practice to politics, in the past couple of decades.[3]

Yet, forgiveness remains frail in the political realm, muffled by due. Illustrative is the field, known as transitional justice, that has sprouted from the national efforts to promote past injustices in which forgiveness has appeared, a setting discussed in the introduction. The international lawyers, human rights activists, and scholars who make up this field either ignore or criticize forgiveness. Even scholars who approach transitional justice from the standpoint of reconciliation are chary of forgiveness. In these settings it mainly has been religious leaders who advocate forgiveness. The field of restorative justice is likewise divided about the place of forgiveness in its proceedings. The dominant statements of the concept do not incorporate forgiveness as a practice. If these fields, the most likely settings for forgiveness, are inhospitable to it, then the vast realms of social life dominated by due will be lukewarm or opposed to it [4]

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[3] A few examples include Charles L. Griswold, *Forgiveness: A Philosophical Exploration* (Cambridge University Press, 2007); P. E. Digeser, *Political Forgiveness* (Cornell University Press, 2001); Miroslav Volf, *Free of Charge: Giving and Forgiving in a Culture Stripped of Grace* (Zondervan, 2005); L. Gregory Jones, *Embodying Forgiveness: A Theological Analysis* (Eerdmans, 1995); Robert D. Enright, *The Forgiving Life: A Pathway to Overcoming Resentment and Creating a Legacy of Love* (American Psychological Association, 2012); Margaret R. Holmgren, *Forgiveness and Retribution: Responding to Wrongdoing* (Cambridge University Press, 2012); Jeffrie G. Murphy and Jean Hampton, *Forgiveness and Mercy* (Cambridge University Press, 1988).

[4] Some prominent books that advocate reconciliation as an approach to transitional justice that voice skepticism of forgiveness are Ernesto Verdeja, *Unchopping a Tree: Reconciliation in the Aftermath of Political Violence* (Temple University Press, 2009), 15-16; Colleen Murphy, *A Moral Theory of Political Reconciliation* (Cambridge University Press, 2010), 9-13; and Rebekka Friedman, *Competing Memories; Truth and Reconciliation in Sierra Leone and Peru* (Cambridge University Press, 2017), 49-51. See also the most prominent transitional justice NGO, the International Center for Transitional Justice, https://www.ictj.org/, which does not include forgiveness among the several principles and practices of transitional justice that it advocates. I mention these sources not to criticize them, for all of them contain excellent treatments of transitional justice and reconciliation, but rather to make the case that forgiveness does not enjoy a prominent positive place in the field of transitional justice both among academics and practitioners. For an excellent account of secular and religious paradigms of transitional justice, see Jonathan VanAntwerpen, "Reconciliation as Heterodoxy," in *Restorative Justice, Reconciliation, and Peacebuilding*, ed. Jennifer J. Llewellyn and Daniel Philpott (Oxford University Press, 2014), 77–117.

Forgiveness is not opposed to justice, it is argued here, but rather is part of the justice of right relationship. A principle of rectifying justice, it exceeds what is due yet coexists with and does not negate obligations that render due, including judicial punishment in the temporal realm. Human forgiveness and its public practice are patterned and propelled by God's forgiveness, an expression of God's justice. Does forgiveness remain intelligible and morally plausible when evils take place on a massive scale? Is the drama of surprise here anything but a cruel farce? Forgiveness then makes sense only according to a supernatural justice that is far greater than these evils. This chapter elaborates what the Bible teaches about forgiveness as rectifying justice and what it means for human affairs, including in politics.

Divine Forgiveness

The Cross and Resurrection, the climax of God's justice, are likewise God's forgiveness. God, acting out of his merciful love, chooses to forgive humanity its debt of sin and does so by becoming human and paying the debt, bearing humanity's sins on the cross and offering this sacrifice to God the Father. At the Last Supper, as the Gospel of Matthew describes, Jesus speaks of forgiveness as the purpose of shedding his blood and as the rationale of the New Covenant (Matt 26:28). From the Cross, as the Gospel of Luke describes, Jesus asks God the Father to forgive Jesus' executioners (Luke 23:34).

God's forgiveness is a gift, a gracious act, one that he performed "while we were still sinners," without humanity's first repenting or paying up (Rom 5:8). God initiates forgiveness and it is beyond due. It is the initiative of the father in the Gospel of Luke's parable of the prodigal son, who, filled with compassion, runs out to meet the son as soon as he catches sight of him in the distance, embraces him, and kisses him, and of

Jesus in the same Gospel when he tells the tax collector, Zacchaeus, that he must stay at Zacchaeus's house, a merciful initiative that elicits Zacchaeus's repentance and restitution.[5]

Like the other principles of rectifying justice, God's forgiveness is not abstract and formal but rather really, actually restores. Both sinners and victims, offenders and offended, share in this restoration. How does the sinner share in it? As the Bible describes the Cross and Resurrection, Christ "takes away," "removes," "[brushes] away like a mist," "sets us free" from and finally "[remembers our sins] . . . no more."[6] Through the same action, Christ merits grace that he grants to sinners so that "we might become the justice of God," that is, restored to right relationship (2 Cor 5:21). In both dying and rising to life, Christ incorporates humans so that they also die and rise to life.[7] The First Letter of Peter (2:24) brings all of this together: "He himself bore our sins in his body upon the cross, so that, free from sin, we might live for righteousness (*dikaiosune*)." This restoration is cosmically inclusive. It is the Lord of the universe who forgives sins; all have sinned; all are forgiven; and all sins are forgiven.[8] "There are no unforgivable sins . . . [t]here are no unforgivable people," theologian Miroslav Volf observes.[9]

Is it solely the sinner whom Christ's act of forgiveness on the cross restores? The same act through which he takes away sin is one through which he gives life and healing

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[5] See the discussion of Zaccheus in Alan Torrance, "The Theological Grounds for Advocating Forgiveness and Reconciliation in the Sociopolitical Realm," in *The Politics of Past Evil: Religion, Reconciliation, and the Dilemmas of Transitional Justice*, ed. Daniel Philpott (University of Notre Dame Press, 2006), 56-57.

[6] Ps 103:12; Isa 44:22; Gal 5:1; Heb 8:12.

[7] I choose the term justice to translate *dikaiosune* in 2 Cor 5:21 in order to underline the overall argument. On dying and rising to life, see Rom 6:8, "If then we have died with Christ, we believe that we shall also live with him."

[8] Luke 5:20-21; Rom 3:23.

[9] Volf, *Free of Charge*, 179. Italics are removed.

to victims, anyone who has suffered from sin. Christ became a victim, the perfectly innocent man who died not only a sinner's death but also a criminal's death, inflicted by the holder of political authority. Incorporating every human being into his death on the cross, he dies in solidarity with every victim, including victims of crimes inflicted by political authority and its claimants. Christ incorporates the afflicted earlier in the Gospel of Matthew, when he identifies the "least of these" with himself.[10] In the Gospel of Luke, he announces the purpose of his ministry as liberating and healing the poor, captives, blind, and oppressed.[11] On the Cross, he inhabits the person of victims and brings to a climax his ministry of liberation. Then, in the Resurrection, he breaks free from a victim's death. Transformed, his wounds are still visible, signs that through rising with him, victims may be healed of their victimhood.[12]

If Christ forgave in his Cross and Resurrection and incorporated us into this forgiveness, a problem arises: It might seem that there is little further for humans to do. The decisive work of redemption is done; sins are forgiven; we may proceed on our way. Alternatively, perhaps it is better to say that Christ did not actually forgive in his Cross and Resurrection but rather achieved the possibility of forgiveness and that humans are forgiven only when they repent and seek forgiveness. This rationale would seem to preserve human initiative.

God, though, acting through Christ, actually forgave humanity in his Cross and Resurrection. The Bible makes clear that God's forgiveness means his cancellation of humanity's debt of sin accompanied by his bestowal of grace. Is this not what Christ

[10] Matt 25: 40.
[11] Luke 4:18-19.
[12] Torrance, "The Theological Grounds for Advocating Forgiveness," 74-75.

performed in his death and rising? In what sense did Christ not forgive through these actions? Humans then stand invited to appropriate and participate in the grace of the Cross and Resurrection through a free decision. They realize, or appropriate, something that was already made available to us. How they go about making this decision is the subject of John the Baptist's preaching and of Jesus' and the Apostles' preaching shortly after the Resurrection: be baptized, repent and follow the commands.[13] "If we acknowledge our sins, he is faithful and just and will forgive our sins and cleanse us from every wrongdoing," reads the First Letter of John.[14] Upon our repentance, God will forgive and restore humans, imparting to them the grace that he won in his act of forgiveness on the Cross – and he manifests his justice in doing so.

What merits stress here is that human action follows from God's cosmic act of forgiveness. Forgiveness is not one item in a long list of topics in a textbook on Christian ethics. It is God's reconfiguration of the universe, rescuing it from its trajectory towards death and destining it for the restoration of life. God's forgiveness is part and parcel of his justice. To join this justice is to conform oneself to its character.

Human Forgiveness

Jesus teaches his followers to forgive many times in the Gospels.[15] His teaching is a command, voiced as an imperative: "Forgive anyone against whom you have a grievance," Jesus says in the Gospel of Mark (11:25). Forgiveness, then, is human justice, which is the totality of commands. Some skeptics wince at forgiveness being a command because, they say, the genuine practice of forgiveness depends on it being

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[13] Matt 3:1-2; Matt 4:17; Mark 1:15; Luke 5:32, Luke 24:47; Acts 2:38; Acts 3:19; Rom 2:4.
[14] 1 John 1:9.
[15] Chapter Seven notes these instances.

free, internally willed, not merely outwardly performed, unpressured, unscripted, promoting flourishing, and not merely formal. Recall from Chapter Two, though, that Christian obligations are not inherently dry, merely external, formal, or forced.[16]

Forgiveness is an act, one that a person performs deliberately at a particular time and place. It is not merely an emotional stance or an attitude. It may not come easily or suddenly, though. When it is reflective and sincere, and especially when it responds to a great injustice, it often results from gradual preparation. Psychologist Robert Enright and his Human Development Study Group proposed that forgiveness takes place through twenty steps that divide into four phases: 1) an "uncovering phase," where the wronged grows in awareness of the wrong and its effects; 2) a "decision phase," where a change of heart and a consideration of forgiveness take place; 3) a "work phase," in which the offended reconstrues the offender; and 4) an "outcome phase," in which the practitioner understands more deeply and grows into forgiveness.[17] These steps are not rigid or always followed in sequence, Enright and his colleagues add. Nonetheless, forgiveness takes place through an act of the will.

In the closing scenes of the 1995 film, *Dead Man Walking*, Earl Delacroix, the father of a murdered teenage boy, unexpectedly appears at the funeral of the murderer, Matthew Poncelot. The State of Louisiana had just executed Poncelot for his crime, at the scene of which Poncelot had asked forgiveness of Delacroix and of the other bereaved parents in attendance. Just after the funeral, Delacroix says to Sr. Helen

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[16] See Chapter Two.

[17] R.D. Enright and the Human Development Study Group, "The Moral Development of Forgiveness," in W. Kurtines and J. Gewirtz, eds. *Handbook of Moral Behavior and Development*, Volume 1, (Lawrence Erlbaum, 1991), 123-152; see also the follow-up piece, R.D. Enright and C.T. Coyle, "Researching the Process Model of Forgiveness Within Psychological Interventions," in E.L. Worthington, Jr., ed. *Dimensions of Forgiveness: Psychological Research and Theological Perspectives* (Templeton Foundation Press, 1998), 139-162.

Prejean, a nun who had accompanied Poncelot to his death, "I don't know why I'm here. I got a lot of hate." Then, in the film's closing scene, Delacroix, whose name means "of the Cross," prays at a country church with Sr. Helen, which the viewer may interpret as his entreaty to God for help in forgiving Poncelot. Delacroix exercises a will towards forgiveness but has not yet forgiven. Should he come to do so, his act will have followed gradual preparation.[18]

In Chapter Seven, I offered this definition of human forgiveness: An act through which the victim of a wrong foregoes the moral debt due to her and rejects the accompanying emotion of resentment towards the wrongdoer, and wills the restoration of the wrongdoer's character and the restoration of right relationship with the wrongdoer. The definition reflects the twofold movement of God's forgiveness – and of justification, and of reconciliation – namely, the cancelation of debt and the will to restore. Chapter Seven cites evidence in scripture that Jesus teaches a forgiveness that foregoes what is due – the moral debt of retribution. He teaches that his forgiveness also restores us in all three Gospels through his healing of a paralytic man.[19] He performs the healing in order to demonstrate his authority to forgive to skeptical Jewish scribes but also to begin to teach that his forgiveness brings about healing, as it will do in and through his Cross and Resurrection.

Jesus' command to forgive is a doctrinal development in the Bible – a new teaching that develops from and does not contradict an older teaching. The Torah

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[18] *Dead Man Walking*, directed by Tim Robbins (1995; PolyGram Filmed Entertainment, 1996), DVD, 1:56:12–1:58:30. Does my point here about the gradualness of forgiveness stand in tension with the idea of forgiveness as a surprise (and drama, and reversal) with which I began the chapter? Forgiveness is a surprise with respect to the "normal" expectation created by the dominant justice of rendering due. Even when it is conducted after gradual preparation, it still contains this form of surprise. A person is "acting against" the normal course of retribution.

[19] Matt 9:1-8; Mark 2:1-12; and Luke 5:17-26.

teaches the *lex talionis* three times, stating the rightness of retribution as well as its proportionate limits. Jesus develops this teaching in one of six parallels in the Sermon on the Mount in which he revises the Old Law: You have heard that it was said, an eye for an eye, but I tell you do not resist the evil person, turn the other cheek, hand him your cloak, and walk with him an extra mile (Matt 5:38-42). Drop retributive action; extend proportionality's restraint; will the good of your enemy. Jesus's teaching on retaliation is much the same as, and bolsters, his teaching on forgiveness.[20]

To forgive is to forego not only retributive action but also resentment, the emotion that spurs retribution. A person's interior disposition ought to be pure, Jesus teaches in sermons on and off the mount, and this includes the emotions. The emotion of resentment is a person's construal that an act that another committed against him was wrong and merits retaliation. Resentment is a variety of anger, a reflective anger directed against one's wrongdoer for her wrong. Though resentment long endured scorn, maligned by Friedrich Nietzsche as petty and pathetic, an emotion of the weak, this emotion has seen a comeback among philosophers in the past generation. Resentment, they broadly argue, is a form of moral protest by which a victim rightly demands respect for his dignity, for the moral law, and even for the dignity of the wrongdoer, which is taken seriously when his deed is taken seriously. What resentment protests most is indifference toward the wrong – the standing victory of injustice. If retribution is a defensible right, then resentment, the retributive emotion, may be affirmed as well.[21]

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[20] Jesus also amplifies the Book of Sirach's explicit teaching of forgiveness, see Sir 28:2-5. This is the Old Testament's single explicit instruction of human forgiveness.

[21] For examples of arguments for the moral value of resentment, see Thomas Brudholm, *Resentment's Virtue: Jean Améry and the Refusal to Forgive* (Temple University Press, 2008)*;* R. Jay Wallace, *Responsibility and the Moral Sentiments* (Harvard University Press, 1994); Robert C. Solomon, "Justice

Defenders of resentment charge forgiveness with adopting just the sort of indifference to the wrong that neglects the dignity of the victim. Forgiveness, though, does not overlook or ignore a wrong but rather first names and condemns it. Forgiveness is not intelligible if it does not judge a deed to be a wrong. Where the construal behind forgiveness differs from resentment is in the action that a person deems fitting. Forgiveness involves "overcoming a point of view," as philosopher Jean Hampton puts it, the view that punitive action is the victim's fitting response to the wrong.[22] Forgiveness revises resentment's construal. It separates the wrongdoer from his deed so as to denounce the deed but not inflict deprivation on the wrongdoer. To forgive, then, is to act so as to revise one's emotions. This is not to deny that emotions can arise involuntarily. Forgivers find that resentment resurfaces. When it does, though, forgivers reassert their decision to revise their construal so as to forgive.

Forgiveness involves still another dimension of action: a will towards moral restoration and reconciliation with the wrongdoer. Imagine that Stella, a businesswoman, is swindled by Jane, one of her competitors, and judges that Jane merits prosecution but decides to drop the prosecution on account of her busyness, the time and expense of legal proceedings, and the fading of her outrage. Stella has foregone retribution, but has she forgiven? No, she has only granted a form of amnesty. A victim who forgives genuinely also wills that the wrongdoer repent for her wrong, repent of it, and grow in virtue. She also exercises a will towards reconciliation, or the restoration of friendship, with the wrongdoer. In the best cases, reconciliation will be realized.

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v. Vengeance: On Law and the Satisfaction of Emotion," in *The Passions of Law*, ed. Susan A. Bandes (New York University Press, 1999); Jeffrie Murphy's arguments in Hampton and Murphy, *Forgiveness and Mercy*.

[22] Murphy and Hampton, *Forgiveness and Mercy*, 38.

Forgiveness, though, while it performs one facet of reconciliation, is not equivalent to reconciliation and will often leave a relationship well short of restored. Good reasons for this may exist. Perhaps the wrongdoer will not apologize for or even acknowledge the wrong, both necessary components of reconciliation. The forgiver may also rightly refrain from full friendship. Even if Stella should forgive Jane, she may refuse to do business again with Jane if she believes Jane remains a cheater. An abused spouse should not return to live under the same roof as the abuser. These are reasons of self-defense and prudence that retain their force independently of whether forgiveness or apology are in play. In other cases, the wrongdoer may be missing or dead and so forgiveness is not possible in its full focal expression, yet the acts of foregoing retribution and resentment and willing restoration may still take place – directed, say, towards the reputation or legacy of the wrongdoer.[23] Forgiveness always involves a will towards reconciliation even if it does not bring about full reconciliation.

Why Forgive?

Divine forgiveness not only gives shape to human forgiveness; it is also the reason for human forgiveness. Why ought we to forgive? Because God has forgiven us. Recall that beyond-due obligations are markedly imitative. Be holy because I am holy.[24] Be merciful just as your father is merciful.[25] As I have loved you, so you must love one another.[26] So it is with forgiveness. Several verses assert imitation as the reason for

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[23] I also argue that it is possible for a person to "forgive from one's heart," that is, to perform an act of forgiveness towards another person who is not present (missing, dead) or who is not likely to receive the act of forgiveness well. These non-focal cases merit elaboration in a more extensive discussion of forgiveness.

[24] 1 Pet 1:16.

[25] Luke 6:36.

[26] John 13:34. For an elaboration of imitation, see Chapter Four.

forgiveness. Sirach 28:2, the Old Testament's one explicit command of human forgiveness, reads, "[f]orgive your neighbor's injustice; then when you pray, your own sins will be forgiven." The Gospel of Matthew recounts Jesus relating divine and human forgiveness in his famous prayer, "forgive us our debts, as we forgive our debtors" (6:12), and following this prayer immediately with an injunction of forgiveness that echoes Sirach: "If you forgive others their transgressions, your heavenly Father will forgive you. But if you do not forgive others, neither will your Father forgive your transgressions" (6:14-15). At least three other verses in the synoptic Gospels read similarly: Forgive if you wish God to forgive you.[27]

It may not seem at first sight that these verses teach that human forgiveness follows from divine forgiveness in parallel to the other imitative obligations. The verses appear to read as if it is human action that initiates forgiveness and then elicits or does not elicit God's action. Such an ordering, though, contradicts what I argue to be Paul's teaching, that God initiated forgiveness of humanity in Christ's Cross and Resurrection and calls humans to practice this forgiveness towards others. It also courts the Pelagian heresy, that humans earn God's favor apart from God's prior initiative and bestowal of grace.

Instead, we may read the verses as anticipating the Cross and Resurrection, through which God forgives humanity. If we are to realize this forgiveness for ourselves, then we will follow suit by forgiving others. If we do, then God will continue to extend to us the forgiveness that he performed and the grace that he won in the Cross and Resurrection. If we do not, God will withhold this forgiveness from us. The Gospel of

[27] Mark 11:25-26; Luke 6:37; and Luke 11:14.

John (15:10) espouses a parallel idea: "If you keep my commandments, you will remain in my love." God loved us first, and we remain in this love by loving others.[28] If we do not keep the commandments, we then separate ourselves from this love. This interpretation fits squarely Jesus's parable of the wicked servant in the Gospel of Matthew, in which a king forgives the debt of his servant after which the servant refuses to forgive his own debtor, prompting the king to send the servant to debtor's prison. The king is God, the servant is us, and the servant's debtor is the one whom the servant must forgive. "This is how my heavenly Father will treat each of you unless you forgive your brother or sister from your heart," Jesus explains the parable at its close. Two verses in Paul's letters, written after Jesus' Resurrection, also bear out God's prior forgiveness. Ephesians 4:32 reads: "[B]e kind to one another, compassionate, forgiving one another as God has forgiven you in Christ." Colossians 3:13 likewise reads: "[Bear] with one another and [forgive] one another, if one has a grievance against another; as the Lord has forgiven you, so must you also do." 1 John 2:12 also points to God's initiative: "I am writing to you, children, because your sins have been forgiven for his name's sake." Forgive because I have forgiven you is Jesus' teaching.

But, why further ought a person to follow God's forgiveness? Is God's forgiveness solely his command?[29] Is our forgiveness simply a matter of imitation? No, there are two further reasons for forgiving after the pattern of God. The first is reciprocity based on gratitude. God, through his forgiveness, has deigned to bridge the vast, indeed infinite, separation between Him and us that our sin has wrought, rescuing us from our

[28] 1 John 4:19.

[29] Recalling the argument in Chapter Eight, I rejected the power of commands alone to create obligations, not the obligation to follow commands.

trajectory towards death and giving us the gift of life in Him. Out of gratitude, we ought to extend the same grace to others by forgiving them and inviting them into the same life. Not to do so is the fault of the unforgiving servant, who refuses to extend to others what was given to him.

Second, by forgiving, one participates in God's justice, the restoration of right relationship that he inaugurates through the Cross and Resurrection and will bring to completion. One conforms oneself to God's act through the double movement of forgiveness, foregoing the debt and willing the restoration of one's debtor, and in so doing, becomes like God and grows into union with God. The early Christian father, Gregory of Nyssa, put it thus: "If therefore we imitate in our own life the characteristics of the Divine Nature, we become somehow that which we visibly imitate."[30] Theologian Scott Hahn builds the point:

> So, we forgive as God forgives, in imitation not only of the quantity but also the quality of his forgiveness. Like God, we forgive, not merely by forgetting, but by loving. It is the heat of God's love that melts the ice of our sin; and so it is the heat of our love that will bring about the forgiveness of those who trespass against us. We don't just remit their debts; we love our enemies into wholeness, as God has done to us. We melt their cold heart, the ice of their sin.
>
> Such forgiveness is an action purely divine, even when it's done by humans. Such forgiveness is possible only by humans who are being divinized.[31]

The one who forgives imitates and participates in God.

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[30] St. Gregory of Nyssa, Sermon 5 on the Lord's Prayer in *Ancient Christian Writers: The Works of the Fathers in Translation*, No 18, St. Gregory of Nyssa – The Lord's Prayer & The Beatitudes (Longmans, Green, and Co., 1954), 71, quoted in Fr. Thomas Berg and Dr. Timothy Lock, *Choosing Forgiveness: Unleash the Power of God's Grace* (Our Sunday Visitor, 2022), 67.

[31] Scott Hahn, "Forgive Us . . . As We Forgive," *Lay Witness* (March/April 2003), quoted in Berg and Lock, *Choosing Forgiveness*, 68.

Participation in God is not only a reason to forgive but also a motivation and source of strength to forgive. If Christ forgives in solidarity with victims, incorporating them into himself, then people who forgive other people perform this forgiveness through Christ. This is especially important in the case of large-scale evils, ones that might seem impossible to forgive. Victims do not forgive alone but rather through the God who shared victimhood and forgives every sin.

Long Night's Journey Into Day, a 2000 documentary about South Africa's Truth and Reconciliation Commission, closes with a vignette in which Thapo Mbelo, a black man who had collaborated with the South African Police as an *askari*, or stooge, meets with the mothers of black anti-apartheid activists whom he had cooperated in killing. When Mbelo apologizes to the mothers and asks for their forgiveness, he is met with resentment's intense construal. "Oh, you feel bad?" declares one mother, proceeding to excoriate Mbelo for her weight loss and his betrayal of his people for money. Another mother speaks for several others in declaring, "I have no forgiveness for you." Thus, they proceed around the circle. Then, one mother, Cynthia, who had blasted Mbelo moments earlier, turns:

> Just a minute, by son. Doesn't the name Thapelo mean "prayer"? I see what your name means, and I don't know whether you follow it or not. Speaking as Christopher's mother, I forgive you, my child. Because you and Christopher are the same age. I forgive you, my child, and the reason I say I forgive you is that my child will never wake up again. And it's pointless for me to hold this wound against you. God will be the judge. We must forgive those who sin against us, even as we wish to be forgiven. So I forgive you, Thapelo. I want you to go home knowing the mothers are forgiving the evil that you have done, and we feel compassion for you. There is no place for throwing stones at you, even though you did those things. So Jesus told us when he was on the cross, forgive those who sin against you. Because we want to get rid of this burden we are carrying

> inside, so that we too can feel at peace. So for my part, I forgive you, my child. Yes, I forgive you. Go well my child.[32]

The other mothers join in forgiving Mbelo. Forgiveness's reversal, its dramatic surprise, is fully evident in Cynthia's turning. What brings it about? In part, she looks upon Mbelo through the eyes of a mother. Pumla Gobodo-Madikizela, a psychologist who moderated this session between Mbelo and the mothers and subsequently wrote about forgiveness and the healing of trauma, has observed that in Bantu cultures, mothers are associated with compassion and mercy and share in one another's motherhood towards their children.[33] More important still is the Cross. Cynthia's turning began with the insight that Thapo means "prayer" and proceeds through her invocation of Jesus' teaching of forgiveness and his forgiveness on the Cross. The Cross gives her a warrant and a will to forgive.

Like the other principles of justice, forgiveness is grounded in the basic goods that constitute flourishing. As rectifying justice, it repairs the wounds that have diminished these goods. Divine forgiveness repairs right relationship between humans and God, and humans participate in this forgiveness by forgiving one another, similarly repairing right relationship among themselves and within their souls. How does our forgiveness of one another repair the goods that make up relationship?

First, forgiveness in its own manner defeats the standing victory of injustice, the debt that constitutes a rift in right relationship between persons. Apology also helps to defeat the standing victory, as Chapter Eleven argues, but it does not render forgiveness

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[32] *Long Night's Journey Into Day*, directed by Deborah Hoffmann and Frances Reid (Seventh Art Releasing, 2000), find transcript at: https://newsreel.org/transcripts/longnight.htm.

[33] Pumla Gobodo-Madikizela, "Forgiveness and the Maternal Body: An African Ethics of Interconnectedness," *Essays on Exploring a Global Dream* 5 (Fetzer Institute; John Wiley & Sons, 2011), 7-8.

redundant. It is the act through which the wrongdoer exercises his role in repair and leaves the victim free to respond. The forgiver then defeats the standing victory of injustice by naming and condemning it and then overcoming the injustice in the way that is characteristic of forgiveness, by releasing the wronged from debt. The strong retributivist will charge that the forgiveness response is unjust because it foregoes retributivism's right response, which is to see the debt paid. But is it immoral to release another from debt? A creditor's generosity in releasing the debt of a debtor – obliterating the bond against him, as Paul puts it in his Letter to the Colossians (2:14-15) – is not immoral. Recall the story of Aunt Alexa, Uncle Ray, and Alphonse from Chapter Six. Aunt Alexa exercises generosity in releasing Alphonse from his debt, and it is made all the more fitting by Uncle Ray's agreement to pay the debt. Together, joined by Alphonse's own contrition, they overcome the standing victory of Alphonse's injustice. Alphonse participates by receiving forgiveness, repenting, and pledging to do better. The debt of his wrong no longer stands as a rift in his relationship with Aunt Alexa. The injustice is overcome all the more so in that forgiveness not only releases the debt but also wills right relationship in its place.

Second, forgiveness wills that the wrongdoer be healed of his injustice. It is an act of love for the offender, inviting her repentance and apology if it has not already taken place, and desiring her peace, freedom from guilt, and growth in virtue. In wishing that Thapo Mbelo "go home knowing the mothers are forgiving the evil that you have done, and we feel compassion for you," Cynthia desires that Mbelo be unburdened of his wrong.

Third, forgiveness brings healing to the one practicing it. Because her wound is stamped by a wrong, he not only suffers physically, materially, or reputationally but is

also angry. Anger is a complex emotion. It can take the form of justified resentment, an emotion whose recent defenders claim sustains her dignity, the moral order, and his psychological health. The victim who has been objectified and perhaps forgotten is debilitated if she relinquishes her anger, they argue. Yet, anger, even justified anger, especially if enduringly retained, is also prone to become debilitating bitterness. Anger destroys the container that holds it, an Amish expression runs. To forgive is to relinquish resentment, but it is not a simple relinquishment. It is an exercise of the will that aims to construct good towards and with the wrongdoer. This is true not only in the foregoing of debt but all the more so in the will to restore. The victim regains her agency, becoming a shaper of the world around him rather than an object of violence. "Because we want to get rid of this burden we are carrying inside, so that we too can feel at peace," Cynthia explains as one of her reasons for forgiveness. In a study of Ugandans who forgave perpetrators of political violence against them, 92% answered that forgiveness brought them "greater peace or less anxiety or stress."[34] So, too, much empirical research offers evidence that forgiveness decreases depression and anxiety and increases hope, self-esteem, and other indicators of well-being.[35]

Forgiveness can alleviate other wounds as well.[36] Practiced widely within a community, forgiveness can help to bring peace and stability after war or other periods

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[34] Refugee Law Project, *Forgiveness: Unveiling an Asset for Peacebuilding,* 2015, find at https://www.refugeelawproject.org/files/others/Forgiveness_research_report.pdf. See more on this study below.

[35] For example, see Tyler J. VanderWeele, "The Power of Forgiveness," April 19, 2024, https://hfh.fas.harvard.edu/post/the-power-of-forgiveness; Robert D. Enright, Suzanna Freedman, and Julio Rique, "The Psychology of Interpersonal Forgiveness," in *Exploring Forgiveness*, eds. Robert D. Enright and Joanna North (The University of Wisconsin Press, 1998), 58-59; and the studies in Everett L. Worthington, Jr., ed., *Handbook of Forgiveness* (Routledge, 2005). These are only a couple examples of social scientific studies of forgiveness and its effects. Studies exist with more skeptical findings as well. I argue that on balance, scholars have shown forgiveness to have positive benefits for psychological health and that when forgiveness has proved wounding, this is due to its poor advocacy or practice.

[36] See the notion of secondary wounds in Philpott, *Just and Unjust Peace*, 41-42

marked by political violence. Forgiveness was practiced widely among Northern Ugandans who sought to recover after the civil war fought between the Lord's Resistance Army and the Ugandan Government from 1987 to 2009, and among Rwandans amidst its village *gacaca* courts following the genocide of 1994.

Objections

In fall 2022, I delivered a public lecture on "Salving the Wounds That Remain From the Abuse Crisis" on clerical sex abuse in the Catholic Church, arguing for reconciliation and restorative justice through a wide range of measures addressing a wide range of wounds – accountability, acknowledgment of victims, the telling of truth, and forgiveness. This approach arises from the Cross and Resurrection, the Church's founding events, which could now be the source of its healing, I argued. Healing is urgent, I continued. Clerical abuse has been a reason for a vast popular exit from the Church, especially among the young, studies show.[37]

During the question and answer period after I spoke, attendees at first responded sympathetically. But then a person stood up who had been a victim of clerical abuse and took issue with forgiveness. Then another and another. Tearful and emotional, they spoke of what they had suffered at the hands of priests, their trauma, and their disappointment that the Church had not supported them. In sum, forgiveness burdened them, exactly the ones who most merited support. Their objections matched the insights of therapists who have worked with victims of abuse: Forgiveness is the F-word. I listened much and said little. Was I wrong about forgiveness being healing justice? Or

[37] For instance, see Mia Speier, "The Catholic Church Faces a Youth Retention Problem Following Sex Abused Scandals," April 23, 2019, find at https://www.uscannenbergmedia.com/2019/04/23/the-catholic-church-faces-a-youth-retention-problem-following-sex-abuse-scandals/

was I, a professor behind a podium who has never suffered abuse himself, simply not in a position to advocate forgiveness? Or is forgiveness just too difficult?[38]

The questioners' objections echo those that victims and scholars have pressed in the past generation, during which forgiveness has arisen in politics and attained a place in the writings of philosophers and psychologists.[39] Whether articulated as theory or spoken as experience, the objections commonly rue the foregoing of the justice of due. Do the objections counsel against forgiveness, especially of egregious harms, or may they be incorporated into a mature practice of the justice of right relationship?

One objection arising from both doctrine and experience is not against forgiveness in general but rather against unconditional forgiveness practiced without prior apology. Is forgiveness, rightly practiced, conditional upon the victim of a wrong receiving an apology from the wrongdoer? Scholars hold three positions regarding Christian biblical forgiveness: 1) A victim ought to forgive only when his wrongdoer first apologizes to him. For a person to forgive without a prior apology would be morally wrong. It would condone the offense, relieve the wrongdoer of his obligation to repent, forego accountability, or forfeit the victim's dignity, in one way or another, short-circuiting justice. This may be called the conditional position.[40] 2) Forgiveness without apology is permissible but not required – the supererogatory position, it may be called.

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[38] The talk, "Salving the Wounds That Remain: Where the Catholic Church Can Find Healing for Its Sex Abuse Crisis," University of St. Thomas Law School, Minneapolis, MN, September 15, 2022, is here: https://www.youtube.com/watch?v=mGC07xZ3VdM. It is reprinted here; https://churchlifejournal.nd.edu/articles/salving-the-wounds-that-remain-where-the-catholic-church-can-find-healing-for-its-sex-abuse-crisis/

[39] On the rise of forgiveness research, see Gary Thomas, "The Forgiveness Factor," *Christianity Today*, January 10, 2000, https://www.christianitytoday.com/2000/01/forgiveness-factor/. Brudholm writes in a skeptical vein of an "industry" of forgiveness in *Resentment's Virtue*, 3-4, 34-36.

[40] Examples are Anthony Bash, *Forgiveness and Christian Ethics* (Cambridge, 2007); and Richard Swinburne, *Responsibility and Atonement* (Clarendon Press, 1989), 80-87.

Forgiveness is required only after a genuine apology is given. Especially in the case of large-scale evils, forgiveness is the act of a hero or saint, but is hardly to be expected of everyone.[41] 3) Forgiveness is an obligation even in the absence of prior apology. Let us call this unconditional forgiveness.[42]

It is this third position, unconditional forgiveness, that I defend, the strongest version of the call to forgive and the most objectionable to critics. It most foregoes due, after all, renouncing retribution and not requiring apology. I do not discount the importance of apology as a practice of reconciliation, as the wrongdoer's part in restoring right relationship, for which I argue above. It may be morally preferable for apology to precede forgiveness, fulfilling the victim's right to this act and conferring recognition on her dignity and suffering. Mutual reconciliation processes, whether they take place in the context of marriage, friendship, politics, or any organization, ought to employ a portfolio of practices, including apology and forgiveness, and when they do, it is advisable for apology to come first. Yet, a victim ought to forgive even in the absence of an apology.

Three arguments support unconditional forgiveness. The first is all that I have been arguing – that human forgiveness follows from divine forgiveness, imitating it, participating in it, and drawing its power from it. God's initiative in forgiving – the gratuity, the gift, the surprise – is essential to the meaning and character of this forgiveness. Volf writes:

> Should we forgive even those who refuse to repent? Consider once again God's forgiveness, which serves as the model for ours. There are people

[41] An example is Stephen J. Pope, "Can Forgiving Ever Be a Moral Mistake? Complexifying a Central Commitment of the Christian Moral Life," *Irish Theological Quarterly* 91, no. 1 (January 2026), 3-21.
[42] I read this as the position of Volf in *Free of Charge*, 127-224.

> who think that in relation to God, repentance comes before forgiveness. But that can't be right. God doesn't angrily refuse forgiveness until we show ourselves worthy of it by repentance. Instead, God loves us and forgives us before we repent. Indeed, before we even sinned, Jesus Christ died for our sins. God's forgiveness is not reactive – dependent on our repentance. It's original, preceded and conditioned by absolutely nothing on our part. We can do nothing to become worthy of it for the same reason we can do nothing to earn any of God's gifts. Before we do anything, before we even exist, God's giving and God's forgiving are already there, free of charge. God doesn't give and forgive conditionally. God's giving and forgiving are as unconditional as the sun's rays and as indiscriminate as raindrops. One died for *all*. Absolutely no one is excluded.[43]

If unconditional forgiveness on the part of humans is morally wrong – the conditional position– then God's forgiveness in his Cross and Resurrection, manifestly unconditional, is either contrary to the morality that God communicates to us or is mysteriously beyond those commands. Both options are unappealing, each of them implying that human morality is disconsonant with God's nature and actions – the world of command theory, of divine arbitrariness. If unconditional forgiveness is supererogatory, heroic but not required, it follows that saints adhere to a different set of commands than other Christians do. If human forgiveness follows from divine forgiveness though, then its requirements apply to all Christians, all of whom live under the authority of the Cross and Resurrection and all of whom are asked to take up their own cross. The call to holiness is universal, all-inclusive and is not a two-tiered set of standards.[44]

Second is the evidence from those scriptural passages that command human forgiveness. The New Testament contains about nine of these passages (depending on exactly how one counts) to which may be added the passage in Sirach 28 that commands

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[43] Volf, *Free of Charge*, 179-180.

[44] The universal call to holiness was a major theme of *Lumen Gentium*, the Dogmatic Constitution of the Second Vatican Council.

forgiveness.[45] As for the first position, the conditional position, none of these passages indicate that the wrongdoer's apology is required for forgiveness and none forbid forgiveness absent an apology. Only one of them, in the Gospel of Luke (17:3-4), explicitly commands forgiveness in response to repentance: "If your brother sins, rebuke him; and if he repents, forgive him. And if he wrongs you seven times in one day and returns to you seven times saying, 'I am sorry,' you should forgive him." Even this passage, though, does not propose apology as a strict condition for forgiveness; it does not command one to forgive "if and only if your brother repents." True, in Jesus' parable of the unforgiving servant in Matthew 18, he teaches forgiveness in a way that presupposes prior repentance. Two servants desperately beg for a release from debilitating financial debt, a metaphor for the moral debt of sin, which may be interpreted as an apology. The passage does not teach, though, that apology is required for forgiveness; it simply teaches that a king and then his servant are each confronted with requests for forgiveness. Indeed, a requirement of apology would seem to be a strange interpretation of a parable in which Jesus strongly enjoins forgiveness and sharply condemns the refusal to forgive. The other seven passages commanding forgiveness prescribe no condition of repentance or apology.

Do these passages favor the second position, the supererogatory one, or the third position, the unconditional one? What divides these two positions is whether forgiveness is commanded in the absence of the wrongdoer's apology. The passages do not explicitly resolve the issue in favor of either position. In certain respects, though, the third, unconditional position finds favor. The wrongdoers whom Jesus commands to

[45] They are Matt 6:12-15; Matt 18:21-25; Mark 11:25-26; Luke 6:37; Luke 11:4; Luke 17:3-4; 2 Cor 2:5-11; Eph 4:32; Col 3:13.

forgive in these passages are a universal group. The parable of the unforgiving servant in Matthew 18 is preceded by Peter's question, "how often must I forgive?," to which Jesus responds, "not seven times but seventy-seven times" – profusely, that is (21-22). In the Gospel of Mark (11:25), it is "anyone against whom you have a grievance," in the Gospel of Luke (11:4), "everyone in debt to [one]," and in the Gospel of Matthew (6:12-15), "our debtors" and "others," who are to receive forgiveness – categories which appear to include all wrongdoers and make no distinction among those who have first repented. Most importantly, seven of these passages link human forgiveness to divine forgiveness, which, as I have argued, is unconditional in its pattern.[46]

The third argument for unconditional forgiveness is the example of holy people who forgave their wrongdoers in the absence of repentance, even their executioners. Some of them, the Catholic Church has declared saints, a declaration that would be hindered if these saints' forgiveness was immoral, and that the Church makes in order to commend the saints' lives, and thus their actions, to everyone. After John Paul II survived a shooting in 1981, he visited his assassin, Mehmet Ali Ağca, in prison and forgave him in 1983. St. Maria Goretti, an Italian peasant woman of the early twentieth century, forgave her assailant, Alessandro Serenelli, as she was dying of stabbing wounds that he inflicted after she had refused his sexual advance. Both Ağca and Serenelli later came to repent of their crimes as a result of being forgiven. St. Oscar Romero, a Salvadoran Archbishop in the late 1970s, St. Miguel Pro, S.J., a Mexican priest in the 1920s, St. Thomas More, a sixteenth-century English statesman, and many other martyrs forgave their executioners before they were killed. Other holy men and

[46] These include Matt 6:12-15; Matt 18:21-25; Mark 11:25-26; Luke 6:37; Luke 11:14; Eph 4:32; Col 3:13.

women, too, have practiced unconditional forgiveness as part of a unified Christian life.[47] Clearly their example is not compatible with the conditional forgiveness position. Here again, though, is a consideration in favor of the third position: If these saints brightly exemplify a holy life to which everyone is called, then, their unconditional forgiveness is a pattern to be imitated.

This strong position, an obligation of unconditional forgiveness, will encounter strong objections, as forgiveness has in recent debates. Let us look at three – the burden objection, the freedom objection, and the religion objection

One version of the burden argument is the one that I have discussed: Resentment is both moral and healthy and should not be foregone. For a victim to forego resentment is to fail to uphold her dignity and perhaps to reinforce injustices. After African-Americans in Charleston, South Carolina forgave Dylan Roof after he killed members of their family at their church 2015, I wrote a note to the students in my graduate seminar

[47] A sampling of others include the first martyr, the Archdeacon Stephen, in the Book of Acts (7:60); Proclus, martyred under the Emperor Trajan between 98 and 117; Paul Miki and companions, killed in Japan in 1597; Metropolitan Vladimir (Bogoyavlensky) of Kiev, killed in 1918; Jose Aparicio Sanz and 232 martyrs in the Spanish Civil War commended by Pope John Paul II for forgiving their executioners; Maxmilian Kolbe, who forgave his tormentors from his cell in Auschwitz and pleaded for other prisoners to do the same in 1941; Immaculée Ilibagiza who forgave the murderers of her family in the genocide in Rwanda in 1994; Christian Chergé and the Trappist Monks who were killed in Algeria in 1996; Bud Welch, whose daughter, Julie Marie, was killed by the bomb of terrorist Timothy McVeigh in Oklahoma City in 1995, and who forgave McVeigh in 1998; Angelina Atyam, a mother in Uganda, who forgave the abductors of her daughter from a Catholic boarding school in 1998; the Amish residents of Nickel Mines, Pennsylvania who forgave the man who killed their daughters in a shooting in 2007; Paul Bhatti, brother of Shahbaz Batti, killed in Pakistan in 2011; family members of martyrs in Libya killed in 2015; members of the Emmanuel African Methodist Episcopal Church whose family and congregation members were killed by Dylann Roof in 2015; widows of Necati Addin and Tillman Geske, killed in Turkey in 2017; Iraqi Chaldean Bishop Bashar Warda Pope, who forgave militants of the Islamic State even as he continued to insist loudly upon the justice of religious freedom and civic equality for Christians. Francis gave a homily teaching that martyrs forgive their persecutors, see Francis, "Catechesis 9. Witnesses: the martyrs," General Audience, The Holy See, April 19, 2023, https://www.vatican.va/content/francesco/en/audiences/2023/documents/20230419-udienza-generale.html

course, *The Politics of Reconciliation*, offering this as an extraordinary instance of forgiveness. One African student wrote back and asked if forgiveness was a practice reserved for African-Americans, allowing whites to applaud their magnanimity while turning away from their claims of justice.

A variant of the burden argument is more existential, holding not that forgiveness is immoral or that it should be shunned in everyday life but rather that forgiveness is excessively rigorous, especially for people who have lost a family member, a limb, an eye, or their property; It's just not something that ordinary people do. Gordon Wilson, a legislator in Northern Ireland who lost his daughter in a politically motivated firebombing in 1987, died in 1995 "with a broken heart." To urge victims of grave injustice to forgive is to encumber them. Already gravely wounded, objectified, traumatized, and stunted in their capacity for action, they are now being asked to carry the added weight of giving a gift to the wrongdoer. Why is it they who are asked to make things right? Would it not be far more just to give them what is due to them – apology, restitution, acknowledgment, remembrance, care, and the accountability of the perpetrator? These measures are their right and may help to heal them. To counsel them to forgive, by contrast, is to disrespect them, to practice presumption and moral recklessness, much like that of one who offers blithe advice to a friend who has suffered greatly. "The majority of people who hand out advice about forgiveness have not gone through the sort of experience I had," wrote Eric Lomax, a Scottish man who was tortured by a Japanese prison guard during World War II.[48]

[48] Eric Lomax, *The Railway Man: A POW's Searing Account of War, Brutality and Forgiveness* (W.W. Norton, 1995), 241.

Yet, both Wilson and Lomax chose to forgive. How, then, can forgiveness be something other than a burden and even a relief of burden? The strongest reason why forgiveness is the lifting, not the adding, of a burden, is a divine one. In a secular scenario, forgiveness is a two-party matter. When a victim wounded by a grave injustice stands alone against the perpetrator of it, the prospect of burden looms formidable. This victim has only her own will and the support of others to whom he may turn. Understandably, favor for forgiveness in such a scenario is mixed and muted. If a third party is in the picture, and the third party is God, though, the configuration is different. Now, a victim may forgive through the God who is infinitely greater than the evil, who forgave her and all of humanity of the sin that separates humanity from God infinitely, who became a human and a victim and who incorporates every victim into himself in his own act of forgiveness, and who enables the restoration of the victim, first gradually but ultimately eternally. Drawing the victim into an infinite act of restoration, God's forgiveness is at its core a lifting of a burden, both of humanity's sin and of the victim's inability to forgive. Through this forgiveness, a victim is healed. It is the divine scale of forgiveness that makes it morally plausible in cases of large-scale evil.

Lending plausibility to this theological case for forgiveness, even of grave evils, is its earthly enactment. The burden argument finds voice in a review of my book of 2012, *Just and Unjust Peace*, written by the journalist, Barry Gewen, who, while he mostly appraised the book positively, confronted its argument about forgiveness leerily. Forgiveness, he objected, is "saintly behavior," "idealism raised to the highest level," "almost unworldly," elicitive of "fanaticism" and "self-destruction," and an action whose

practitioners "can't serve as exemplars for humanity to follow."[49] His skepticism is existential: For most of us, forgiveness just is not possible. In the book, I had presented exemplars of forgiveness – rare saints, Gewen judges – but left open the matter of how widespread the practice is, or could be. So, challenged, I undertook to find out.

Between 2012 and 2015, I traveled to Uganda, where, in collaboration with the Refugee Law Project, I conducted a study of forgiveness in five districts whose residents have lived through armed conflict with all of its destruction. War in these districts took place at different periods since the 1970s, the most recent and widely known being the war in the north between the Lord's Resistance Army (LRA), led by Joseph Kony, and the Ugandan government, running from 1987 through 2006.[50] Did Ugandans approve of forgiveness? Practice forgiveness? What did it mean to forgive? If they forgave, why? We surveyed 640 people, conducted ten focus groups (two in each district), and interviewed 27 individuals. Of the respondents, 593 out of 640 claimed to be victims of violence.[51]

What did we learn? Favor for forgiveness was strong. 86% of respondents agreed with the statement, "It is good for victims to practice forgiveness in the aftermath of violence." 61% of them answered that they favored forgiveness of members of rebel groups, and 54% of the Ugandan military. Forgiveness was strong in practice, too. 68% of victims of violence claimed to have forgiven. 48% of respondents agreed that people in their region had "practiced forgiveness widely in the aftermath of armed conflict."

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[49] Barry Gewen, "Must Civilizations Clash?" *The New Republic*, May 31, 2012, find at https://newrepublic.com/article/102918/just-unjust-peace-daniel-philpott.

[50] The war in Uganda effectively came to an end in 2006, when the Ugandan Government and the Lord's Resistance Army signed a truce. A comprehensive peace agreement was forged but was never signed. The Government of Uganda effectively drove the LRA out of Uganda through military force in December 2008.

[51] Refugee Law Project, *Forgiveness: Unveiling an Asset for Peacebuilding,* 2015, find at https://www.refugeelawproject.org/files/others/Forgiveness_research_report.pdf.

The results are corroborated by several questions that measured attitudes and the practice of forgiveness from different angles, and by the focus groups and interviews, where views were more textured. Forgiveness was not easy or unanimous; participants spoke of it as being "like swallowing a bitter pill" and as an action that "takes time and a lot of courage." Yet, forgiveness was not rare and nobody spoke of it as dangerous, wounding, or beyond the pale. Those who forgave commonly saw forgiveness as both a relinquishment and as a constructive act of willing good to those who wronged them – the double movement that I have argued forgiveness involves.

Many victims practiced forgiveness towards perpetrators whose identity or location they did not know or whom they knew were dead. 71% of victims did not forgive the perpetrator in words but practiced an indirect form of forgiveness "from the heart." 86% of them reported that they forgave without a prior apology and 96% without reparations or repair. 86% reported that they wished to see perpetrators of human rights abuses subject to judicial punishment. Ugandans, though, forgave in high numbers even though these other measures of justice, all ones that were due to them, were largely absent.

Why did Ugandans forgive? Religion was by far the most important reason. Of respondents who had practiced forgiveness, 82% reported that they forgave because of their religious beliefs. Christians made up about 77% of these respondents and Muslims 23% in this country where religious practice is fervent.[52] Other reasons that garnered strong favor include the practices of tribal traditions (45% of those who forgave for this

[52] Of the survey respondents, 78% reported attending services once a week and 81% that "prayer is a regular part of my life," both high numbers on an international scale.

reason), family traditions (52%), the desire for psychological peace (68%), and a desire to contribute to the peace of the community (69%).

One of the interviewees, Angelina Atyam, suffered the abduction of her daughter, Charlotte, at the hands of soldiers in the rebel Lord's Resistance Army, who kidnapped her and 130 other girls from a Catholic boarding school in 1996. Atyam and other parents who shared her sense of anger and helplessness would gather Saturdays at a local Catholic cathedral to "work together, to pray together, to advocate together," in her words. At one meeting, upon praying "as we forgive" in the Lord's Prayer, they sensed a call to forgive their daughter's abductors. Atyam came to speak for and advocate forgiveness widely in Northern Uganda and even found the mother of a soldier who had abetted in abducting her daughter and, through the mother, forgave the soldier, his family, and his clan. Later, when this soldier was killed in combat, Atyam wept with and comforted the soldier's mother.

Atyam did not abate her commitment to the girls' release, for which she and the other parents advocated by forming the Concerned Parents Association. When LRA warlord Joseph Kony got wind of the group, he offered Atyam to free her daughter if the group would halt its publicity. Atyam refused, insisting that the group would only cease its efforts were all of the girls to be released. Eventually, after spending seven-and-a-half years in captivity, Charlotte escaped and was reunited with Atyam.

What emerges from the study is that large numbers of people who lived through political violence approve of and practice forgiveness. Most forgave unconditionally and did not view the act as morally compromised. Most who forgave report being strengthened, not burdened, by forgiveness. Surveys of popular attitudes in Uganda, Rwanda, and Iraq also show strong popular support for forgiveness in the aftermath of

large-scale violence.[53] Though the respondents, like those in my study, wished also to see other measures of justice such as punishment, they did not view forgiveness as unjust, a wound, or reburdening to victims. Their views corroborate the argument here, that forgiveness does not negate the importance of other practices that address wounds of victims, including acknowledgment, remembering, restitution, apology, accountability, and building just institutions based on rights and equality. To advocate that forgiveness be practiced by minorities or the dispossessed while neglecting other dimensions of justice, or to selectively commend forgiveness to them but not to the powerful, is itself an injustice, but it is not one that is endemic to forgiveness itself. The Ugandans in the study forgave above all on account of their religious beliefs. By and large, the results corroborate experientially the moral argument at hand.

The second objection to strong forgiveness appeals to freedom. A scholar of South Africa's Truth and Reconciliation Commission, Lyn Graybill, tells of a young woman who told scholar, Wilhelm Verwoerd, "[w]hat really makes me angry about the TRC and Tutu is that they are putting pressure on me to forgive . . .. I don't know if I will ever be able to forgive. I carry this ball of anger within me and I don't know where to

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[53] Phuong Pham et al., *"Forgotten Voices: A Population-Based Survey of Attitudes about Peace and Justice in Northern Uganda"* (ICTJ/HRC, July 2005),8, 26, 27, 42; Phuong Pham et al., *When the War Ends: A Population-Based Survey on Attitudes about Peace, Justice, and Social Reconstruction in Northern Uganda* (University of California Human Rights Center, 2007); Human Rights Center and International Center for Transitional Justice. *Iraqi Voices: Attitudes Toward Transitional Justice and Social Reconstruction* (University of California Human Rights Center and International Center for Transitional Justice, 2004), 46; Timothy Longman, Phuong Pham, and Harvey M. Weinstein, "Connecting Justice to Human Experience: Attitudes Toward Accountability and Reconciliation in Rwanda," in *My Neighbor, My Enemy: Justice and Community in the Aftermath of Mass Atrocity*, ed. Eric Stover and Harvey M. Weinstein (Cambridge University Press, 2004), 220.

begin dealing with it. The oppression was bad, but which is much worse, what makes me even angrier, is that they are trying to dictate my forgiveness."[54]

Unlike many other obligations, forgiveness is fulfilled only if it is willed from the heart. True, as I have argued, all Christian obligations are to be performed with right intention and promote flourishing, contrary to the common view that they are dry and external. Yet, some obligations are fulfilled significantly if not adequately apart from whether performers do not intend them sincerely. These are usually obligations that are due. When a person pays his bills or serves a prison sentence, justice is done, even if the payer or the prisoner does not join his will to the act of justice. Most obligations that are due are like this; they may be fulfilled through external action. Forgiveness, by contrast, in part because it is not due and is a gift, requires a consonant intention. If it is pressured or scripted by an outside party, it loses its value in the eyes of its performer, its recipient, and onlookers. Recognition and respect for the gradual preparation that forgiveness often requires presupposes an understanding that forgiveness must be internally willed. "I am not ready to forgive," said the woman at the TRC and Mr. Delacroix at Poncelot's funeral. Internal sincerity in turn requires freedom. A victim of a wrong, especially a grave wrong, ought to be respected in his freedom to forgive or not to forgive – legally, politically, socially. Critics leveled the charge of flaunting this freedom at South Africa's Truth and Reconciliation Commission, particularly at Tutu's leadership. Whereas my own study of the transcripts of hearings at the TRC shows that commissioners rarely asked victims to forgive, forgiveness was nevertheless part of the

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54 Wilhelm Verwoerd, "Forgiving the Torturer but Not the Torture," *Sunday Independent*, December 14, 1998, quoted in Lyn Graybill, *Truth and Reconciliation in South Africa: Miracle or Model?* (Lynne Reinner Publishers, 2002), 50.

culture surrounding the TRC, so much so that victims complained of feeling that they were told to forgive and would be denigrated if they did not.[55]

Is the freedom objection sound? Yes, forgiveness must be free. The objection does not defeat forgiveness, though, including its practice in politics, but rather informs its pursuit. Springs observes in his study of restorative justice in south Chicago that forgiveness and reconciliation paradoxically took place most when forgiveness was inveighed least.[56] He objects not to forgiveness but rather to its aggressive assertion. His insight underscores freedom. Still, pastors and other respected leaders can teach and exemplify forgiveness without pressuring it or goading victims. In my Uganda study, 97% of survey respondents were comfortable with religious leaders encouraging their followers to forgive. Among those who practiced forgiveness, 70% reported that a religious leader had encouraged them and 94% said that a religious leader had not pressured them.[57] It did not trouble them that they were taught forgiveness. In South Africa, President Nelson Mandela's forgiveness of *apartheid* leaders, including his jailer, carried credibility because Mandela himself had suffered 27 years in prison. Inspired, many South Africans followed suit.

Both of the above objections, the burden objection and the freedom objection, even should they admit that forgiveness can be restorative and performed freely, remain at odds with my strong position – that is, the third position, that of unconditional forgiveness, the proposition that Christians have an obligation to forgive wrongs even when no apology has taken place. An obligation, after all, means that a person is wrong

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55 Graybill, *Truth and Reconciliation in South Africa*, 49-50.
56 Springs, *Restorative Justice and Lived Tradition*, 143.
57 Refugee Law Project, *Forgiveness*.

not to meet it. Forgiveness is a unique obligation in being both not-due yet also perfect, meaning specifiable and dischargeable – in short, required and wrongly omitted. But is this not harsh and even cruel? Some victims of serious wrongs find forgiveness unimaginably arduous. Apart from their moral objections, forgiveness is not something of which they are capable. Walter Delacroix told this to Sr. Helen. The victim of clerical sex abuse at my lecture said as much. Must we not sympathize with them? Does not the assertion of an obligation impose a burden and threaten freedom?

In fact, an obligation of unconditional forgiveness is compatible with compassion, solidarity, and mercy for a victim of a colossal crime who professes that she cannot forgive. The Christian tradition of confession and natural law thought have always put forth a distinction between action and culpability. One may fail to live up to an obligation yet be diminished in one's guilt when one's action or omission is due to a hindrance. In this case, the hindrance is a lack of psychological readiness to forgive. Trauma and wounds impede this readiness, particularly in light of the inward and free character of true forgiveness, and reduce a rightful expectation of forgiveness. Analogously, "heal now!" is not the right message to a person with a gripping addiction to alcohol or anger. It is better to help her begin to work towards recovery. Begin to work towards forgiveness is what may be asked and encouraged of a victim, what Walter Delacroix did and what Eric Lomax did several years before he forgave and over thirty years after being tortured in a POW camp, especially if that victim is committed to the restorative justice of the Cross and Resurrection.

The final criticism of forgiveness, especially in the political realm, is its religious grounds. Religious advocates of forgiveness have met with the criticism that religion does not belong in politics. The grounds for forgiveness that its advocates proffer are

ones that non-religious people cannot, or are not bound, to accept, the critics claim. Thus reinforced is the criticism that forgiveness is pressured.

Is forgiveness an exclusively religious obligation? Natural grounds for forgiveness exist.[58] A victim may judge that a wrongdoer's good and sincere apology warrants reciprocal forgiveness. Or that the wrongdoer is better than his misdeed and that forgiveness would lead him to recognize it and apologize. Or that the misdeed was not grave and should not stand in the way of the friendship that he values. Or that he, too, has committed wrongs of such a sort and thus should not hold the wrongdoer's wrong against him. These and related rationales are standard forgiveness. It is difficult to see, though, how an obligation to forgive arises from most of them. Retributive action, at least of the proportionate and apposite sort, is also justified on natural law grounds. Retribution may rightly be foregone but is not wrongly undertaken. Reason alone, then, largely does not determine the choice between forgiveness and retribution.

On a Christian rationale, forgiveness is a determination, a specification of other principles that receives its obligatory force from an authority. Divine forgiveness was God's determination, his free decision to restore mercifully. Human forgiveness is also a determination, taught by Jesus. That it is an obligation, that unconditional forgiveness is prescribed, that forgiveness involves the foregoing of retribution and resentment and the willing of the wrongdoer's good, that forgiveness is done in, through, and on the example of Christ – these are not propositions that people grasp through reason alone. Forgiveness is an expression of Christian mercy, which is a specification of the natural

[58] John Paul II teaches that forgiveness can be justified through reason and experience in "No Peace Without Justice, No Justice Without Forgiveness," sec. 8. For a secular argument for "unconditional forgiveness," see Holmgren, *Forgiveness and Retribution*.

obligation of beneficence. In many everyday affairs, Christian and secular advocates of forgiveness will agree on forgiveness, though on divergent rationales. As the evils become larger, though, secular analysts are increasingly less likely to admit forgiveness. They will be ever more hard-pressed to confront the burden objection – Gewen's objection – for instance. Christian rationales for forgiveness may find common ground with other religious traditions, most of which contain a teaching of forgiveness. Among the religions, though, Christianity is more apt to justify unconditional forgiveness, understood as a participation in the forgiveness performed by a God who became human.[59]

What does the religious status of forgiveness mean for politics? Do Christians disrespect their fellow citizens when they advocate forgiveness in politics? And when they do so on religious grounds? Chapters Thirteen and Fourteen will consider the more general question of what role religious rationales ought to play in a liberal democracy. Applied to forgiveness, my conclusion in brief is that Christians ought to advocate forgiveness in politics as a part of their goal of increasing the practice of the justice of right relationship in politics. They may speak their religious rationale for forgiveness publicly and advocate it to one another. When providing reasons for forgiveness to people who are secular or members of other faiths, they ought to seek rationales that they share with their interlocutors. Because forgiveness is less likely to gain assent from non-Christians the more it is unconditional and practiced towards large-scale evil, the

[59] Govier includes a helpful appendix in Govier, "Religious Traditions on Forgiveness," in *Forgiveness and Revenge*, 158-163; see also Philpott, *Just and Unjust Peace*, 274-276.

less likely it is that these rationales will persuade. The place of forgiveness in politics will vary then, depending on who is involved in any given political setting.[60]

Forgiveness in Politics

If forgiveness has a place in politics, what might that place be? How can forgiveness, lodged in the justice of right relationship, dislodge narratives that would separate it from politics?

Does Forgiveness Negate Judicial Punishment?

A seeming inconsistency arises. The last chapter argued for judicial punishment based on the retributive principle, albeit in a form that is combined with beyond-due practices as it is in restorative justice. Retribution – the simple notion that wrongdoers are responsible for their wrongs and merit punishment for them at the hands of an authority – is also common in and proper to businesses, families, churches, universities, hospitals, and any organization with disciplinary procedures. The Bible, including the New Testament, endorses judicial punishment carried out by governments, just as it warns of punishment of the unrepentant in the final judgment, each presupposing retribution. Yet, his chapter has argued that Jesus commanded the foregoing of retribution in his teachings on forgiveness, retaliation, and love for enemies. Enact retribution, forego retribution – how can these logics be reconciled?

Jesus' command to forgive is sweeping yet leaves intact the legitimacy of punishment on the part of governments and other organizations. How so? The reason lies in the purposes of punishment and forgiveness with regard to human salvation, that

[60] Chapter Fourteen discusses religious pluralism in democracy.

is, human participation in divine justice. Jesus commands persons to forgive in order to participate in their salvation. They join themselves to God's forgiveness of humanity by forgiving others and thus share in God's justice, or restoration of right relationship, which is brought to completion in heaven. Forgive others so that God will forgive you. Do governments and other organizations participate in salvation? Not exactly. The purpose of government, as Chapter Nine argues, is to coordinate and enforce right relationship in the political community. Governments are needed because human beings are finite and sinful. Other organizations serve a similar purpose with respect to their analogous ends. Business firms, for instance, coordinate production and exchange so as to provide for material needs. Punishment, through courts or the disciplinary practices of other organizations, upholds the just purpose of political orders and organizations by restoring right relationship in them after it has been broken. The laws of a political order or other organization define the terms of this right relationship, or of its justice. Punishment's purpose is one for earthly life, characterized by sin and finiteness. Accordingly, Christian tradition has often referred to government as temporal authority – necessary within time. In heaven, where right relationship is restored, there will be no need for sheriffs, bosses, the grounding of children, or Church discipline, for nothing will need to be secured or provided on account of sin and finiteness. With respect to the two senses of the common good in Chapter Nine, the first sense, institutions which are instrumental to the good of persons and associations, pertains to earthly life. Their discipline serves the goal of right relationship on earth and ought to reflect justice in its enactment. Yet, this is a purpose that will cease after this life rather than be perfected, magnified, or purified. The second sense, right relationship in political and other communities – that is, their common good – has salvific value. The acts through which

people collaborate to bring about good in the political realm – a form of love of God and neighbor – store up treasures in heaven.

When people perform the role of a judge, a law enforcement officer, or a Vice Provost for Disciplinary Affairs, then, they perform a role in which they ought not to forego retribution in order to participate in God's forgiveness but rather are expected to apply retribution, fairly and proportionately, as an enforcer of right relationship when a person has broken the community's norms that govern it. Who are the people to whom Jesus teaches forgiveness in the Gospels? The people he calls to follow him. He does not address them in their capacity as magistrates. Apart from exercising the office of legitimate punishment, Jesus' followers are bound to practice the sweeping forgiveness that he teaches.

Have I privatized political forgiveness and even constructed a separation narrative? Jesus meant what he said in the Sermon on the Mount, Radical Christians will say, and this means that his followers are to forgive and to forego retribution in all circumstances (and to forego lethal force, they would add).[61] I hold that my argument is true to scripture, where Jesus enjoins his followers to forgive but does not rebuke Caesar's soldiers for being soldiers even while he forbids much else, and does not call for the abolition of law courts.[62] I have not argued, though, that forgiveness should be sequestered from politics, rather only that judicial punishment should not be sequestered from politics. How, then, might forgiveness be expanded in politics? I propose four modes.

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[61] I engage the arguments of radical Christians in Chapter Sixteen.

[62] In Matt 8:10 (and Luke 7:9), Jesus remarks of a centurion that he has not encountered such faith in Israel. Jesus invokes courts of law, without condemning the institution, in Matt 5:22; Matt 5:25-26; Matt 18:30; Luke 12:57-59; Luke 18:1-12

Victims Forgive Perpetrators of Political Crimes

Recall that politics is not only the work of government officials but any action that aims to influence matters governed by public law and that involve the common good of a political community. The first mode by which forgiveness takes place in politics is that of victims of crimes who forgive their perpetrator. The victim forgoes retribution and resentment and wills the perpetrator's good, while the perpetrator remains subject to judicial punishment because of his violation of the law that defines the terms of right relationship among members of the community. What form this punishment ought to take is a separate matter from how forgiveness might be expressed.

The Ugandans in my study practiced forgiveness of this sort. By and large, little judicial punishment of the perpetrators of war crimes took place. The Amnesty Act of 2000 enabled child soldiers to escape from the Lord's Resistance Army (LRA) and become reintegrated into their communities, while the International Criminal Court passed down the first indictments in its history against five top leaders of the LRA in 2004, one of whom, Dominic Ongwen, was convicted in 2021. The merits of these approaches to judicial punishment, though, are separate from the terms by which victims of war crimes forgave. Most of those who forgave – and my study shows that they were numerous – did so "from the heart," meaning that they did not encounter their assailant but chose to forego resentment and to will their assailant's good.

Other instances illustrate victims forgiving their criminal assailants and the coexistence of forgiveness and judicial punishment in justice. Pope John Paul II forgave his assassin in prison but did not protest his imprisonment. South African Candice

Mama, whose father, an anti-apartheid activist, was killed by Eugene de Kock, head of South Africa's notorious secret police, the Vlakplaas, forgave de Kock in person in the prison where he was serving a 212-year sentence (he was later released).[63] Bud Welch, an American whose 25-year-old daughter, Julie Marie, was killed with 167 others in the bombing of the Murrah Federal Building in Oklahoma City in 1995, forgave the bomber, Timothy McVeigh, before the U.S. federal government executed McVeigh in 2001. Welch opposed the death penalty but not McVeigh's imprisonment.[64] A variant is Mandela, a head of state who forgave his former jailers. He did so as an individual and did not speak formally for a collectivity, either South Africa as a whole or South African blacks, yet as a head of state his forgiveness served as an example for others to follow.

Individuals are strengthened and convinced to practice forgiveness when they are not just individuals but also members of communities that teach, practice, and embody forgiveness. For Christians, this community is the Church. There, victims of crime not only receive the message of forgiveness but are cared for, supported, and thus encouraged and emboldened to forgive in the political realm. By being embedded in relationships, victims are strengthened rather than burdened by forgiveness. A study of the Amish community who suffered a shooting at Nickel Mines, Pennsylvania in 2007 found that what enabled them to forgive readily was years of inculcation in Bible passages, their tradition of martyrs, and the regular practice of forgiveness in their community.[65] One scholar and pastor, Célestin Musekura, founded an organization,

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[63] Lucy Wallis, "I Hugged the Man Who Murdered My Father," *BBC World Service*, October 17, 2020, https://www.bbc.com/news/stories-52539314.
[64] See the entry on Bud Welch in "The Forgiveness Project," https://www.theforgivenessproject.com/stories-library/bud-welch/.
[65] Donald B. Kraybill, Steven M. Nolt, and David L. Weaver-Zercher, *Amish Grace: How Forgiveness Transcended Tragedy* (Jossey-Bass, 2007).

African Leadership and Reconciliation Ministries (ALARM), which works in Central Africa – Rwanda, Uganda, Congo, and Sudan – to form government officials and other people who work in the political realm in Christian forgiveness and reconciliation. ALARM draws upon forgiveness in the Church community and brings it into politics.[66]

Forgiveness, especially when it is widely practiced or serves as an authoritative example, builds peace. It defeats the standing victory of justice, mitigates cycles of revenge, and allows people to live together as citizens again. Evidence exists of wide practice or wide favor for forgiveness after conflict in Uganda, South Africa, Sierra Leone, Rwanda, and Iraq in recent years.[67] Not without its moral dilemmas, competing with fissiparous forces, always to be favored in combination with other practices, forgiveness can build a just peace.

Forgiveness in Restorative Justice

A second mode of forgiveness in politics is its incorporation into restorative justice forums, ones connected with domestic courts as well as ones associated with national efforts to build peace – truth commissions, networks of local courts such as Rwanda's gacaca courts or Timor Leste's Community Reconciliation Panels, or traditional rituals such as Uganda's *Mato Oput*. In restorative justice circles,

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[66] L. Gregory Jones and Célestin Musekura, *Forgiving As We've Been Forgiven: Community Practices for Making Peace* (IVP Books, 2010).

[67] See footnotes 32, 51, and 64 [[confirm]]. Large numbers of people have forgiven through Musekura's organization, ALARM, in eight countries in central and eastern Africa (Rwanda, Burundi, Congo, Sudan, Congo, Uganda, Tanzania, Kenya, and Zambia); and through the work of Fr. Ubald Rugirangoga in Rwanda. According to literature on these ministries, the numbers run into the hundreds and possibly the thousands. See, https://www.alarm-inc.org/; and Trent Toone, "The Life of This Rwandan Catholic Priest Was Just Celebrated in Utah. Will Father Ubald Be Declared a Saint?" *Deseret News*, January 28, 2021, find at https://www.deseret.com/faith/2021/1/28/22249776/will-catholic-priest-father-ubald-be-declared-a-saint-rwanda-genocide-forgiveness-peace-funeral/.

conferences, panels, and rituals, which combine empathy, repentance, restitution, and accountability, forgiveness might be practiced, too.

Restorative justice practitioners are divided over the place of forgiveness in their work. Discouraging forgiveness are the three objections above – freedom, burden, and religion. Encouraging forgiveness is its capacity for promoting the goal of restorative justice, the restoration of right relationship, and its integration into a set of practices. Accompanied by accountability, restitution, and repentance, forgiveness is not meant to bear the entire burden of restoration. Forgiveness can be practiced freely within restorative justice forums, not scripted or made a condition of participation, yet introduced and explained. Forgiveness motivated by faith can be practiced in forums that are conducted in secular language and that welcome participants who come from all religions or no religion. Here again, religious communities can strengthen political processes. In Rwanda's *gacaca* courts and South Africa's TRC, churches prepared victims to testify, teaching and encouraging forgiveness to take place in forms that were officially secular.[68] The panel in which South African mothers met Thapo Mbelo complemented the TRC's official Amnesty Committee, was not required, was not officially religious, and yet was a forum in which the mothers and the killer of their sons could speak together freely and where forgiveness grounded in religion could take place.

Pardons and Amnesties

Restorative justice is a form of punishment, I have argued. It usually takes place to address a crime for which a person has been convicted. It does not dispense with

[68] Phil Clark, *The Gacaca Courts, Post-Genocide Justice and Reconciliation in Rwanda: Justice without Lawyers* (Cambridge University Press, 2010), 257-307.

retribution even while it embeds retribution in a set of practices that restore more widely. To incorporate forgiveness into restorative justice does not negate its retributive end. Sometimes, though, acts that some speak of as forgiveness in fact will involve a departure from retributive punishment. This is true with pardons and amnesties – a third mode of forgiveness in the realm of politics. In these acts, a head of state or a judge declares a person or set of persons – it even could be a wide population – immune from punishment for a crime of which the person or persons are guilty or allegedly guilty. Chapter 10 briefly mentions this departure from deserved punishment as a form of mercy.

Is it right even to speak of pardons and amnesties as forms of forgiveness? Above I argued that a business person's decision to drop his case against a swindler was amnesty but not forgiveness. Should a president, on his last day in office, grant a pardon to one of his political cronies for the crime of embezzlement and free him from prison, doing so only to return favors, this is a legal pardon but seems not to be forgiveness. To the extent that such amnesties are forgiveness, they are only so in an incomplete, derivative, or non-focal sense. They lack the dimension of willing a restoration of the wrongdoer's good and of reconciliation. What of a decision to forego a financial debt – say, student loans or the debt of a developing country? Much depends on why it is done. Say it is done out of mere political pressure and there is no goal of improving the good of the people forgiven; It is not full forgiveness. If it entails a restorative goal, though, it comes to approximate forgiveness.

In other cases, though, pardons and amnesties are far more restorative. Sometimes the one in authority granting the pardon or amnesty wills to promote the good of the forgiven. When the forgiven are a large population, then what is willed is the

common good. When, in 1974, President Ford pardoned President Nixon for his alleged crimes in office, he did so in order to assuage national divisions and prevent the tumult of a potential prosecution. Granting amnesty to a dictator in exchange for his departure from power or to the members of an army in exchange for their dropping their weapons may be animated by ends such as securing a transition to democracy, gaining a peace settlement, eliciting truth about past violence, or reintegrating child soldiers into their communities. Scholar of law Louise Mallinder has defined a "restorative amnesty" as one that is not blanket or unconditional but rather tied to other measures that build a just peace.[69] Pardons and amnesties that contain such restorative ends amount to forgiveness. Political scientists Leslie Vinjamuri and Aaron P. Boesenecker discovered that thirty out of seventy-seven peace agreements from 1980 to 2006 included amnesty mechanisms.[70] Some of them were tied to restorative measures. Likewise, South Africa's Truth and Reconciliation Commission was enabled by legislation that afforded amnesty to perpetrators of politically-motivated human rights violations during the *apartheid* era in exchange for their full testimony of the truth about their deeds, a deal that enabled the commission's remarkable report of *apartheid*'s history to emerge.

Is this form of forgiveness justified? Does it bring about the justice of right relationship? Again, Jesus's strong teaching to forgive does not call for the temporal authority to forego retribution through judicial punishment. No state is required, though, to punish all crimes or investigate and prosecute all possible crimes. Just as it is not immoral for a creditor to rip up a debt, so, too, the state may have justifiable reasons

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[69] Louise Mallinder, "Amnesties in the Pursuit of Reconciliation, Peacebuilding, and Restorative Justice," in *Restorative Justice, Reconciliation, and Peacebuilding*, ed. Jennifer J. Llewellyn and Daniel Philpott (Oxford University Press, 2014), 137-168.

[70] Leslie Vinjamuri and Aaron P. Boesenecker, *Accountability and Peace Agreements: Mapping Trends from 1980 to 2006* (Centre for Humanitarian Dialogue, 2007), 16.

to forgo punishment – peace, truth, democracy, the reintegration of soldiers into civilian life. The biggest moral pitfall that pardon and amnesty court is a compromise of fairness. Ford pardoned Nixon but not "the president's men," many of whom served prison sentences. Amnesties are not always unfair and are sometimes applied to wide populations of similarly situated people – say, combatants on both sides in a civil war. When they are unfair, though, they carry an undeniable moral cost. Still, sometimes this cost may be justified by other ends of a just peace. These ends must be weighty and so a presumption against pardon and amnesty is warranted. But these acts may sometimes be justified, and when they are, they expand the place of forgiveness in politics.

Group Forgiveness of State Crimes

A fourth mode of political forgiveness involves collective entities who forgive states for crimes committed against them in the name of those states. One variant is a group of people with a common identity whom a perpetrator has wronged not just as individuals but with an intention to harm them as members of a group: African-Americans, Tutsis, Jews, Bosnian Muslims, and the like. The perpetrator is a head of state or a person acting in the name of the state – a member of parliament, a colonel, a mayor, or the Director of Housing Services. Were the group to forgive the perpetrator – or a subsequent authority who may receive the forgiveness on the perpetrator's behalf – a form of collective forgiveness in politics takes place.

The forgivers in this mode mirror the performers of collective apology in the last chapter. Recall the two dimensions of responsibility for wrongs that a holder of political authority commits in the name of a collectivity: the responsibility that he bears as an individual, and the group's responsibility for what he did in the group's name.

Reciprocally, victims may suffer wrong in the same two senses. They suffer the wrongs as individuals, as people who have the right not to be maimed, killed, stolen from, and the like, and sometimes they also suffer wrongs as members of groups, that is, when they were attacked as a Jew, as a Tutsi, and the like.

It is these collective wrongs for which the head of a group of victims could plausibly forgive, mirroring the sense in which the head of a collectivity has the standing to apologize for crimes committed in the name of the collectivity. Here, again, the head of the collectivity has no standing to forgive what individuals within that collectivity have suffered as individuals. He may, though, forgive wrongs committed against members of his collectivity that aimed to harm them *qua* members of the collectivity.

What would it mean for such a group to forgive? First, they forego retributive action. Perhaps this would mean ceasing to demand further reparations. Would forgiveness also mean foregoing resentment? The objection will emerge that groups do not have emotions, only people do. While this is true in a strict sense, organized groups yet may adopt construals, the critical element of emotions, of other collectivities. For instance, the Hobbiton Action League adopts an official policy, reflected in its public statements, that the Black Riders are a terrorist organization whose actions are to be condemned. It has made a standing construal, one much like that of resentment, which is a moral protest, and one that would be revised were the Hobbiton Action League to forgive the Black Riders and look upon them as an organization in good standing. Forgiveness involves a group's change in its construal of another group. Finally, forgiveness involves willing the good of the perpetrator and of the common good.

Forgiveness practiced by a collectivity of African-Americans would involve a re-commitment to national solidarity, reconciliation, and a renewal of national unity.[71]

Many peoples who are defined as a group by their identity and their common experience may have no obvious spokesperson. That there is no organization that speaks for 41 million African-Americans, for instance, raises the question of who would voice forgiveness on their behalf. One answer is that a coalition of leaders, including church leaders, could voice forgiveness. Forgiveness, too, would be most effective and respected were it developed and performed as part of a national reconciliation process in which apologies and reparations also would be delivered. Each of these practices would complement the other.

Another variant of collective forgiveness towards states is that practiced by one sovereign state towards another. State forgiveness of other states is rare in international politics. Is it possible – intelligible, legitimate, and just? Its possibility is premised on the fact that states adopt construals of one another. In international politics, a construal means one state's standing view of another state. The most familiar construals are friend and enemy. Construals may be adopted formally, say, by a treaty that enacts an alliance, or informally, through the regular statements and policies of governments. Construals of friendship are characterized by trust and the open exchange of people, goods, and knowledge; construals of hostility by corresponding closure. Historical examples are familiar. The Cold War was named for and characterized by a construal of hostility between the United States and the Soviet Union. The United States and China were enemies until relations became "normalized" in their rapprochement of the early 1970s.

[71] For a proposal for racial reconciliation in the United States that includes forgiveness, see Roy Brooks, *Atonement and Forgiveness: A New Model for Black Reparations* (University of California Press, 2004).

In 1957, political scientist Karl Deutsch and his coauthors made an argument about construals when he theorized that the states of the North Atlantic formed a "security community" in which war between them was unthinkable.[72] Construals come in gradations and not in binaries, are subject to change and are not permanent, but they are stable and distinct enough to be coherent and consequential. What a construal ought to be is a matter of justice. Forging construals of friendship is the justice of restoring right relationship.[73]

Collective political forgiveness on the part of a state is a change in construal. Following the present definition of forgiveness, a state forgoes just retribution for another state's injustices towards it, wills to establish friendship, and commits itself to act accordingly with both movements in its statements and its policies.[74]

While forgiveness in international politics is rare, a case is hidden in plain sight, the founding of European federalism, as discussed in the introduction. Today, the European Union is a major institution in global politics not only for its size and influence but also for its uniqueness as a supranational body, one whose member states have "pooled" their sovereignty. The far lesser recognized claim that the institution was founded as an act of forgiveness is evidenced in the indispensable role of France, whose

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[72] Karl W. Deutsch et al., *Political Community and the North Atlantic Area: International Organization in the Light of Historical Experience* (Princeton University Press, 1957)

[73] For an excellent study of reconciliation in international politics, identifying the components of relationships between states, intersecting with construals, see Yinan He, *The Search for Reconciliation: Sino-Japanese and German-Polish Relations Since World War II* (Cambridge University Press, 2009), 12-45.

[74] In my definition of reconciliation, the first movement, the foregoing of retribution, involves not only a willed decision but also a will to overcome the emotion of resentment. Can this take place on the collective level? While collectivities do not have emotions – only people do – it is also the case that construals, which states undertake, are elements of emotions. See Robert C. Roberts, *Emotions: An Essay in Aid of Moral Psychology* (Cambridge University Press, 2003). Just as people who forgive also will to overcome resentment, so, too, states who forgive commit to statements and policies that enact their forgiveness. To the degree that they depart from these actions, they have departed from their construal of forgiveness.

policy of integration was forged most intentionally and efficaciously by Foreign Minister Robert Schuman. As the introduction described, Schuman, like German Chancellor Konrad Adenauer and Italian Prime Minister Alcide de Gasperi, was a Catholic who was knowledgeable of the Church's social teaching and shared in contemporary Catholic intellectuals' support for a post-war peace based on human rights, democracy, free markets, and the limitation of state sovereignty, and, most of all, looked upon European integration as a cause of peace, reconciliation, and forgiveness. But was France enacting forgiveness? Its support for the European Coal and Steel Community fit the definition of both movements of forgiveness. Half a decade after the defeat of Nazi Germany, which had brutally invaded and occupied France, France forewent retribution. Of course, France supported the Nuremberg Trials of individual leaders in 1945 and 1946 and would later try Nazi leaders in its own courts. The sort of retribution that France abjured, rather, was a construal towards Germany as a collectivity whose fact and form were illustrated vividly by the colossal punitive reparations that France and its allies had imposed on Germany after the previous world war. France's policy likewise involved the positive action of integrating a portion of its very institutions with those of Germany as a means of peace.[75] The Franco-German axis was formed and remains strong to this day, more than thirty years after the Cold War's end.

These four modes do not exhaust the possibilities of forgiveness in politics. Forgiveness remains novel, isolated in the vast field of the globe's political discourse. The sprouting and expansion of this practice is the growth of the justice of right relationship in the realm of politics. Forgiveness is the signature of a world that the

[75] The Schuman Declaration of May 9, 1950 states the ends of the federation. See https://european-union.europa.eu/principles-countries-history/history-eu/1945-59/schuman-declaration-may-1950_en

Resurrection of Christ reconfigured – and one that the modern state has separated from politics.

Reconciliation: A Recapitulation

Forgiveness, combined with the practices that Chapter Eleven discusses -- punishment, war, apology, and reparations – and with any other practice of political restoration, together compose a holistic picture of rectifying justice. In the political order, this justice is a sphere of "recapitulation," the term that the second-century theologian, St. Irenaeus of Lyons, followed by St. Athanasius in the fourth century, put forth to describe Christ's "reheading" or restoration of the world (*kosmos*), a reversal of Adam's damage to it. Rectifying justice and recapitulation are in turn the same as reconciliation, which, in Paul's writings, is the justice that Jesus Christ accomplished through the cross and resurrection, the justification that makes things right, that sets in motion the restoration of all things.[76] Conformed to this justice, humans exercise a "ministry of reconciliation" and are "entrusted" with the "message of reconciliation" by which they pursue the restoration of right relationship among persons, including in the political realm. Political reconciliation is the set of actions that restore justice, or build a just peace, in the political order.

To speak of holistic restoration in the political order will elicit instinctive warnings of utopianism, or of "immanentizing the eschaton," the phrase that political philosopher Eric Voegelin coined and that William F. Buckley made famous.[77] So, it bears repeating here and previewing what the chapters ahead will elaborate, that a

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[76] Chapter Three discusses reconciliation as divine justice.

[77] Eric Voegelin, *The New Science of Politics: An Introduction* (University of Chicago Press, 1952), 120-127.

Christian justice of reconciliation does not deny the fragmentary and manifestly incomplete character of politics in the present era, nor the inherently limited sphere of political action, nor the limits on political action set by right, liberties, and just law, nor the demands of prudence, all of which the justice of right relationship itself grounds soundly. Yet the totality of reconciliation cannot be ignored. Reconciliation is not a utopia, an imagined ideal, but rather the reality of God's recapitulation of the *kosmos* through Jesus Christ, both accomplished and incomplete, in which God summons humans to take part. Restorative political practices are the manner in which they do so. Each of them effects the restoration of right relationship in unique ways; each addresses the standing victory of injustice and the other wounds that injustices inflict through a different set of restorative measures. The restorations will be realized partially and sometimes fail disastrously, but also will find achievement, as is evidenced by Schuman, in the many people who have forgiven political injustices, and munificent evidence in historical political practice.[78]

Evincing reconciliation's holism are the interdependent and complementary character of restorative practices. To recall an example from Chapter Eleven, victims are more likely to receive apologies if they also receive reparations and are more likely to

[78] It is worth noting the fragmented politics of the French Fourth Republic when Schuman issued his Declaration on May 9, 1950 and signed the Treaty of Paris joining the European Coal and Steel Community on April 18, 1951. Craig Parsons, in his book, *A Certain Idea of Europe* (Cornell University Press, 2003), stresses the contingent nature of the politics surrounding the decision. The main impetus for the decision came from Schuman and a handful of other figures who believed in the project such as Jean Monnet and heads of state Paul-Henri Spaak (Belgium), Konrad Adenauer (Germany), and Alcide de Gasperi (Italy). Schuman "was obsessed with finding a basis for Franco-German reconciliation," writes Parsons in *A Certain Idea of Europe,* 55. These proponents built coalitions and made side deals in securing passage. No political party or economic sector was a strong, proactive supporter, though some were willing to endorse it. Passage was contingent upon events of the time and may not have taken place at a later or earlier time. In 1954, France's parliament rejected the European Defense Community, which would have similarly integrated militaries. Although some analysts reject the importance of the ECSC, it proved to be the organism from which European federalism grew, much like an acorn becomes an oak tree or an embryo grows and develops as a human person.

forgive if they also receive apologies and reparations. Certain political settings are ones in which societies are likely to conceive of reconciliation holistically, as restoring the political order in a general sense. One is societies addressing pasts of war and dictatorship in the pursuit of peace and democracy. Another is societies, usually developed democracies, addressing the legacies of slavery, racial discrimination, and the maltreatment of native peoples in their histories. A third is the aftermath of military interventions in which the achievement of the military objective is followed by instability and divisions in society, as took place in the military operations of the U.S. and its allies in Somalia, Afghanistan, Iraq and Libya. Some theorists of the justice of war have proposed a new category of principles, *jus post bellum*, that confronts the question: What are the obligations of intervening powers in a country in which its military actions have contributed to instability and civil war? Ought they seek to end armed conflict before they depart? To leave behind stable institutions? Reasonably just institutions? To encourage transitional justice measures such as truth telling and reparations?[79] A just peace, the goal of a just war, implies that victory alone is not just. Yet, the building of stability is subject to a reasonable chance of success, a criterion that has proven fraught in Iraq and Afghanistan and leaves the obligation open-ended.[80] A fourth setting is the building of peace between enemy states, for instance, the reconciliation between Germany and France after World War II, standing in contrast to the enmity that persists to this day between Japan and its neighbors, China and Korea. In such settings, practices of building just institutions, acknowledging and learning the

[79] During the Iraq war, U.S. General David Petraeus sought to create reconciliation among Iraqi factions. Peter R. Mansoor, *Surge: My Journey with General David Petraeus and the Remaking of the Iraq War* (Yale University Press, 2013), 157–64.

[80] See, for instance, Stefano Recchia, "Just and Unjust Postwar Reconstruction: How Much External Interference Can Be Justified?" *Ethics & International Affairs* 23, no. 2 (2009), 165-187.

truth about injustices, apology, commemorations and memorials, reparations, trials of war criminals, and forgiveness are variously practiced.

Reconciliation in politics essentially means building just states and relationships between states, that is, right relationship in political orders. It involves what is due, constructing or restoring laws and institutions that guarantee rights and secure basic goods, bringing violators of law to pay their debt, and coercive force to end violations of rights, but also what exceeds due, taking up practices that bring healing where wounds of injustice exist such as political apology, political reparations, restorative justice, non-violent action, and forgiveness. What is due must not be compromised, but what is more than due must not be neglected if reconciliation is to be advanced.

This combination can be seen in the politics of exemplary reconcilers. U.S. President Abraham Lincoln pursued the end of slavery, which he held to violate the natural rights of the Declaration of Independence, but sought national repentance, atonement, forgiveness, and the reintegration of southern states at the end of the Civil War. Martin Luther King Jr. would not compromise or abate his campaign for full civil rights – wait means never, he wrote in the *Letter from Birmingham Jail* – but also adopted non-violence, love for enemies, and an invitation to whites and blacks to form a beloved community. Pope John Paul II campaigned for an end to the communist regime in Poland and its subdual of human rights and waged this campaign through mobilizing non-violent protest, spiritual transformation, and the preaching of mercy and forgiveness. The anti-apartheid movement in South Africa would accept nothing less than the end of apartheid and its denial of racial equality while Nelson Mandela practiced love for his captors while in prison, forgave them when he was President, and commended forgiveness to his countrymen, and Archbishop Tutu taught forgiveness

and restorative justice. These reconcilers likewise fought for principles known by natural reason and ones taught on the authority of Jesus Christ. Rights and natural law secure goods, while what is beyond due and known supernaturally binds wounds.

Part Three: Engaging Critics of the Justice of Right Relationship

Chapter Thirteen: Defending Justice Against Negative Secularism

The arguments of several thinkers and schools of thought in recent decades call into question the political enactment of the justice of right relationship that Part Two has proposed and developed. They ask: Is this justice, religious in its foundation, prone to violate rights and liberties? Does it wrongly import religion into the public realm? Is it prone to moral overstretch and imprudence? Others ask: Does it compromise the gospel in conforming itself to secular idols of liberal democracy, the nation, and capitalist economies? Is it blind to structures of injustice? These arguments arise from different voices from different standpoints including both secular and Christian thinkers. Part Three takes up these arguments by engaging five schools of thought through their representative proponents: "negative" liberalism; Christian postliberalism; Christian realism; Christian radicalism; and Christian liberationism. The engagement accepts insights from each school and thereby expands the political justice of right relationship but also aspires to answer the criticisms and thereby defend the justice of right relationship.

This chapter engages a "negative secular" version of liberalism. Is liberalism suitable for analysis, though, given the malleability of its meaning and the volatility of its public use?[1] Arguably it contains a core meaning that threads through its history and varieties. Originating in seventeenth century Britain, liberalism holds that the political

[1] John Finnis reasonably cautions that "'[l]iberalism,' like 'conservatism' and 'socialism,' is too local, contingent and shifting a term to deserve a place in a general theory of society, politics, government and law," in John Finnis, "Liberalism and Natural Law Theory," *Mercer Law Review* 45 (1993–1994): 687, yet I accept Christopher Wolfe's argument that liberalism contains a core meaning that is defensible in its definition and its content as he sets it forth in Christopher Wolfe, *Natural Law Liberalism* (Cambridge University Press, 2006), 144-148.

order ought to promote individual liberty.[2] Closely attending liberty, both conceptually and in common usage, is a set of principles that also qualify for liberalism's core: fundamental legal rights, including the right to life, property, free thought, free speech, and the rights enumerated in the international legal covenants; freedom of religion in particular; the mutual independence of religious communities and states in their foundational authority and their characteristic activities; equal citizenship for people of every religion, class, ethnic group, sex, and race; democratic elections and the universal right to vote; the rule of law, including independent courts; free markets; and the broad freedom of individuals and associations. The doctrine that political institutions ought to include these features is considered here to be liberalism.

Liberalism's definition is separable from the various justifications proffered by its defenders, which have ranged among Enlightenment philosophes, Kantians, utilitarians, "anti-perfectionists" who shun a philosophical grounding, and natural law philosophers. The justice of right relationship embraces liberal laws and institutions and does so according to those of its principles that reason knows as the natural law and that correspond to what is due. These laws and institutions are ones that involve rights, which range among the different Hohfeldian sorts. Principles of justice that are known

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[2] See Wolfe, *Natural Law Liberalism* 134-144. I also follow Helena Rosenblatt's pioneering study of the history of the concept of "liberal," "liberality," and, eventually, "liberalism," though this latter term does not emerge until the nineteenth century. She summarizes nicely the development of the term up through the American Revolution: "As we can see, by the eve of the French Revolution, and before the invention of 'liberalism,' there existed in Europe a centuries old tradition of exhorting men to be liberal. A term originally used to designate the ideal qualities of a Roman citizen, his love of freedom, generosity, and civic-mindedness, it had been Christianized, democratized, and politicized, such that by the eighteenth century it could be used to describe the American Constitution. A liberal constitution, it was said, required liberal citizens— in other words, men who were freedom-loving, generous, and civicminded, and who understood their connectedness to others and their duties to the common good. To learn such values required a liberal arts education." See Helena Rosenblatt, *The Lost History of Liberalism: From Ancient Rome to the Twenty-First Century* (Princeton University Press, 2018), 40. One of Rosenblatt's core arguments is that liberal is traditionally a concept associated with moral principle and does not amount to self-interest or license, as the term has come to be criticized today.

supernaturally and that extend beyond what is due, by contrast, complement, buttress, and repair liberal laws and institutions.

What I argue for, then, is a Christian liberalism, endorsing liberal law and institutions on classical Christian grounds, to be distinguished from liberal Christianity, which construes the Christian faith according to theological liberalism.[3] The many writers and activists who have espoused Christian liberalism form a tradition that includes: ones who opposed slavery and the death penalty and supported the rights of women in the eighteenth century[4]; nineteenth-century thinkers, including French public intellectual Félicité de Lamennais[5]; Alexis de Tocqueville; the American writer Orestes Brownson; the French Dominican, Henri-Dominique Lacordaire; English Catholic Cardinal John Henry Newman; English Cardinal Henry Edward Manning; Lord John Acton; and German Catholic Bishop Wilhelm Emmanuel von Ketteler; and thinkers who wrote in the twentieth century, including the Italian priest and politician, Luigi Sturzo; the Dutch Calvinist minister, theologian, and politician, Abraham Kuyper; German political philosopher, Heinrich Rommen; French politician, Robert Schuman; American theologian, John Courtney Murray; French philosopher, Yves Simon; the European

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[3] What I call Christian liberalism understands liberalism to be the doctrine that I just set forth two paragraphs above and Christianity to be the orthodoxy that I set forth in the introduction, most fully, the teachings of the Catholic Church but inclusive of all Christian communities that profess the tenets of the Nicene Creed. Broadly, liberal Christianity stresses the moral teachings of Christianity while doubting or de-emphasizing supernatural teachings, most importantly the Resurrection of Jesus, and rejects certain traditional moral teachings, most commonly ones pertaining to marriage and sexuality. In the thought of John Henry Newman can be seen a rejection of theological liberalism and the affirmation of important principles of political liberalism such as the rights of the person against the state, freedom of conscience, and the local appropriateness of a non-established Catholic Church. In Newman's "Biglietto Speech" in Rome on May 12, 1879, he said, "I rejoice to say, [I confess] to one great mischief I have from the first opposed myself. For thirty, forty, fifty years I have resisted to the best of my powers the spirit of liberalism in religion." See Alvan S. Ryan, "The Development of Newman's Political Thought," *The Review of Politics* 7, no. 2 (April 1945): 210–40.

[4] See Ulrich L. Lehner, *The Catholic Enlightenment: The Forgotten History of a Global Movement* (Oxford University Press, 2016).

[5] Lammenais was a Christian liberal during the middle of his career, roughly from 1828 to 1834.

émigrés who founded *The Review of Politics* in the late 1930s; and French philosopher, Jacques Maritain. In more recent decades, notable advocates of Christian liberalism have included Robert George, Pierre Manent, Nicholas Wolterstorff, Richard John Neuhaus, George Weigel, Michael Novak, Christopher Wolfe, Jean Bethke Elshtain, David VanDrunen, Gustavo Gutierrez, Jonathan Chaplin, John Witte, Mary Ann Glendon, John Finnis, and Peter Lawler. A liberalism of political rights and free markets has emerged in the writings of popes, including Pope Leo XIII's encyclical, *Rerum Novarum*, in 1891; Pope John XXIII's encyclical of 1963, *Pacem in Terris*; the Second Vatican Council's declaration, *Dignitatis Humanae* in 1965, which proclaimed the human right of religious freedom and the principle of equal citizenship; the council's Pastoral Constitution of 1965, *Gaudium et Spes*; and writings of popes St. John Paul II, Benedict XVI, and Francis.

As long as Christians have been liberals, though, they have vied with other liberals who have regarded Christianity as an opponent of rights, freedom, and toleration. Their arguments take the form of "negative secularism," a notion that gained currency in eighteenth-century Enlightenment thought, holding that religion, especially Christianity, is an enemy of liberty and tolerance and that the institutional features of liberalism as I have defined it are only possible when religion is sidelined from politics. This chapter engages negative secularism through the thought of John Rawls, which, because he is the most thorough and influential defender of this skepticism, merits discussion in depth. I argue that negative secularism fails to show that Christianity is inimical to liberalism. Toward the end of the chapter, I consider the justice of making religious arguments in a liberal polity. I turn again to Rawls, who proposed the concept of public reason, an ethic of democratic discourse that would restrict natural law

reasons, and all the more so, supernaturally authorized reasons, and has elicited a following of many other liberals. I argue that only a narrow ethic of public reason may be justified. In the following chapter, I will argue that these principles, in fact, call for, and may even be the best foundation for, liberalism.

Negative Secularism

Why would the justice of right relationship be thought to be illiberal? Because it is religious. Here lies a secularism that would exclude religion from public life. Undergirding it are familiar secular tenets, one that religion is irrational and causes division and violence, and another that religion is declining in its adherents and its influence on modern life. Let us call this secularism "negative," implying that a contrasting "positive" secularism exists – one much like what Pope Benedict XVI called "healthy secularism" – in which religion is welcome, vibrant, and considered salubrious to constitutional liberal democracy. Positive secularism is secular in the sense that no one religion dominates the political sphere, every citizen possesses religious freedom, and church and state are separate and independent in their authority.[6]

Negative secularism views religion as incompatible with liberalism. Recall from the introduction Lilla's argument that liberal politics required the "Great Separation" from political theology inaugurated by Hobbes, and Rawls' similar spirited argument. Many early liberals argued along the same lines. Apart from the outcome of scholarly debates about whether the wars of religion were really about religion, whether the

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[6] See Pope Benedict XVI, "Address to the Participants in the 56th National Study Congress Organized by the Union of Italian Catholic Jurists," speech, Hall of Blessings, Vatican City, The Holy See, December 9, 2006, https://www.vatican.va/content/benedict-xvi/en/speeches/2006/december/documents/hf_ben_xvi_spe_20061209_giuristi-cattolici.html. For varieties of secularism, see Daniel Philpott, "Has the Study of Global Politics Found Religion?" *Annual Review of Political Science* 12 (2009): 187.

Enlightenment is shorn of religion, or whether Hobbes, Locke, or other Enlightenment thinkers were religious or what beliefs they held, what is clear is that a skein of thinkers during this period held that free thought and free institutions required religion's sequestration. Hobbes pioneered this separation, though he was dubiously a liberal, Locke envisions it at least partially, while others asserted it assiduously: Hume, Kant, Mill, Diderot, Voltaire, Rousseau, and Jefferson. The Jacobins enacted Rousseau's script in the French Revolution as did the liberal republicans who pursued the French Revolution's legacy in the nineteenth and twentieth centuries across Europe, in Latin America, in republican Turkey, in the Mexican Revolution, and in post-World War II Arab countries. Harsher than sequestration, the eradication of religion has been the goal of Communist parties and the governments they have led in the Soviet Union, eastern Europe, China, and elsewhere. [7]

Why did these thinkers deem religion inimical to liberalism? Because they thought that religious knowledge was feeble. Humans cannot know reliably the truth about God's actions, including God's revelation, or the meaning of these actions for human conduct. They cannot have warranted confidence that a religious claim is true and still less that this truth can be discerned in common by the members of a political order. Doctrines about these matters are unsettlable.[8] Religious knowledge is

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[7] See Monica Duffy Toft, Daniel Philpott, and Timothy Samuel Shah, *God's Century: Resurgent Religion and Global Politics* (W. W. Norton & Company, 2011), 48-81; Thomas Albert Howard, *Broken Altars: Secularist Violence in Modern History* (Yale University Press, 2025); Daniel Philpott, *Religious Freedom in Islam: The Fate of a Universal Human Right in the Muslim World Today* (Oxford University Press, 2019), 77-113. On Locke and religion, in his *Letter Concerning Toleration*, he argues for partial religious tolerance in the political realm but does not envision religiously or theologically informed goals being pursued in the political realm. Rather, the purposes of the political realm are limited to securing rights of life, liberty, and property. See John Locke, *A Letter Concerning Toleration*, ed. James H. Tully (Hackett Publishing Company, 1983).

[8] This is my interpretation of Locke's view in his *Letter Concerning Toleration*.

enthusiasm, superstition, subjectively spiritual, mere human tradition, or a function of the primitive need for comfort or certainty in the face of calamitous natural forces. Because this knowledge totters, it can only be enforced and cannot survive free inquiry. This was the conclusion that Enlightenment thinkers commonly drew from the period following the Protestant Reformation, when, they thought, a proliferation of theological claims combined with princes' efforts to enforce them in their realm resulted in over a century of civil war and massive bloodletting, culminating in the Thirty Years' War. From public religion ensues the Inquisition. Only negative secularism can undergird liberalism.

A liberalism so grounded will look askance at the justice of right relationship, in which human justice, in morality and politics, reflects divine justice; the natural law, a participation in God, is obliging on all humans and the foundation of all political orders; and the full Gospel, the natural law and the teachings of Jesus, a participation in the Cross and Resurrection, are obliging on Christians, who have a duty to work to realize it in political orders. If liberalism requires a separation from political theology, then the justice of right relationship is illiberal.

John Rawls and Religion

No scholar offers a better case to consider for a negative secular liberalism than John Rawls. Since Rawls's death in 2002, his writings have continued to beckon disciples, fellow travelers, students of his thought, critics who have built their thinking in response to him, and jurists whose opinions bear his imprint – a legacy that few if any other political philosophers enjoy. Scholars widely judge that he is the most influential political philosopher of the past half-century, that his classic of 1971, *A Theory of*

Justice, resuscitated normative political philosophy at a time when it had gone moribund, and that his 1993 book, *Political Liberalism*, stands as a major statement of political philosophy. Rawls is a philosopher of justice, a liberal justice. His career was a quest for a stable and just foundation for liberal democracy.[9]

Rawls offered an extensive and sophisticated answer to the question of religion and liberalism. The world learned after his death in 2002 that he had wrangled with the truth and justice of Christianity as a young man and had arrived at skepticism by the outset of his doctoral studies in philosophy in 1946. He never shook his concern with the question. Religion was latent but important in *Theory of Justice*, I shall argue, and became more and more central and explicit in Rawls' thinking leading up to, within, and in the aftermath of *Political Liberalism*.

Rawls proffers a separation rationale, holding that liberal institutions emerged in history only when political institutions were divorced from religious rationales and that this divorce must persist if liberal institutions are to remain stable and just. A first reading of Rawls may not unveil this antagonism. In *A Theory of Justice,* he endorses religious freedom and a right to conscience and closes the book by appealing to a perspective of *sub specie aeternitatis* to motivate justice.[10] In *Political Liberalism*, he welcomes reasonable religions to join in an overlapping consensus on liberal institutions

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[9] Christopher Wolfe maintains, "[t]he best-known version of liberalism today – indeed the version that is often equated with liberalism simply – is John Rawls' antiperfectionist liberalism," in Christopher Wolfe, *Natural Law Liberalism* (Cambridge University Press, 2006), 9. As stated in a footnote in the prolegomenon to this book, political philosopher Will Kymlicka wrote in 1990 that "it is generally accepted that the recent rebirth of normative political philosophy began with the publication of John Rawls's *A Theory of Justice* in 1971."

[10] John Rawls, *A Theory of Justice* (Harvard University Press, 1971) 587. Even here, though, he writes that "the perspective of eternity is not a perspective from a certain place beyond the world, not the point of view of a transcendent being; rather it is a certain form of thought and feeling that rational persons can adopt within the world."

and insists that his arguments do not impute religious skepticism. Rawls is not a Jacobin or a Kemalist. Yet a closer reading reveals his view that politics ought to be publicly justified only on "political" rationales that are independent of religion (and philosophy), that public argument ought not to appeal to religious (or philosophical) rationales, and that core, traditional doctrines of Christianity are inimical to a stable and free constitutional liberal democracy. Rawls's liberalism is negative secularism expressed gentlemanly.

Justice as fairness is how Rawls describes the conception of justice that he sought to defend over the course of his career. In *A Theory of Justice*, Rawls argued that this conception emerges from a social contract, the concept of Locke, Kant, and Rousseau that he sought to revive at a time when he judged utilitarianism and intuitionism to be the reigning approaches to justice. Rawls developed and refined the social contract through an idea that became a signature of his thought, the Original Position, an imaginary forum whose parties gather to determine principles of justice for a society. The features that Rawls installs in the Original Position are critical to the principles of justice that emerge from the Original Position.[11]

The parties in the Original Position are free and equal individuals. They know certain natural duties, including a duty of justice, a duty of mutual respect, and a principle of fairness. They have a capacity for a conception of the good, meaning a rational plan of life. They know that whatever their conception of the good may be, they require certain "primary goods," including rights and liberties, powers and opportunities, income and wealth, and bases of self-respect. They are rational, meaning

[11] Rawls, *A Theory of Justice*, vii-viii, 11, 17-21. As I argue in the Prolegomenon, Rawls's assessment of the reigning theories of justice ignores neo-Thomist and other theories.

that they want to maximize their position under conditions of equal liberty. Crucially, they reason from behind a "veil of ignorance," a blindness to their class position, their social status, wealth, strength, intelligence, and their society's level of development. Nor, significantly, do they know their conception of the good – their religion, their philosophy, their ideology, or their morality (apart from being free, equal, having a sense of justice, and the like). They only know "general facts about society" concerning economics, politics, and psychology. These are the principles that sculpt the Original Position, ones that model impartiality, fairness, and the dignity and inviolability of the person.[12]

What principles of justice do the parties select? First, "[e]ach person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all." Second, "[s]ocial and economic inequalities are to be arranged so they are both: (a) to the greatest benefit of the least advantaged . . . and, (b) attached to offices and positions open to all under conditions of fair equality of opportunity."[13] Both of these principles comport with the justice of rendering due.

In *A Theory of Justice*, Rawls argues that the principles that structure the Original Position are founded in the thought of Kant. That the parties are free, equal, autonomous in pursuing a conception of the good, and committed to justice are truths that can be known through philosophical reason. Rawls holds that "each person

[12] Rawls, *A Theory of Justice*, 12, 17-22, 74, 108-118, 136-142, 342, 505.
[13] Rawls, *A Theory of Justice*, 60-65. His "final statement" of the two principles in *A Theory of Justice* is found on 302.

possesses an inviolability founded on justice that even the welfare of society as a whole cannot override." These principles are ones that Rawls regards as true.[14]

How does the justice of right relationship look upon the claims of *A Theory of Justice*? It can assent to the principles that people are free and equal and roots these qualities in the dignity, rationality, and free will of the human person; that people have a sense of justice; and that they are committed to fairness and equal citizenship. It also endorses a range of rights and liberties, the equality of opportunity associated with offices and positions, and a commitment to the least advantaged members of society in the principles of justice that the parties select. These principles are rooted in the justice that renders what is due.[15] Yet the justice of right relationship also discovers the absence from the Original Position of certain principles critical to justice to which Rawls has blinded the parties through his Veil of Ignorance. While Rawls acknowledges natural duties, both positive and negative, he does not regard the parties to the Original Position as knowing the wide set of principles of the natural law as outlined in Chapter Eight, ones that every person has the capacity to know by virtue of his rationality, or unaided reason.[16] In the justice of right relationship, the principles of the natural law are the basis of political obligation and of public law. Nor do the parties know the divinely revealed principles that are determinations of the natural law, that Christians are committed to realize in the public realm, and to which people in other traditions are

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[14] Rawls, *A Theory of Justice*, 3, 251-257. What Kant offers is a foundation for the free and equal persons that inhabit the original position. Rawls argues that Kant held that a person is acting autonomously when the principles of his action are chosen as a reflection of his nature as a free and equal being, see Rawls, *A Theory of Justice*, 252. He says, though, that the principles of justice are not self-evident, derived from self-evident premises, or necessary truths, but rather are constructed from the original position, see Rawls, *A Theory of Justice,* 21.

[15] See Chapter Fourteen for an elaboration of the foundation of liberal principles in the justice of right relationship.

[16]Rawls, *A Theory of Justice*, 114-117.

often committed to in analogous form. While the parties may know the general facts about the world's religions (though Rawls does not mention this as part of their background knowledge), they are not committed to any truth about religion, either natural knowledge of religion, the participation of the natural law in the eternal law, or revealed knowledge about divine justice and its relationship to human justice.[17]

The justice of right relationship also entails a notion of the human good that is fuller than what the parties see behind their veil. For Rawls, a conception of the good is any rational plan of life, and happiness is the successful execution of such a plan, one that Rawls insists every individual must be free to determine as he pleases.[18] Primary goods are instrumental to the pursuit of any conception of the good and the entitlement of everyone according to the two principles of justice. The justice of right relationship, by contrast, affirms a range of basic, intrinsically fulfilling, goods that constitute human flourishing. A person might pursue them in a wide variety of ways according to the principle of vocation, but they are objectively fulfilling for everyone and not merely instrumental. Moral principles find their justification in these goods and regulate their pursuit.

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[17] In one of the few passages in *A Theory of Justice* in which Rawls discusses religion, he rejects the notion of a "dominant" end, which he associates with St. Ignatius of Loyola and calls "mad" and "immoral." He looks upon "dominant-end views" as "extreme," fraught with "vagueness" and "ambiguity," "unspecified," lacking in "balancing principles" and the ability to "determin[e] precedence," and, when brought into the political and economic realm, prone to "fanaticism and inhumanity." Instead, he counsels that "human good is heterogeneous because the aims of the self are heterogeneous." See Rawls, *A Theory of Justice*, 553-554. Here is adumbrated the view of religion, indeed of Christianity, that Rawls elaborates on the road to *Political Liberalism*. Does the justice of right relationship affirm a dominant end? It holds that a Christian redirects his pursuit of natural goods to his final end, that is, to God, yet this final end does not negate the fulfilling quality of the multiple basic goods or the binding quality of natural principles and is not to be mandated in the political order. In this justice, a dominant or final end is neither mad nor immoral. On Rawls and the dominant end, see Timothy P. Jackson, "To Bedlam and Part Way Back: John Rawls and Christian Justice," *Faith and Philosophy* 8, no. 4 (October 1991), 423-447.
[18] Rawls, *A Theory of Justice*, 433-439, 548.

Both Rawls's commitment to philosophical truth and his reticence about religion would undergo change on his road to *Political Liberalism,* his book of 1993, in which he revised and integrated a series of lectures that he had delivered between 1978 and 1989 and added a fresh chapter on public reason. He continued to defend justice as fairness, its basis in a social contract featuring the original position and the veil of ignorance, free and equal citizens, these citizens' sense of justice and conception of the good, society as a fair system of cooperation, the two principles of justice, and the liberalism these principles entail. What Rawls rethought is how liberalism is grounded. Reflecting the title of this second major book – the statement of his views on which his thinking would settle – he would now defend a political liberalism and not a philosophical liberalism.

Rawls explains this revision in the preface to *Political Liberalism*:

> [In *A Theory of Justice*,] the social contract tradition is seen as part of moral philosophy and no distinction is drawn between moral and political philosophy. In *Theory* a moral doctrine of justice general in scope is not distinguished from a strictly political conception of justice. Nothing is made of the contrast between comprehensive philosophical and moral doctrines and conceptions limited to the domain of the political. In the lectures in this volume, however, these distinctions and related ideas are fundamental.[19]

Now Rawls would aspire to ground justice in a purely political conception drawn from the "implicit ideas" of a democratic society and not in truths discovered through philosophical reason. This is what is meant by his "anti-perfectionism." What led him to this change? In the same preface, he avers a "serious problem," namely, that "[a] modern democratic society is characterized not simply by a pluralism of comprehensive religious, philosophical, and moral doctrines but by a pluralism of incompatible yet

[19] John Rawls, *Political Liberalism*, expanded ed. (Columbia University Press, 2005), xv. Citations are to the 2005 version of the book.

reasonable comprehensive doctrines."[20] Pending his definitions of reasonable and comprehensive, Rawls essentially argues for the "pluralism of many options" discussed in this book's introduction – not the mere existence but rather the principled permanence of doctrinal plurality. In the next few sentences, he writes of these doctrines as being "incompatible," of the unlikelihood that any one doctrine will be affirmed by "all, or nearly all, citizens . . . in the foreseeable future," of this plurality being "the normal result of the exercise of human reason within the framework of free institutions," of the "fact of reasonable pluralism," and of his formerly "unrealistic" aspiration to base justice on philosophical reason.[21] Over the pages of *Political Liberalism*, he describes this predicament of plurality in similar terms, writing of the "practical impossibility" of agreement, of "the long-run result of the powers of human reason," of "reasonable disagreement," of the "inevitable outcome of free human reason," and of a diversity of thought that can be overcome only by the "oppressive use of state power."[22]

Why, though, is pluralism a serious problem? Why not continue to argue for a philosophy or religion as true and try to convince others of it, as most philosophers have done? Rawls answers with the "problem of stability." He recognizes that stability "has played very little role in the history of philosophy" but thinks that stability is in fact "fundamental to political philosophy."[23] The reason is the permanent and principled predicament of pluralism that characterizes free societies, which threatens the stability of a political order unless a common basis for political life is found. Now the central

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[20] Rawls, *Political Liberalism,* xvi.
[21] Rawls, *Political Liberalism*, xvi, xvii, xix, xx.
[22] Rawls, *Political Liberalism*, xxiv, 3-4, 36-37 54-55, 58, 63, 129, 135, 144.
[23] Rawls, *Political Liberalism*, xvii.

problem of political liberalism is: "How is it possible that there may exist over time a stable and just society of free and equal citizens profoundly divided by reasonable though incompatible religious, philosophical, and moral doctrines?"[24]

Stability, Rawls answers, arises from an overlapping consensus on the political conception among a plurality of reasonable comprehensive conceptions. Comprehensive conceptions are ones that govern all of human life including personal moral character and norms of family, friendship, and other associations.[25] What is reasonable is a matter that Rawls refers to repeatedly over the course of *Political Liberalism*. At one point he defines a reasonable doctrine as one involving theoretical reason, practical reason, and a tradition.[26] Philosopher Leif Wenar argues that five attributes of a reasonable person also define Rawls's concept of the reasonable: possession of a capacity for a sense of justice and for a conception of the good; willingness to abide by fair terms of cooperation; recognition of the burdens of judgment (see below); having a reasonable moral psychology; and having a concept of objectivity.[27] Rawls counts the historical religions and major philosophies such as those of Kant, Hume, Mill, and W.D. Ross to be reasonable conceptions while noting that "irrational, and even mad comprehensive doctrines" also exist and need to be contained.[28]

What is important is that holders of these reasonable comprehensive conceptions agree upon a political conception, a "freestanding" one that is not dependent on any comprehensive conception, is impartial to reasonable comprehensive conceptions, and

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[24] Rawls, *Political Liberalism*, xviii.
[25] Rawls, *Political Liberalism*, 13, 175.
[26] Rawls, *Political Liberalism*, 59
[27] Leif Wenar, "Political Liberalism: *An Internal Critique*," *Ethics* 106 (1), 1995, 37. Wenar identifies these five attributes in *Political Liberalism*, 15-35, 48-58, 81-82, and 110-112.
[28] Rawls, *Political Liberalism*, xvi-xviii.

is not publicly attached to any philosophical justification. Rawls insists that this consensus involves no skeptical judgement about the validity of any comprehensive conception, religious or philosophical.[29] It is only through agreement upon a political conception, though, that stability is possible.

How does Rawls explain the "fact of reasonable pluralism" that creates the problem of stability? Again, he views doctrinal pluralism not simply as a state of affairs but rather as a predicament that arises for conceptual reasons, ones that indeed depend on philosophical judgments of his own. These reasons are what he calls "the burdens of judgment" and amount to "the many hazards involved in the correct (and conscientious) exercise of our powers of reason and judgment in the ordinary course of political life."[30] He lists six of these burdens, which briefly are: 1) conflicting and complex empirical and scientific evidence; 2) deep disagreement over how to weigh relevant considerations; 3) vagueness and indeterminacy in moral and political concepts; 4) the impact of disparate life experiences on assessing evidence and weighing moral and political values; 5) the difficulty of assessing normative considerations on both sides of an issue; and 6) the inevitability and difficulty of selection among the many political and moral values.[31] The burdens of judgment explain the unrealism and virtual impossibility of agreement upon a comprehensive conception of the good and so are "of first significance for a democratic idea of toleration."[32]

Attendant upon Rawls's major revision of his thinking in *Political Liberalism*, his decision to ground justice in a political and not a comprehensive conception, is a second

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[29] Rawls, *Political Liberalism*, xix-xx, 10, 29 n. 31, 150, 154-58.
[30] Rawls, *Political Liberalism*, 56.
[31] Rawls, *Political Liberalism*, 56-57.
[32] Rawls, *Political Liberalism*, 58.

major revision, his far greater attention to religion. In *A Theory of Justice*, Rawls treats religion briefly late in the book in a discussion of dominant ends, and far more significantly omits it from the original position, rendering justice uninfluenced by religious ideas. Rawls opens *Political Liberalism* with a narrative of Christianity's role in the development of liberalism, an opening that is no mere color but rather is integral to his argument for a political conception. Christianity's retreat from prominence in politics, in short, is necessary for the acceptance of the reasonable fact of pluralism and thus for liberalism. Rawls's second major revision supports his first.

Religion in ancient Greece, Rawls argues in the preface to *Political Liberalism*, was a civic religion, one that supported and made few demands of the state.[33] Christianity in the Middle Ages was not a civil religion but rather demanded repression from the state. Five features rendered it thus: 1) it was authoritarian, headed by a papacy that was "institutional, central, and nearly absolute"; 2) it taught and offered salvation, the path to eternal life, and required true belief; 3) it was doctrinal and asked assent to a creed; 4) it was a religion of priests with "sole authority to dispense means of grace"; and 5) it was as a religion of conversion that heeded no territorial limits.[34] In the first lecture (chapter) he states, "the Inquisition was not an accident, its suppression of heresy was needed to preserve the shared religious belief."[35] Rawls doubles down in his *Law of Peoples* of 1999, a global expansion of *Political Liberalism*, which he also introduces with a historical narrative of Christianity. He ties medieval Christianity to the Inquisition: "This persecuting zeal has been the great curse of the Christian religion"

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[33] Rawls, *Political Liberalism*, xxi-xxii.
[34] Rawls, *Political Liberalism*, xxiii.
[35] Rawls, *Political Liberalism*, 37.

and avers that "the evils of the Inquisition and the Holocaust [in Nazi Germany] are not unrelated."[36]

Rawls looks upon the emergence of freedom of conscience and thought as the linchpin of liberalism, the breakthrough that allowed constitutional liberal democracy to arise.[37] How does he think that it came to pass? First, the Reformation took place, challenging the hegemony of the Catholic Church and creating a plurality of salvific religions, but did not spawn freedom: "Luther and Calvin were as dogmatic and intolerant as the Roman Church had been" and the period's rival conceptions of the good involved a "transcending element of the good not admitting of compromise."[38] Freedom of thought and conscience emerged instead when certain thinkers reflected anew about knowledge and the place of religion in it. Rawls points to three questions that they addressed: 1) Is knowledge accessible to some, to a very few, or to every person who is normally reasonable and conscientious?; 2) Does the moral order arise from God's intellect or does it arise in some way from human nature itself?; 3) Do we follow our duties and obligations because of an external motivation – rewards or punishments -- or are we so constituted that in our nature we have sufficient motives? The second answer to each of these questions is the one that Hume, Kant, and other thinkers adopted and that political liberalism affirms, Rawls argues.[39] All of these answers

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[36] John Rawls, *The Law of Peoples* (Harvard University Press, 1999), 21-22.

[37] Note that Rawls toggles in the text between freedom of conscience, freedom of thought, toleration, and freedom of religion. See below.

[38] Rawls, *Political Liberalism*, xxiii, xxvi.

[39] I have shortened Rawls statements of these three questions found in Rawls, *Political Liberalism*, xxvi-xxvii. Rawls insists that "[p]olitical liberalism is not comprehensive liberalism," yet that political liberalism affirms the second alternative to each question.

transfer the basis of knowledge away from religious sources to the thinking of "the ordinary reasonable and conscientious person."[40]

Free inquiry then creates the environment where reason will "run its normal course," the burdens of judgment set in, and the fact of reasonable pluralism takes hold. Rawls writes later in *Political Liberalism* that only "the oppressive use of state power" can overcome the fact of reasonable pluralism and its attendant diversity. He argues, too, that the burdens of judgment give rise to freedom of conscience and thought.[41] Only when Christianity no longer enjoys an enforced monopoly or supplies the rationale for politics is freedom possible.

After Rawls died in 2002, searchers of his files retrieved a statement dated 1997, "On My Religion," which he most likely wrote for his family and friends, did not distribute or publish, and then was published in 2009 in a volume edited by philosopher Thomas Nagel. Just after Rawls's death, scholar of religion Eric Gregory discovered Rawls's senior thesis as a student at Princeton University. "On My Religion" contains a candid account of how Rawls traversed from the orthodox Christian commitments out of which he wrote his thesis in fall 1942 to his abandonment of his Christian faith while serving in combat in World War II by June 1945. What is of interest here is the view of the Christian faith that Rawls came to hold on the cusp of launching his career as a philosopher in 1946. This view comports with the view of Christianity that frames and

[40] Rawls, *Political Liberalism*, xxvi.
[41] Rawls, *Political Liberalism*, 54, 61.

shapes the argument of *Political Liberalism* and of several published writings through which Rawls elaborated this argument until his death in 2002.[42]

What reasons does the aged Rawls give for why the young Rawls left his faith? He cites three incidents from combat in the Pacific – a Lutheran pastor's poor theology of God's providence, the death of a close comrade who was chosen for a dangerous mission in Rawls's stead, and learning about the Holocaust in April 1945. "These incidents . . . affected me in the same way," he explained, not by prompting intellectual doubts, say, about the existence of God, but rather by causing him to question "the ideas of right and justice expressed in Christian doctrines." He elaborated, "[t]o interpret history as expressing God's will, God's will must accord with the most basic ideas of justice as we know them. For what else can the most basic justice be? Thus, I soon came to reject the idea of the supremacy of the divine will as also hideous and evil." While he had left the faith by June 1945, "the following months and years led to an increasing rejection of many of the main doctrines of Christianity, and it became more and more alien to me . . .. I came to think many of them morally wrong, in some cases even repugnant." Among these were doctrines of original sin, heaven and hell, salvation by true belief, priestly

[42] These posthumous publications appear in John Rawls, *A Brief Inquiry Into the Meaning of Sin and Faith: With "On My Religion"* ed. Thomas Nagel (Harvard University Press, 2009). The title of the book is the title of Rawls's senior thesis, which is printed in the book along with "On My Religion." The book contains an introductory essay by philosophers Joshua Cohen and Thomas Nagel that includes a recounting of the discovery of the documents, their decision to publish "On My Religion," and interpretative reflections on Rawls's thought on religion, as well as an interpretative essay by philosopher Robert Merrihew Adams. Regarding "On My Religion," a natural question is to what extent Rawls's memory of his views in the 1940s was shaped by subsequent developments in his life. While one cannot know the answer with certainty, there are reasons to think that in the 1990s Rawls remembered accurately the critique of Christianity at which he arrived in the 1940s. Among these are the specific historical incidents that he recounts moving him away from faith and his study of the Inquisition in the early years of his career, matters which memory is not likely to distort. One also might reasonably ask whether this private document is a darker view of Christianity than what he was willing to write publicly. I argue that his views here comport with his published views in *Political Liberalism* and in *The Law of Peoples*, where his comparison of the Inquisition to Hitler conveys an even darker view of Christianity than what he writes in "On My Religion."

authority, and predestination. These doctrines "depict God as a monster moved solely by God's own power and glory." In the years just after the war, he describes, he undertook to learn about the Inquisition. "The history of the Church," he avers, includes "a story of its long historical ties to the state and its use of political power to establish its hegemony and to oppress other religions." He argues that the denial of "religious freedom and liberty of conscience" are direct consequences of features of Christianity – eternal salvation, the requirement of true belief, and, in the case of the Catholic faith, papal infallibility. "Yet if freedom of religion and liberty of conscience are not questions of faith and morals, what are?," he asks. Rawls continues, "[t]o the extent that Christianity is taken seriously, I came to think it could have deleterious effects on one's character." He elaborates that the Christian's concern for his soul inhibits his commitment to justice – the commitment that led Count Claus von Stauffenberg, exceptional among German generals, to join a plot to assassinate Hitler, for instance. Rawls came to hold that Christianity is unjust as he began half a century of writing about justice.[43]

Rawls's arguments call into question the capacity for the justice of right relationship, a Christian conception based on reason and revelation, to support liberalism. While Rawls admits religious conceptions to his overlapping consensus, and

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[43] Rawls, *A Brief Inquiry*, 265-266. In other words, Rawls holds that Stauffenberg, unlike other German generals, overcame scruples he might have had about killing to engage in a risky attempt to assassinate Hitler. Count Claus von Stauffenberg joined the famous plot of July 20, 1944 to assassinate Hitler. The plot failed and he was executed. Stauffenberg acted out of his Catholic faith. He wrestled with the question of whether he would sacrifice his soul in taking part in the plot but resolved that he could do so with a clear conscience. See Marc LiVecche, "Valkyrie Revisited: Stauffenberg and Tresckow, Consciences in Revolt," *Providence*, August 2, 2019, find at https://providencemag.com/2019/08/stauffenberg-and-tresckow-consciences-in-revolt/.

For a fascinating study of the influence of Rawls's religious beliefs on his later political philosophy, see Eric Nelson, *The Theology of Liberalism: Political Philosophy and the Justice of God* (Harvard University Press, 2019). Nelson argues that Rawls's views in *A Theory of Justice* are rooted in the anti-Pelagianism of his earlier theology.

while he acknowledges in footnotes that the Catholic Church came to support religious freedom at the Second Vatican Council, he judges Christian doctrine, including multiple foundational and enduring teachings, to be inimical to liberalism.[44] He judges as unjust Christian teachings about belief, creedal doctrine, salvation, conversion, heaven and hell, original sin, predestination, eternal life, the duty to preserve one's soul over pursuing justice, the centrality of power in God's actions, the authority of a few to dispense knowledge, the role of external rewards and punishments, God's intellect as a source of morality and, in the case of the Catholic Church, the institutional authority of the papacy, papal infallibility, and priestly authority in dispensing graces.[45] These doctrines demand state repression.

Significantly, all of the teachings that Rawls decries save that of state repression are ones that the Christian church espoused prior to Constantine's conversion in 312 CE, and thus prior to state repression, and that the Catholic and largest Protestant churches have continued to teach long after the Inquisition. These are Christian teachings, not solely medieval Christian teachings. If they were incompatible with liberalism yesterday, then they still must be today. The rationales that Rawls believes supported the rise of

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[44] In places in *Political Liberalism*, Rawls acknowledges the Catholic Church's turn towards endorsing religious freedom in *Dignitatis Humanae*, the Second Vatican Council's Declaration on Religious Freedom of 1965. For instance, in a footnote on page 477 of the paperback edition of *Political Liberalism*, in the essay, "The Idea of Public Reason Revisited," Rawls observes that *Dignitatis Humanae* contains an "ethical doctrine of religious freedom resting on the dignity of the human person." So, to this small extent he recognizes a Christian principle that supports freedom, see Rawls, *Political Liberalism*, 477. Yet, he makes no attempt to assess whether this doctrine is drawn from or consistent with enduring Christian teachings. Rather, he acknowledges the capacity of Christian teachings to evolve over time towards the reconciliation in which they take part in the overlapping consensus upon the political conception.

[45] These Christian teachings are described as Rawls understands them. I would question, for instance, the "duty to preserve one's soul over preserving justice." Readers may note that at least two of these features appear to be contradictory – the role of power in God's action and God's intellect as a source of morality. The first is found in "On My Religion," 264, the second, in the introduction to *Political Liberalism*, xxvi. See Chapter Eight for my argument about the relationship between God's power, his nature, and his actions over and against divine command theories. To be sure, many other questions may be raised about Rawls's theology.

freedom of thought and conscience in the eighteenth century were ones that he believes broke from Christianity. Unsurprisingly, in the introduction to the paperback version of *Political Liberalism*, published in 1996, Rawls clarifies that the main challenge to a just and stable society is not the comprehensive liberalisms of Kant and Mill but rather "religious doctrine that is based on religious authority, for example, the Church or the Bible."[46]

It is likewise difficult to see, though, how a Christian could endorse the view of Christian tenets (and of the claims of many other religions) that Rawls puts forth. Rawls's argument for the fact of pluralism as the "inevitable outcome" and the "normal result" of human reason in a free society, proceeding under the burdens of judgment, is an inescapably epistemological claim, calling into question the knowability of religious claims. To say that religious disagreement is permanent is to doubt that religious knowledge can be reliably apprehended. Christians, like people of all religions, can see plenty of good reasons why universal agreement upon their religion is unlikely any time soon. Yet the broad Christian tradition holds that the obstacles to this knowledge lie neither in the complex, conflicting, or epistemologically challenging character of religious, moral, or political claims and principles, nor in the fixed limitations of the human mind in grasping them, but rather in ignorance and sin, that is, lack of knowledge and obstacles of the will. Both reason and divine revelation are sources of truth. While Christian churches will differ over the range and role of each source, in Catholic magisterial teaching, reason can know truths that belong to the *preambula fidei* – the natural law, the immortality of the soul, and the existence and basic

[46] John Rawls, *Political Liberalism*, xxxvii. This paperback edition was first published in 1996 and was reprinted in 2005, the version that I cite.

attributes of God. Other truths are ones that God reveals, that reason alone cannot know, and to which the Christian assents by faith, assisted by grace, and thereby arrives at a deeper understanding. These include acts of divine justice such as the Cross and Resurrection. Reason and faith collaborate – like wings of a dove, in the words of John Paul II. Reason can establish the probability of historical revelation, most importantly, the Cross and Resurrection, and can help make sense out of doctrines such as the Trinity. Through reason and faith, any person can know these truths reliably.[47]

Embedded in Rawls's writings on religion are not only his doubts about the knowability of Christian tenets but also an interpretation of Christianity as being voluntarist. The role of natural law or of natural knowledge of God, and of determinations of the natural law as stressed by the justice of right relationship, make little to no appearance in Rawls's description of Christian tenets. Rather, Christianity in the Middle Ages was upheld through the power of prelates and priests, their control of knowledge, the repression of the state, and the wielding of rewards and punishments. God himself is moved by power, Rawls wrote in "On My Religion." Once state repression disappears and reason is free from authority, popular consensus will disappear and permanent irresolvability sets in. By contrast, from the perspective of the Christian tradition, ministers and priests, including the pope in Catholic teaching, purport to confirm and communicate what any person can know confidently and reliably about

[47] On reason and faith see Second Vatican Council, *Dei Verbum*, Dogmatic Constitution on Divine Revelation, The Holy See, November 18, 1965, secs. 5, 6, find at https://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_const_19651118_dei-verbum_en.html; and Pope John Paul II, *Fides et Ratio*, encyclical letter, The Holy See September 14, 1998, find at https://www.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf_jp-ii_enc_14091998_fides-et-ratio.html.

God and his actions through reason and revelation. Knowledge is true not because the Church teaches it; rather the Church teaches knowledge because it is true.

Difficulties also attend the historical narrative with which Rawls undergirds his argument for political liberalism. Rawls presents ancient Greece as a site of civil religion from which Christian repression departed, but he overlooks the religious intolerance of classical civilization. While it is true that Greek and Roman rulers did not manage the theology and practice of pagan religions so long as they were loyal, the Roman Emperor and his subordinates persecuted Christians during the first three centuries of Christianity on account of their refusal to take oaths of loyalty to the Emperor and their fealty to a God who was above the Emperor. While persecution was episodic and local up until the empire-wide persecution of the third and early fourth century, at no time prior to the conversion of the Emperor Constantine in 312 did religious freedom (or freedom of thought, beliefs, or conscience) prevail – the very achievement that Rawls charges Christianity with preventing.

More decisive yet, it was mostly Christians who forged religious freedom, the human right to believe and practice religion. Whereas Rawls argues that freedom of thought and conscience, the linchpin of liberalism, emerged through the liberation of politics from the authority of the Christian Church in the eighteenth century, it was in fact centuries earlier that religious freedom first was articulated – by Christians, on the basis of their theology. Political philosopher Timothy Samuel Shah and other scholars have shown that theologians in the early centuries of Christianity articulated a principle of religious freedom as a natural human right – a concept strikingly similar to that articulated today. Witness the second- and third- century theologian, Tertullian, who pleaded with imperial officials that "it is a fundamental human right (*humani iuris*), a

privilege (or inherent capacity) of nature (*naturalis potestatis*), that every man should worship according to his own convictions . . .." Vividly articulating the same principle was Lucius Lactantius, a Christian theologian who served in Constantine's court in the early fourth century. These and other Christian thinkers held that religious freedom was a natural right, rooted in the inward and inherently free character of religious belief. They were spurred to discern this freedom by the New Testament's uniquely strong stress on the freedom and interiority of faith and practice. After Constantine converted to Christianity in 312, he issued the Edict of Milan in 313, granting freedom of religion "both to Christians *and to all others*," thus making legal Lactantius's proposal. Even when the state empowered Christianity, then, it also provided freedom, at least for several decades.[48]

Scholars often locate Christianity's turn toward sanctioning the coercion of religious belief in Augustine's reluctant decision to support the imperial repression of the heretical Donatist sect in 408. Thus ensued fifteen centuries of Christian churches endorsing the state's outlawing of heresy. Yet, through this period, the bishops of the Catholic Church and the most prominent Christian theologians, Augustine and Aquinas, never ceased to teach the free character of faith and never taught that a person could or

[48] See Timothy Samuel Shah, "The Roots of Religious Freedom in Early Christian Thought," in *Christianity and Freedom: Volume 1, Historical Perspectives*, eds. Timothy Samuel Shah and Allen D Hertzke (Cambridge University Press, 2016), 33-61. Shah's quote of Tertullian is on page 52. The italics in the quote from the Edict of Milan are my own. In addition to Lactantius, Shah discusses Justin Martyr and Athenagoras of Athens as early Christian defenders of religious freedom. See also Elizabeth DePalma Digeser, "Lactantius on Religious Liberty and His Influence on Constantine," in Shah and Hertzke, *Christianity and Freedom I*, 90-102; Robert Louis Wilken, *Liberty in the Things of God: The Christian Origins of Religious Freedom* (Yale University Press, 2019) and Peter Garnsey, "Religious Toleration in Classical Antiquity," in *Persecution and Toleration*, ed. W. J. Shiels (Basil Blackwell, 1984): 1-27.

should be brought to faith through force.[49] Why, then, did they and the medieval Church sanction coercion? Because they held that the heretic undermined the unity of a society and polluted the spiritual ecology, leading others further into heresy. Aquinas compared heresy to counterfeit money, which threatened to destroy the spiritual environment.[50] Punishment was reserved for heretics, people who were once Christian and proclaimed false teachings, and for apostates, people who left Christianity, and not for people of other religions such as Jews and Muslims, whose religious practices merited protection.[51] In practice, Christian princes in the Middle Ages often violated this principle when they expelled Jews and Muslims from their territories or engaged in forcible conversions. The medieval Church, though, consistently taught that the faith

[49] *Dignitatis Humanae*, The Second Vatican Council's Declaration on Religious Liberty, reads, "[e]ven if, from the vicissitudes of the pilgrimage of human history, there has sometimes existed, in the life of the People of God, a manner of acting that was less in conformity with the spirit of the Gospel, or even opposed to it, nevertheless the doctrine of the Church that no one is to be forced into the faith has always stood firm," sec. 12. I quote from the translation of Michael Pakaluk, find at https://www.academia.edu/19674778/Dignitatis_humanae_Declaration_on_Religious_Liberty_. For a compelling argument that both Augustine and Aquinas strongly espoused the view that religious belief and authentic practice could not be coerced, see Gabrielle M. Girgis, "The Roots of Religious Liberty in the Thought of Augustine and Aquinas," (MA thesis, Princeton University, 2015).

[50] ST II-II, q. 11, a. 3, resp. A vivid statement of the medieval rationale for repressing heresy can be found in the English statute, *De Haeretico Comburendo* of 1401, cited in John Finnis, "Reflections and Responses," in *Reason, Morality, and Law: The Philosophy of John Finnis*, ed. John Keown and Robert P. George (Oxford University Press, 2013), 573. Finnis writes, "Parliament makes clear that it is acting to assist the 'Church of England' because the [Oxford-based] heretics now troubling the Church by their anti-Catholic teaching and preaching 'may excite and stir [people] to sedition and insurrection, and make great strife and division among the people' . . .." Likewise, historian Brad S. Gregory writes, "[t]he spreading of heresy was religious reckless endangerment by spiritual serial killers. Indeed, heretics were worse than multiple murderers, because their victims lived on to harm others in turn," in *Salvation at Stake: Christian Martyrdom in Early Modern Europe* (Harvard University Press, 2009), 85-86.

[51] ST II-II, q. 10, a. 8, a. 11, a. 12; ST II-II, q. 11, a. 3; q. 12., a. 1.

must be adopted freely and could not be coerced.[52] Finnis points out that the Catholic Church's modern teaching of religious freedom, like that of the human rights conventions, affirms and protects religious freedom yet also limits it by proscribing actions that corrupt public order and morals. For many centuries, Christian churches judged heresy as such an action, one that could be prohibited justly for its social damage. This judgment is what changed. In the modern teaching of the Catholic Church and most Protestant Churches, the heretic, apostate, or dissenter retains her immunity from coercion under her natural right of religious freedom.[53]

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[52] For a balanced picture of the medieval Catholic Church's (1150-1450) treatment of non-Christians and Christians dissenters, see Ian Christopher Levy, "Liberty of Conscience and Freedom of Religion in the Medieval Canonists and Theologians," in *Christianity and Freedom, I,* 149-175. He finds that while freedoms were often curtailed by the standards of the modern West (which I define as the standards of human rights law and of the typical civil rights found in modern constitutions), nevertheless "there remained a consistent recognition of religious freedom secured by both divine and natural law," 150. Papal teaching, medieval theologians, and canonists recognized a natural right of non-Christians not to be forcibly converted; a natural right to practice non-Christian religious rituals; the natural right of non-Christian parents to raise their children according to their religion; other natural rights of non-Christians, for instance, not to be punished without due process of law, to be despoiled of their goods, to be harassed at religious festivals, and to practice self-governance in their lands; obligations of Christians to follow their conscience; and substantial freedom of inquiry in universities. However, the same authorities held that Jews and Muslims who had been converted (even under pressure) were bound to maintain their faith; that certain restrictions could be placed on the conduct of Jews (for instance, one against holding public office) that were thought to threaten the faith of Christians; that non-Christian territories could be invaded if their inhabitants violated the natural law; and that Christian heretics and apostates could be punished for their threat to the common good. In practice, Christians monarchs restricted the rights of and expelled non-Christians from their territories contrary to authoritative norms. The overall point of Levy's analysis, with which I concur, is not to turn a blind eye towards medieval denials of religious freedom and other natural rights, but rather to identify "seeds of freedom" in the teachings and laws of the medieval Church in the form of principles that contain the kernel, or the core rationale, of religious freedom and natural rights – contrary to the claims of Rawls, Lilla, and modern negative secular liberals that freedom is possible only once Christianity (and religion in general) is sidelined. Levy concludes his piece thus: "Returning to the question raised at the outset, can we say that medieval Christendom was a tolerant society? I believe that we can affirm this so long as we do not insist upon making one particular form of tolerance – that of the (post) modern West – the standard by which all other forms are judged. As we have seen, moreover, our medieval forebears did not simply "bear with" non-Christians in their midst or those on their borders to preserve stability in pursuit of the common good (true as that is). They also – more importantly – recognized the fundamental rights that all these people possessed under natural law by virtue of their common human nature. That recognition, however imperfectly observed, surely belongs to the larger tradition of religious freedom in the West that extends into our own day," 171-172.

[53] See John Finnis, "The Church Could Teach That Capital Punishment Is Inherently Wrong," *Public Discourse*, August 23, 2018, https://www.thepublicdiscourse.com/2018/08/39401/. On the Protestant affirmation of religious freedom see John Witte, Jr. and Johan D. van der Vyver, eds., *Religious Human Rights in Global Perspective: Religious Perspectives* (Martinus Nijhoff Publishers, 1996).

Christians also led the modern re-emergence of religious freedom on the basis of their theology. Rawls thought freedom of thought and conscience could emerge from the wars of religion in two ways. Either the combatants would reach exhaustion – a thin *modus vivendi* – or a principled freedom would emerge, which he thought took place in the eighteenth century on the basis of secular philosophy. He might have mentioned a third possibility, that of secular repression, for instance, that of Rousseau, who called for the invention of a civic religion whose apostates would merit death – the script that the French Revolution enacted.[54] What Rawls misses more importantly, though, is that those who proposed the pathway of religious freedom during the sixteenth through eighteenth centuries were most prominently Christians in Germany, Sweden, France, the Netherlands, and England, including both Catholics and Protestants, some of whom proposed religious freedom as early as the 1520s, virtually all of whom were not members of the state church where they lived, and all of whom based their arguments on concepts in traditional Christian theology such as the inward character of faith.[55] As Shah and classicist Robert Wilken argue, many of these thinkers cited the pioneers of religious freedom in the early Christian church who wrote over a thousand years earlier. Shah even discovered in Thomas Jefferson's *Notes on the State of Virginia*, where

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[54] See Jean-Jacques Rousseau, *On the Social Contract*, ed. Roger D. Masters, trans. Judith R. Masters (St. Martin's Press, 1978), 130-131. Rousseau is clear that Catholics would not be tolerated, for they believe that there is no salvation outside the Church, 132.

[55] Robert Louis Wilken, *Liberty in the Things of God: The Christian Origins of Religious Freedom* (Yale University Press, 2019). At the close of the introductory chapter, Wilken sympathetically quotes the political philosopher, John Plamenatz, who "wrote that liberty of conscience arose 'among people who had been taught for centuries that nothing was more important than to have right beliefs . . .. This was, no doubt, the source of fanaticism and persecution, but it was also, I suggest, the source of a new conception of freedom. Liberty of conscience was born, not of indifference, not of skepticism, not of mere open-mindedness, but of faith," see Wilken, *Liberty in the Things of God,* 6. Making the argument that religious toleration and freedom had Christian origins is also Perez Zagorin, *How the Idea of Religious Toleration Came to the West* (Princeton University Press, 2003); and Teresa M. Bejan, *Mere Civility: Disagreement and the Limits of Toleration* (Harvard University Press, 2017).

Jefferson briskly defends religious freedom, marginal handwritten notations of Tertullian.[56] When the Catholic Church finally proclaimed religious freedom fully and explicitly in *Dignitatis Humanae* in 1965, it did so on the basis of natural law and New Testament teachings on the life of Jesus – and cited Lactantius in a footnote.[57] Modern Christian proponents of religious freedom have tapped their tradition and theology to make their case and did not simply take on Enlightenment teachings.[58] Many if not most of these proponents continued to hold Christian teachings about salvation, conversion, and the other doctrines that Rawls believes to beckon repression.

Traditional Christian theology and a historical account of Christianity's support for religious freedom, then, stand sharply at odds with Rawls's claims about knowledge, religion and history, claims that in turn undergird his distinction between political and comprehensive conceptions.[59] Rawls fails to offer reasons for the distinction, however, that do not violate the terms of his own theory. Apart from Rawls' argument that reasoning about morality, politics, and religion is subject to the burdens of judgment, that reasoning about philosophy, morality, and theology in a free society leads to permanent and inevitable irreconcilability, that medieval Christianity was upheld through repression and power, and that liberalism became possible only when reason

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[56] Shah made his discovery examining Jefferson's papers in the Library of Congress. See Shah, "The Roots of Religious Freedom In Early Christian Thought," 57-58.

[57] This footnote (number 7) can be read in the Holy See's English translation of *Dignitatis Humanae,* find at https://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_decl_19651207_dignitatis-humanae_en.html.

[58] Pope Benedict XVI offers a compelling account of the historical road to *Dignitatis Humanae*, arguing both that it took place through a dialogue between the Church and the modern world as well as a retrieval of ideas from the Christian tradition in Benedict, XVI "Christmas Greetings to the Members of the Roman Curia and the Vatican Directorate," speech, The Holy See, December 22, 2005, https://www.vatican.va/content/benedict-xvi/en/speeches/2005/december/documents/hf_ben_xvi_spe_20051222_roman-curia.html.

[59] See also an important account of Jewish thought in early modern Europe in developing modern republicanism in Eric Nelson, *The Hebrew Republic: Jewish Sources and the Transformation of European Political Thought* (Cambridge, MA: Harvard University Press, 2010).

broke free from Christian authority, he lacks grounds for his distinction between the political and the comprehensive. The contents and boundaries of the political conception, far from being philosophically and theologically abstinent and free from controversy, depend inescapably on philosophical, theological, and buttressing historical judgments of the sort that he calls comprehensive. So it must be for any attempt to delineate a political sphere from a comprehensive sphere. It always depends on a criterion for drawing the boundary around, and thus denoting the content of, the spheres. Without a delineation, citizens cannot know where the boundary of the political lies and so cannot reason from and within a political conception. To base this delineation on comprehensive judgments, though, violates the terms of the political conception, which is supposed to be free from just these sorts of judgments.

Wenar states at the outset of his critique of *Political Liberalism*: "The political theory that John Rawls presents in *Political Liberalism* violates Rawls's own restrictions on political theory. The conception of justice that Rawls claims can be the focus of an overlapping consensus will not be acceptable to diverse comprehensive views as we know them and can expect them to become." Wenar adds Rawls's views about moral psychology and constructivism to the set of concepts through which Rawls makes the case for the political conception but which are themselves dependent on comprehensive claims. Wenar concludes that Rawls is a Kantian and that it is through Kantian ideas that he seeks to achieve stability and reconciliation in a liberal democracy.[60] In the end, I argue (though Wenar does not make as strong a claim), it is not possible to avoid

[60] Rawls discusses reconciliation in John Rawls, *Justice as Fairness: A Restatement*, ed. Erin Kelly (Harvard University Press, 2001), 3.

basing principles of politics on pre-political philosophical and theological ideas, as most political philosophers did prior to Rawls.[61]

Rawls's distinction between political and comprehensive is based on philosophical and theological judgments and on ones that the justice of right relationship cannot accept. He would deem much of this justice comprehensive and thus exclude it from political debate. Human justice consists of principles of natural law, which Rawls considers a comprehensive philosophical conception, and of principles that are supernaturally authorized determinations of the natural law, which Rawls would consider a comprehensive theological conception. These are the very principles whose incorporation into politics I advocate. The political order is a subset of comprehensive right relationship but is not partitioned from it by philosophical or theological criteria but rather by a fuzzy and porous line that roughly encloses those matters that public law best coordinates and enforces. Both kinds of principles that constitute human justice qualify for politics. There is nothing inherently destabilizing or unjust about incorporating them, no more than the negative secularist provokes instability or wrings injustice by excluding them.

Public Reason

Religious arguments in the public square elicit still another concern of liberals: Do they destabilize democracy and disrespect fellow citizens? The justice of right relationship is such an argument.

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[61] Wenar might not agree with this sentence. In passages in the piece, he seems to hold out the possibility that a political conception might be constructed successfully on thinner grounds, a conception that is not based on a "partially comprehensive" doctrine. See Wenar, "*Political Liberalism*: An Internal Critique," 33, 61-62.

Again, it is Rawls who has raised this concern most prominently and has done so through his idea of public reason. Rawls is the first modern theorist to propose the idea, though he argues for its roots in Kant.[62] He introduces it in his chapter, "The Idea of Public Reason," in *Political Liberalism* in 1993 and develops it further in a 1997 essay, "The Idea of Public Reason Revisited," which appears in the paperback version of Political Liberalism.[63] Numerous other theorists have followed Rawls in taking up the idea, which is now known more familiarly as "public justification."[64]

When citizens deliberate about political affairs, Rawls reasons, they ought to invoke reasons that belong only to the political conception and not to their comprehensive conception. In this way, they reason publicly. Public reason is the ethic of discourse that corresponds to the political conception of justice.

Public reason, for Rawls, applies to "questions of fundamental justice," which include both constitutional essentials and matters of "basic justice" such as fundamental economic and social considerations. Public reason may invoke all that Rawls includes in his political conception – free and equal citizens, their sense of justice, their capacity for a conception of the good, fairness, reciprocity, the equal liberties, the just distribution of primary goods, and other concepts. The forums to which public reason applies are the actions of government officials, including chief executives and legislators, candidates for office, citizens when they vote, and the Supreme Court, which Rawls considers an exemplar of public reason for its basis on the rule of law. Rawls widens public reason

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[62] Rawls, *Political Liberalism*, 213,. He locates the idea in Kant's famous essay of 1784, "What is Enlightenment?," though he says that Kant's distinction differs from his.

[63] Rawls, *Political Liberalism* (2005), 212-254, 435-490.

[64] For an excellent survey of the concept and its leading authors, see, Kevin Vallier, "Public Justification", *The Stanford Encyclopedia of Philosophy* (Winter 2022 Edition), Edward N. Zalta & Uri Nodelman (eds.), find at https://plato.stanford.edu/archives/win2022/entries/justification-public/.

through a "wide" or "inclusive" view, or "proviso," that allows citizens to voice their comprehensive views so long as these views are consistent with and accompanied by public reasons. He has in mind here abolitionists of slavery, Abraham Lincoln's speeches, and Martin Luther King's leadership of the civil right movement, all of which expressed Christian theological justifications for advancing rights that Rawls considers compatible with the political conception.[65] Rawls stresses that public reason is an ethical concept and not a legal one; he does not propose judicial sanctions for speaking comprehensively in excess of what he proposes is public. Still, public reason is inherently and unmistakably a restrictive ethic.

Public reason's restrictions, like those of political liberalism more generally, are fundamentally directed towards religion. In the 1997 essay on public reason, Rawls rephrases the framing question of *Political Liberalism* as, "[h]ow is it possible for those holding religious doctrines, some based on religious authority, for example the Church or the Bible, to hold at the same time a reasonable political conception that supports a reasonable constitutional regime?" – and adds a few sentences later, "even when their comprehensive doctrines may not prosper under it and indeed may decline?"[66] In the 1993 chapter on public reason, Rawls states strongly, "citizens . . . recognize that, in the absence of a public basis of establishing the truth of their beliefs, to insist on their comprehensive view must be seen by others as their insisting on their own beliefs. If we do so insist, others in self-defense can oppose us as using upon them unreasonable

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[65] See Rawls, *Political Liberalism* (2005), 213, 214-215, 223-224, 227-240, 442-43, 447, 450, 453, 463-465. These citations draw from both the 1993 and the 1997 essays, which appear in *Political Liberalism* respectively as Lecture VI, 212-254, and "The Idea of Public Reason Revisited,"435-490. What he calls the "inclusive view" is from the first essay and the "proviso" is from the second. The two ideas are quite similar.

[66] Rawls, *Political Liberalism* (2005), 458-459. This is quoted from "The Idea of Public Reason Revisited."

force."[67] Similarly, he writes in the 1997 essay that "[t]he zeal to embody the whole truth in politics is incompatible with an idea of public reason that belongs with democratic citizenship."[68] In the revised introduction to the paperback edition, Rawls concludes that religious views pose a special challenge for his central framing question, "how is it possible . . .?"[69]

Public reason aims to achieve the ends of political liberalism. It seeks stability "for the right reasons." Several times in the essays on public reason, Rawls brings up coercion. Given that laws coerce, it is unjust to base them on non-public reasons. In the public reason essays, he also stresses civility, the respect that citizens show one another when they offer reasons that they can mutually accept – reasons that are public.[70]

How does the justice of right relationship look upon public reason? As was true for the Original Position, many of the components of the political conception are ones that the justice of right relationship endorses – free and equal citizens, the sense of justice, basic rights and liberties, fairness, reciprocity, and others. The justice of right relationship accepts that politics is a bounded sphere of activity, one whose ends are distinct from other associations, including the church, and that citizens ought to pursue and argue in terms of the distinctive ends of politics. It also endorses civility. Citizens ought to offer one another reasons for their political proposals that they are mutually capable of apprehending and accepting.

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[67] Rawls, *Political Liberalism*, 247.
[68] Rawls, *Political Liberalism*, 442.
[69] Rawls, *Political Liberalism*, xxxvii – xxviii.
[70] Rawls, *Political Liberalism*, xxxvii, 215, 216, 218, 242, 252, 441, 442, 444, 459.

Yet, the justice of right relationship cannot accept Rawls's proposal for public reason on grounds that run parallel to its objections to political liberalism. It cannot endorse Rawls' distinction between reasons that are public and reasons that are comprehensive. The distinction unduly truncates the sphere of acceptable reason in the public realm and unwarrantedly disqualifies certain principles of the justice of right relationship from public argument. This justice consists in good part of the principles of natural law, ones that any person is capable of knowing through his rational capacity and that bear on the common good. By definition these principles are accessible to all. In this sense they are public. From the perspective of natural law, public reason is indeed a redundant term. Natural law just is public reason. Yet, Rawls regards natural law as a comprehensive conception, one that does not belong to a political conception. Such an exclusion is unjustified. If principles are rational, and if they are relevant to political affairs, they may not be ruled out as unpublic.[71]

Rawls's exclusion of natural law principles from public reason is evident in his discussion of marriage norms. He agrees that the government has a legitimate interest in supporting and regulating the family, especially for its contribution of children to society. To this matter, the justice of right relationship brings its judgments that marriage is a permanent, monogamous union of man and woman, that this union is purposed for the begetting of life, that the sexual act is rightly practiced in this union, and that children normally ought to be raised by a married couple – principles that are corollaries of the sixth commandment, belong to the natural law, and direct the basic

[71] I recognize Rawls's proposal for a "wide" and "inclusive" public reason with a "proviso" that comprehensive reasons are ethically acceptable if accompanied by a public, political reason. Still, the problem of unjust exclusivity persists. If his reasons for distinguishing comprehensive and political arguments are not in the end defensible, then the reason for a proviso also fails.

goods of life and marriage. Rawls judges them to be aspects of a comprehensive doctrine and thus as inappropriate for public reason. Here is what he says:

> [T]he government would appear to have no interest in the particular form of family life or of relations among the sexes, except insofar as that form of those relations in some way affect the orderly reproduction of society over time. Thus, appeals to monogamy as such, or against same-sex marriages, as within the government's legitimate interest in the family would reflect religious or comprehensive moral doctrines.[72]

On what grounds, though, are traditional marriage norms part of a comprehensive doctrine that is inadmissible in public argument? Recall that Rawls's argument is that the principles that belong to a comprehensive doctrine are ones that are subject to the burdens of judgment and thus cannot be known reliably and confidently, at least not to the extent that they may become the objects of a settled consensus. It is only the principles that belong to the political conception that can be expected to become settled in an open, democratic society. Again, though, Rawls's very claim about knowledge, that marriage norms are not reliably and confidently known, is itself one that cannot be reliably and confidently known and is thus not a good candidate to become a settled, consensual doctrine. Millions of people have confidently held the traditional marriage norms (and have not thought the adjective necessary) espoused by societies across time, place, and cultures until recently in the West, and by the Catholic Church, Orthodox Church, and Protestant churches, who have taught these norms as natural law, until some Protestant churches revised their teachings recently in the West, and would resist

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[72] Rawls, *Political Liberalism*, 457. Rawls continues in 458, "Thus, in considering whether to make homosexual relations between citizens criminal offenses, the question is not whether those relations are precluded by a worthy idea of full human good as characterized by a sound philosophical and nonreligious view, nor whether those of religious faith regard it as a sin, but primarily whether legislative statutes forbidding those relations infringe the civil rights of free and equal democratic citizens." In other words, neither philosophical nor religious views are "the question." But if a view proposes to be defensible by reason and relevant to the laws of a political order, why would it not be admissible in public argument?

the bracketing of these norms from the common, public life of their societies. For that matter, the proposition that marriage may comprise members of the same sex rather than a man and woman, and that marriage is neutral towards the sex of its participants, is, too, a comprehensive principle, one governing human nature and the human good, and is far from being an uncontroversial plank of the political conception.[73] Note that the issue at hand is not the correct concept of marriage and sexual morality, an issue that has become controversial in the West in recent decades. No, the question is whether such concepts ought to be or even can be set aside from public deliberation. Rawls' distinction between comprehensive and political conceptions and his contention that public debate about marriage should take place only within the terms of the political conception are themselves controversial and resistant to settlement – and thus violate the terms of his theory.

This problem besets Rawls's argument for public reason. Public reason, like all proposals for public justification, requires a distinction between public and non-public reasons. For Rawls, the content of public reason is the political conception of justice. In the two essays on public reason in the paperback version of *Political Liberalism*, Rawls argues that the political conception includes both principles of justice and "guidelines of inquiry that specify ways of reasoning and criteria for the kinds of information relevant

[73] This is the essence of the argument of Sherif Girgis, Ryan T. Anderson, and Robert P. George in their book, *What Is Marriage? Man and Woman: A Defense* (Encounter Books, 2012). They take issue with the claim that marriage is a neutral entity with regard to the sex of its participants and the nature of their relationship. Rather, two definitions of marriage are in contention in contemporary debates, a conjugal one and a revisionist one. The conjugal view is that marriage is a comprehensive union (mind, heart, and body) between a man and a woman, a biological reality that is ordered toward the procreation and rearing of children and that is governed by norms of permanence, exclusivity, and monogamy. The revisionist view is that marriage is at core an emotional bond between consenting adults who practice whatever form of sexual intimacy they find agreeable and who are not bound to remain in the relationship beyond its service to their emotional fulfillment.

for political questions."[74] Non-public reasons, by contrast, are ones that belong to comprehensive conceptions. Again, Rawls distinguishes the two spheres by his criterion of knowledge. Comprehensive conceptions labor under the burdens of judgment, cannot be settled or known reliably, and so foment instability and incivility. Political conceptions are drawn from the implicit claims of the culture and are thus uncontroversial philosophically and theologically and can garner a stable consensus.[75] Rawls's judgment about comprehensive claims and indeed any judgment about where the line stands between philosophical and comprehensive claims is dependent upon his own epistemological claims – his view about what people can know confidently and reliably. These claims themselves though, are themselves a comprehensive conception. So, Rawls excludes some reasons from being public on grounds that are not public.

The upshot of the analysis of Rawls's widely discussed public reason ethic is that it is difficult to justify restrictions on what sort of reasons citizens may invoke in public argument. Two principles govern the matter. One is that every person possesses dignity as a free and intelligent being, qualities that bear the image of God, and manifests this dignity through reflecting upon the reasons for which he acts, judging what reasons are

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74 Rawls, *Political Liberalism*, 223-224.

75 Rawls makes clear that his distinction between public and non-public reasons follows the distinction between political and comprehensive conceptions. In Rawls, *Political Liberalism*,224-225, he writes, "in discussing constitutional essentials and matters of basic justice we are not to appeal to comprehensive religious and philosophical doctrines – to what we as individuals or members of associations see as the whole truth – nor to elaborate economic theories of general equilibrium, say, if these are in dispute. As far as possible, the knowledge and ways of reasoning that ground our affirming the principles of justice and their application to constitutional essentials and basic justice are to rest on the plain truths now widely accepted, or available, to citizens generally. Otherwise, the political conception would not provide a public basis of justification." Just below on 225-226, he writes, "[i]n justice as fairness, then, the guidelines of public reason and the principles of justice have essentially the same grounds. They are companion parts of one agreement. There is no reason why any citizen, or association of citizens, should have the right to use state power to decide constitutional essentials as that person's, or that association's, comprehensive doctrine directs. When equally represented, no citizen could grant to another person or association that political authority. Any such authority is, therefore, without grounds in public reason, and reasonable comprehensive doctrines recognize this."

sound, choosing a course of action that reflects these reasons, carrying out this action, and expressing his reasons to others – including in political matters. Second, the citizens of a political order have an obligation to respect, support, and promote the common good of that order, at the very least through voting and deliberation with their fellow citizens, and often through other forms of service according to their vocation.

From these principles arise norms of public engagement. First, a person ought to deliberate and advocate in public affairs according to her conscience, the judgment by which he ascertains the moral quality of his actions. To act according to conscience is to exercise one's intellect and one's will and manifest the basic good of personal integrity, an integration between one's words and actions and one's considered convictions. Entailing the capacities and goods that confer dignity on the person, the conscience of every citizen merits the respect of other citizens. If a person holds a position on the common good of a political order that she believes hse is bound to hold on account of what is taught in the New Testament, the Torah, the Quran, the Buddhist eightfold path, or any other authoritative source, she ought not to regard himself ethically restricted in advocating for this position on such a ground, and nor should others regard him in this way. Wolterstorff expresses this principle:

> It belongs to the *religious convictions* of a good many religious people in our society that *they ought to base* their decisions concerning fundamental issues of justice *on* their religious convictions. They do not view it as an option whether or not to do so. It is their conviction that they ought to strive for wholeness, integrity, integration, in their lives: that they ought to allow the Word of God, the teachings of the Torah, the command and example of Jesus, or whatever, to shape their existence as a whole, including, then, their social and political existence. Their religion is not, for them, about *something* other than their social and political existence; it is *also* about their social and political existence. Accordingly, to require of them that they not base their decisions and discussions concerning

> political issues on their religion is to infringe, inequitably, on the free exercise of their religion.[76]

Such restriction, in addition to infringing upon a person's rights, encourages deception and compromises transparency.[77]

Second, citizens ought to practice norms that are commonly regarded as ones of civility, offering reasons for their point of view, listening to the reasons that other citizens give, construing these reasons in the best light, responding to these reasons, and finding common ground to the extent that mutual commitments allow, norms that all arise from respect for the dignity of others as persons and as citizens.[78]

Both principles tell against ethical restrictions on the reasons that people may offer in the public realm. Exceptional would be discourse that directly impugns human dignity, for instance, words that dehumanize grounds of peoples such as Jews, Tutsis, or African Americans, that incite violence, carry out slander, or otherwise violate human rights in their basic utterance.[79]

These general principles are consistent with the justice of right relationship and govern the public deliberation of citizens apart from whether they hold the wider set of principles in the justice of right relationship and whether their reasons are sound, just, or prudent. Do the principles of the justice of right relationship yield further norms of

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[76] Robert Audi and Nicholas Wolterstorff, *Religion in the Public Square: The Place of Religious Convictions in Political Debate* (Rowman & Littlefield, 1997), 105.

[77] See the critique of public reason in Jeffrey Stout, *Democracy & Tradition* (Princeton University Press, 2004), 63-91.

[78] For an ethic of civility, see Eberle's "Ideal of Conscientious Engagement," in Christopher J. Eberle, *Religious Convictions in Liberal Politics* (Cambridge University Press, 2002), 104-105.

[79] This claim gives rise to a host of issues surrounding freedom of speech, for instance, the regulation of hate speech. I do not take up these issues here. It is important to keep in mind that I am discussing the ethics of public discourse and not legal restrictions on speech, matters that are related but distinct. See Christopher J. Eberle's outstanding and authoritative critique of public reason, *Religious Convictions in Liberal Politics*, 103-104.

public engagement that will guide citizens who hold this justice? Recall from Chapter Eight that the justice of right relationship consists of principles that people know in two ways – the principles of the natural law and supernatural principles that are determinations of the natural law. Each kind of obligation calls for a separate ethic of public argument.

Principles of the natural law are ones that humans have the capacity to know – what they mean, that they are obligatory and how they elicit flourishing – through the unaided exercise of their rationality. These include obligations to love God and one's neighbor, to follow the Ten Commandments and their corollaries, and to practice beneficence. Everyone, everywhere possesses the capacity to know the natural law. This knowledge does not require grasp of a philosophical justification, is not inhibited by burdens of judgment, and becomes clouded rather by sin and ignorance, which sometimes suffuse social norms. Because reason is shared by everyone, it is public. Again, natural law just is public reason. Natural law is also the basis of political authority and just laws, as Chapter Nine argued. Reasoning according to the natural law in the public square, then, is under no ethical restrictions.

What about supernatural principles? Are they subject to a more stringent ethic of public argument? Recalling again Chapter Eight, the supernatural principles are determinations of natural law principles that share in the content of these principles while adding more specific content. They are binding by virtue of being declared by an authority, in this case the divine authority of Jesus, and are binding on those who live under this authority, that is, baptized Christians. They are not binding on people who have not accepted the authority of Jesus. The Christian, for instance, is obliged to follow

Jesus's command to forgive whereas a non-Christian is not.[80] Other supernatural principles, taught in the New Testament, include mercy, care, care for the poor, generosity, gift, hospitality, reconciliation, love of enemies, forgiveness, and others. Christians pursue justice by working to realize supernatural norms, along with natural ones, in the political order on grounds of their participation in God's redemption of the world, or his justice, and out of love for their fellow citizens.

Ought the Christian to promote supernatural principles in politics? At issue here is not accessibility, the criterion on which Rawls and other theorists of public justification place strong weight. If accessibility means intelligibility, none of the supernatural principles are inaccessible to a non-Christian. A non-Christian can grasp loving one's enemies and the other principles just as a non-Muslim can grasp the principles of Islamic banking. At issue rather is authority. The principles that are binding by virtue of Jesus' teaching are not binding upon the person who has not accepted his authority. Should a citizen who is bound by a principle by virtue of an authority appeal to that principle in public deliberation with a citizen who is not under the same authority?

Here emerges a norm of public argument: Such a citizen has an obligation to seek out an argument for his political proposal on the basis of principles by which his interlocutors are bound. Should a Christian appeal to a person, a group of people, or a large audience – in a public speech, on the floor of a legislature, in a public debate – that includes non-Christians, he ought to appeal to principles under which his hearers live.

[80] More precisely, a non-Christian may be under the obligation to forgive set forth by a different authority, or may hold that a natural obligation to forgive exists. He is not bound by the authority of Jesus to forgive and to forgive in the manner that Jesus taught.

He ought also, out of conscience and in the name of transparency, to declare his own authority and the full scope of the principle that he invokes. What he ought to seek, then, is an overlapping consensus of reasons by which people under different authorities may endorse a common law or proposal.

A Christian might seek such a consensus in two manners. First, she may find support for her proposals among non-Christians who espouse analogous principles on a different religious or philosophical authority. Let us say that a Christian legislator advocates a permissive immigration policy on the basis of biblical teachings of welcoming strangers. In an effort to persuade a fellow Jewish or Muslim legislator, he seeks out a parallel principle in his colleague's tradition. Often such principles are available. That a position is distinctively Christian does not mean that it is exclusively Christian. The possibility of finding common principles will depend on the traditions and commitments of the Christian's interlocutors in any given circumstance. Are they Jews? Muslims? Mormons? Rawlsians? Such principles usually will be analogous, not univocal, similar to, but not identical to, the Christian's principles. Whether they are similar enough to build consensus for the policy proposal is impossible to determine *ex ante*. Much depends on the content of the particular principles and the interpretive flexibility of the interlocutors. Such is the pragmatism of finding overlapping consensus in politics.

Second, the Christian may seek a consensus on the basis of reasons that are not dependent on religious authority. These may be natural law norms. He may defend his immigration proposal, say, on grounds of beneficence, compassion, or a duty to help that he believes his interlocutor will grasp on the basis of reason alone. Or the reasons may be ones of prudence. He might argue that immigration brings economic growth and

strong families and can mitigate the nation's decline in birth rates. Such arguments are in fact preponderant in politics.

In sum, the justice of right relationship endorses an ethic of public deliberation. Its natural law principles are subject to no ethical restrictions; they are inherently public. When advocating a policy based on supernatural principles – divinely authorized determinations – a Christian ought to seek an overlapping consensus with interlocutors who do not live under the same authority. She may do this by discovering analogous principles in the interlocutor's religious or philosophical tradition or by appealing to reasons that are not tradition-dependent such as natural law principles or prudential reasons. The reason for this norm lies in the role of authority in the Christian's adherence to supernatural principles, not in any claim that religious (or philosophical) knowledge is epistemologically weaker or more burdened than knowledge in a political conception. The justice of right relationship endorses norms of civility and respect that are characteristic of a liberalism of positive secularism, not one of negative secularism. A defense of a positively secular liberalism, the next chapter takes up.

Chapter Fourteen: Defending Christian Liberalism

Not only is the justice of right relationship not inimical to liberalism, but also it provides an especially strong justification for liberalism. So this chapter argues. The last chapter did not argue that Christianity was always liberal, deny the Inquisition, or claim that Christianity is the only historical shaper of liberalism, but argued rather that Christianity contains seeds of liberalism, ideas that serve to justify, yet awaited, the historical development of rights and institutions in political orders. This chapter outlines grounds for liberalism in the justice of right relationship, a positive secularism that is marked by a political order that upholds religious freedom, independent roles and authority of religious and political communities, equal citizenship, and broad liberties, yet in which religion is actively involved, openly expressed, and offers a robust rationale for the order's foundations – in short, the "twin tolerations," as political scientist Alfred Stepan termed the arrangement.[1] It is the natural law principles of the justice of right relationship that ground most of these features of liberalism, but the supernatural principles supplement, heal, and repair them as the chapter exemplifies at its close.

To be sure, the ensuing arguments are bare-boned, making essential claims, and demand – and receive elsewhere – more treatment if they are to be fully defended, address competitors and critics, and find application to the many dilemmas that attend law and politics. The purpose of the present chapter is to show broadly how liberalism can be folded into the justice of right relationship. It carries out the purpose of Part Three, which considers potential criticisms of the justice of right relationship, as the last

[1] Alfred Stepan, "Religion, Democracy, and the 'Twin Tolerations,'" *Journal of Democracy* 11, no. 4 (October 2000), 37-57.

chapter did, and in so doing takes up the opportunity to clarify and expand the justice of right relationship. It is a Christian liberalism for which the chapter argues.

Postliberalism

According to negative secularism, Christianity must be made safe for liberalism by being sequestered from politics. A recent set of critics also views Christianity and liberalism as incompatible but concludes that liberalism must be made safe for Christianity by being revised or replaced. This is the view of postliberal Christianity, which has grown in adherents in the past decade, though having earlier proponents. Its most systematic articulation may be that of theologian David L. Schindler, most thoroughly in his book of 1996, *Heart of the World, Center of the Church*, as well as in his many other writings.[2]

Christian proponents of liberalism, Schindler argues, look upon liberalism as a neutral framework. Much like Rawls, they see it as an open forum among competing conceptions of the good. Many of them rightly decry the underlying secularism of Rawls and his fellow contemporary liberals for constructing what Catholic writer Richard John Neuhaus called a "naked public square" that excludes Christians.[3] Rather, they desire a liberal politics in which Christians and others freely participate: positive secularism. Schindler frequently described American theologian John Courtney Murray, S.J. as such a liberal. In the 1940s and 1950s, Murray argued that Catholics could accept the U.S.

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[2] David L. Schindler, *Heart of the World, Center of the Church:* Communio *Ecclesiology, Liberalism and Liberation* (Eerdmans and T & T Clark, 1996) (non-italics deliberate); see the also the collection of essays in David L. Schindler, *Ordering Love: Liberal Societies and The Memory of God* (Eerdmans, 2011). Two important sources of postliberal thought are John Milbank and Alasdair MacIntyre. Recent post-liberals include Patrick Deneen, Adrian Vermeule, Gladden Pappin, and C.C. Pecknold.

[3] Richard John Neuhaus, *The Naked Public Square: Religion and Democracy in America* (Eerdmans, 1984).

Constitution and its religious freedom clauses as "articles of peace" that allowed them to participate equally in pluralistic political institutions.[4]

Liberal neutrality is illusory, though, argue Schindler and other postliberals. A liberalism of rights, liberties, and institutions is not detachable from philosophical and theological tenets inimical to Christianity. To Schindler, liberalism denies the profound truth about the human person and his relationship to God, which is found in the fiat of Mary: a person receives life as a gift from God and discovers the fullness of life and being in giving himself to others. Liberalism instead proffers an "ontological, (unconsciously) a-theistic, self-centeredness" a view of the person that includes rights that are little more than assertions of self-interest, an economy of acquisitiveness and consumerism, a freedom that amounts to defining one's own morality and existence apart from the moral order, laws of nature that exclude grace, and a privatizing of the Beatitudes.[5] What Schindler describes is akin to and may be summarized as the "sovereignty of the self," the modern separation narrative that replaces the sovereignty of God.[6] The effects? Violence, trampling of the weak and the poor, loneliness, the decline of social ties in friendship, family, church, and community, erosion of the common good, and the denial of Christian conscience.[7] Schindler and other postliberals are often unclear about what political institutions they envision in the place of liberal

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[4] See John Courtney Murray, S.J., *We Hold These Truths: Catholic Reflections on the American Proposition* (Sheed & Ward, 1960), 45-78.

[5] The quote is from David L. Schindler, "*Communio* Ecclesiology and Liberalism," in *A Liberalism Safe for Catholicism?*, ed. Daniel Philpott and Ryan T. Anderson (University of Notre Dame Press, 2017), 355; reprinted from *The Review of Politics*, Fall 1998, Vol. 60, No. 4, 775-786.

[6] See Jean Bethke Elshtain, *Sovereignty: God, State, and Self* (Basic Books, 2008).

[7] On conscience, see David L. Schindler, "The Repressive Logic of Liberal Rights: Religious Freedom, Contraceptives, and the 'Phony' Argument of the *New York Times*," *Communio: International Catholic Review* 38, no. 4 (Winter 2011), 523-547.

ones, but they are clear that liberalism cannot be detached from the sovereignty of the self.[8]

Are postliberals correct that liberalism is necessarily anchored in philosophical and theological tenets inimical to Christianity? While the sovereignty of the self may thrive in modernity, be socially corrosive, and threaten to squash aspects of the justice of right relationship, it is neither the only nor the best ground of liberal rights and institutions. Constitutional liberal democracy is a moral achievement and finds strong – perhaps even its strongest – foundation in the natural law and is fortified by supernatural principles such as the gift of self that Schindler puts forth.

In Catholic magisterial teaching over the past two centuries can be seen both the condemnation of liberal rights and liberties based on philosophical and theological liberalism as well as an evolution towards endorsement of these rights and liberties on grounds of natural law. Nineteenth century popes Gregory XVI (1831-1846) and Pius IX (1846-1878) characterized liberalism and its rights as "absurd" and "erroneous," yet were not condemning liberalism once and for all, but rather rights and liberties justified by the ideology of the French Revolution – the sovereignty of the self and moral and religious relativism, which Gregory XVI termed in characteristically straightforward terms a "shameful font of indifference." They did not rule out that liberalism -- again, one of rights, liberties, and institutions – could be grounded in the Christian truth, especially the natural law. Pope Leo XIII (1878-1903) took up this possibility in his encyclical *Libertas*, where he distinguished between liberty rooted in moral

[8] Michael J. Baxter, "Catholicism and Liberalism: Kudos and Questions for *Communio* Ecclesiology," in *A Liberalism Safe for Catholicism?: Perspectives from the Review of Politics*, ed. Daniel Philpott and Ryan T. Anderson (University of Notre Dame Press, 2017), 337-339.

independence and license, and liberty rooted in truth.[9] At the Second Vatican Council, Christian liberalism triumphed in several documents, most importantly *Dignitatis Humanae* (1965), where the Church endorsed religious liberty as a natural, or human, right based on natural law and human dignity – a basis different from that on which nineteenth century popes rejected liberalism.

Schindler and coauthor theologian Nicholas Healy themselves defend the human right of religious freedom in *Dignitatis Humanae*. Murray, Schindler's nemesis, pioneered arguments for religious freedom in the 1950s and 1950s and is often called the father of *Dignitatis Humanae*. Schindler and Healy argue, though, that it was moral and religious truth, as advanced at the Council by Archbishop Karol Wojtyla of Poland, who later became Pope John Paul II, rather than Murray's "juridical" case for religious freedom, that the Council fathers adopted as religious freedom's foundation in the final text of *Dignitatis Humanae*. Schindler and Healy make a strong case for the natural right of religious freedom grounded in truth, yet do not acknowledge that what they are defending is liberalism.[10] Natural rights, though, are at the core of Christian liberalism.

The natural right of religious freedom is indeed the first feature of liberalism that I argue can be grounded in the natural law portion of the justice of right relationship

Religious Freedom

What U.S. Supreme Court Justice Robert Jackson wrote of religious freedom in 1943, that it is a "fixed star in [the United States'] own constitutional constellation," is

[9] Pope Leo XIII, *Libertas* (On the Nature of Human Liberty), encyclical letter, June 20, 1888, secs. 2, 3, 23.
[10] David L. Schindler and Nicholas J. Healy Jr., *Freedom, Truth, and Human Dignity: The Second Vatican Council's Declaration on Religious Freedom* (Eerdmans, 2015), 39-210.

true of law more widely.[11] The right to religious freedom is the first right to appear in the First Amendment to the U.S. Constitution and was widely viewed as a natural right among political thinkers in the American Colonies by the 1770s.[12] The constitution of every state in the United States enumerates religious freedom. Among the constitutions of the world's sovereign states, 92% contain religious freedom, according to one study.[13] Religious freedom enjoys a prominent place in the Universal Declaration of Human Rights of 1948 and in almost identical language in the International Covenant of Civil and Political Rights in 1966, which expresses well what the right involves in politics:

> 1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
> 2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice . . ..[14]

What the right protects against, the second part names clearly: any sort of coercion of an individual or community's religious belief or practice.

The justice of right relationship follows the Catholic and most Protestant churches today in heartily affirming a right to religious freedom. This right protects religion, the most important form of action in a human justice that participates in divine

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[11] See *West Virginia State Board of Education v. Barnette*, 319 U.S. 624, 630 (1943).

[12] See Vincent Phillip Muñoz, *Religious Liberty and the American Founding: Natural Rights and the Original Meanings of the First Amendment Religion Clauses* (University of Chicago Press, 2022), 23-87.

[13] Political scientist Jonathan Fox reports that 158 state constitutions, 91.9 percent of those that he studied, contain religious freedom clauses in *Political Secularism, Religion, and the State: A Time Series Analysis of Worldwide Data* (Cambridge University Press, 2015), 220-221. The Pew Research Center reports a lower, but still high, result, namely that 73 percent of 197 countries have explicit provisions for religious freedom in their constitutions. See Pew Research Center, "Global Uptick in Government Restrictions on Religion in 2016," June 21, 2018, find at http://www.pewforum.org/2018/06/21/global-uptick-in-gov ernment-restrictions-on-religion-in-2016/.

[14] "International Covenant on Civil and Political Rights," December 16, 1966, find at https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights

justice. Can a Christian conception of justice respect the religious practice of people of other religions? This is the question that liberals of a negative secular standpoint asked during the Enlightenment and still ask today. The human right to religious freedom after all protects the freedom to believe and practice of every person and community. The justice of right relationship, in fact, contains particularly strong grounds for everyone's right to religious freedom. It is a natural, human right.

Rawls is fairly fuzzy about the principle in *Political Liberalism*. In naming the linchpin of liberalism, the principle that cleared the way for liberal democracy by freeing politics from the Christian church, Rawls toggles between liberty of conscience, freedom of thought, toleration, and religious liberty. He does not consider that religious freedom may differ from these other principles or require a distinct justification. If his argument is for one of the first three of these concepts, it is not clear why religion merits a distinct right. If he does hold that religious freedom ought to have a right of its own, as is the case in constitutional and international law, it is not clear on what grounds.

Fuzziness evolves into skepticism among Rawls's legatees. Over the past quarter century, a raft of liberal philosophers and legal theorists have come to call into question the right of religious freedom.[15] They allow that law may protect religious expression but recommend its assimilation into rights of conscience, speech, and assembly. To grant religion a right of its own is unfair. In an article in 2012 entitled, "What if Religion is Not Special," legal scholar Micah Schwartzman reasons, "[r]eligion cannot be distinguished

[15] They include Christopher Eisgruber and Lawrence Sager, Micah Schwartzman, Cécile Laborde, Martha Nussbaum, Brian Leiter, Ronald Dworkin, Jocelyn Maclure and Charles Taylor, Alan Patten, and Paul Bou-Habib. Taylor is generally critical of Rawls, yet makes the argument with Jocelyn Maclure that religious freedom is not a distinct right. For citations and discussion, see Daniel Philpott, "Why Religious Freedom is a Human Right," *The American Journal of Jurisprudence* 68, no. 3 (December 2023): 179-181.

from many other beliefs and practices as warranting special constitutional treatment." He elaborates, "[t]he upshot . . . is that principles of disestablishment and free exercise ought to be conceived in terms that go beyond the category of religion . . .. [T]he law ought to provide similar treatment for comparable secular ethical, moral, and philosophical views."[16] Rawls is the *paterfamilias* of these thinkers, the philosopher who most inspires their commitments.

The justice of right relationship looks differently upon religion. In the eyes of the liberal critics, religion is a set of ideas – beliefs, commitments, doctrines, worldviews – whose qualities do not differentiate religion in a morally or legally relevant sense from non-religious ideas. They may well be right: From the standpoint of the law, why ought these ideas to be privileged with a right of their own? In the justice of right relationship, by contrast, religion is not merely or focally a set of ideas but rather a set of actions, ones that realize a basic human good. So, the obligation to respect the right of religious freedom is justified as the protection of the good of religion.

That religion is a basic human good is an idea found in the natural law tradition. The idea is espoused today mainly by the new natural law school and resonates with the classical tradition, exemplified by Aquinas and Cicero, which looked upon religion as a natural virtue (implying an action that fulfilled humans according to their nature). Insights from this tradition and from contemporary scholars of religion yield four respects in which religion fulfills the meaning of a basic good.[17]

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[16] Micah Schwartzman, "What if Religion Is Not Special?" *The University of Chicago Law Review* 79, No. 4 (2012), 1353, 1355.

[17] Here I summarize my analysis in "Why Religious Freedom is a Human Right," 184-194, where my defense and answers to objections are more extensive.

First, religion is centrally an action – a set of behaviors that people perform for a purpose. Scholar of religion Martin Riesebrodt made this claim in his book of 2010, *The Promise of Salvation*, and sociologist Christian Smith elaborated it in his book of 2017, *Religion: What it Is, How it Works, and Why it Matters*.[18] Action is different from mere beliefs, though beliefs may motivate and inform action.

Second, religion is definable. While many religious studies conferences have doubted this, Riesebrodt and Smith propose a definition that I accept and adapt, which revolves around practices that seek right relationship with a superhuman power. Superhuman means that the power exists apart from and is not the creation of humans who interact with it, including God, gods, spirits, and even ancestors. This inclusive definition does not negate what the justice of right relationship affirms, that reason can know the existence and basic attributes of a creator God, but rather allows that other superhuman powers may be the subject of religion's right relationship. Relationship here conveys a two-way pair of movements through which humans undertake acts directed towards the superhuman power – worship, prayer, repentance, supplication, adoration, and veneration – and the superhuman power carries out acts directed towards the human – blessings, deliverance, punishment, salvation, enlightenment, and answers to prayer. While religion is centrally a matter of practices, it also involves beliefs, community, and a cadre of clergy or analogous specialists. Here is a definition that I proposed in a previous writing:

> [Religion is] an interconnected set of practices through which people seek right relationship with a superhuman power. Through the superhuman

[18] Martin Riesebrodt, *The Promise of Salvation: A Theory of Religion*, trans. Steven Rendall (University of Chicago Press, 2010); Christian Smith, *Religion: What It Is, How It Works, and Why It Matters* (Princeton University Press, 2017).

> power, people find answers to ultimate questions and help in the real circumstances of their lives, including everyday matters. Religious practices are premised upon and connected to a set of beliefs. Religion involves rituals of worship, a community, a corps of specialists, and a variety of norm-governed practices, including discursive practices, behavior-regulating practices, and a moral code, all of which reflect right relationship with a superhuman power.

On this definition, religious practices may be found in the traditions of Judaism, Christianity, Islam, Daoism, Jainism, Sikhism, Buddhism, Shintoism, Hinduism, Zoroastrianism, and Baha'ism.[19]

Third, religion realizes good. Right relationship with a superhuman power is good in the two senses that Chapter Two argued that all right relationship is good – it is both intrinsically good and begets other goods. In the religions just enumerated, right relationship with God or another superhuman power is an intrinsic good. In the Christian tradition, union with God is the goal of life and is to be sought for its own sake. Other religious goods can be thought of as expressions or fruits of right relationship – say, an answer to prayer or a sense of joy and peace. These other goods are often basic human goods in themselves and multiply what is protected by the right of religious freedom.

Fourth, religion is universal. This is true first and foremost in the sense that religion is a good for the human being *per se*, but is corroborated by historical evidence showing religious practices across some 25 centuries and on every continent. The Pew

[19] See Philpott, "Why Religious Freedom Is a Human Right," 188-189.

Research Center found in 2012 that 84% of the world's population identifies with a religious tradition.[20]

That religion is an intrinsically fulfilling good, realized through the practices through which a person seeks right relationship with a superhuman power, renders it a distinct kind of activity, one that humans have prized maximally and that merits a right of its own. Why, though, ought religious freedom and not just religion to be protected? Because religions esteem interiority, the exercise of the will, mind, conscience, and heart. Interiority already resides in the very concept of action, which takes place through the free will and is directed towards the religious end, but is also essential to particular acts of religion such as prayer, worship, and many virtuous deeds whose authentic exercise involves free will and deliberate intention. Each of the religious traditions listed just above exalts interiority. Consider the Jewish Shema: "[Y]ou shall love the Lord your God with all your heart and with all your soul and with all your strength" (Deut 6:4-5). If interiority makes religious acts genuine and worthy, then the freedom of every person to make choices about his religion merits respect and protection.

Interiority implies further that the search for, investigation of, rejection of, and efforts to persuade others of religious truth ought to be protected. All of these are free acts that exercise a will towards religion and are in different senses necessary for the genuine and free practice of religion. To respect these acts is to respect the dignity of the human person, a being who has an interest, even a duty, to search out the truth about

[20] Pew Research Center, "The Global Religious Landscape," December 18, 2012, https://www.pewforum.org/2012/12/18/global- religious-landscape-exec/. For a thoughtful critique of this study, see Judd Birdsall and Lori Beaman, "Faith in Numbers: Can We Trust Quantitative Data on Religious Affiliation and Religious Freedom?" *Transatlantic Policy Network on Religion & Diplomacy*, June 22, 2020, 2-4.

the most important questions, and who conducts this search authentically when she conducts it freely.

The natural right of religious freedom, in a Christian conception of justice, is confirmed by revelation. *Dignitatis Humanae* defends religious freedom first through natural law and then through revelation. Attesting to the inherently free character of the act of faith, Jesus Christ and his apostles never coerced faith or asked the civil authorities to coerce it, but always proclaimed it and peacefully invited their hearers to follow in it. "Religious liberty is the perfect counterpart, in the context of human society, to the liberty of the act of Christian faith," *Dignitatis Humanae* reads. Christ also established the Church, investing in it an integrity and sanctity that demands the respect of others. Here lies a Christian liberalism: The teaching of Christ confirms respect for a freedom that characterizes the act of faith and that the Christian Church rightly claims, but that also, on the very basis of this freedom, is due to people and communities of every religion.[21] Contemporary liberals, by contrast, regard religion's universalism as a danger to rights yet no longer wish to grant a right that would protect everyone from dangers to their religion. Which is the more liberal justice?

Independence of Religion and State

The institutional independence of religion and state, their mutual autonomy of both bodies in exercising their authority, is also an indispensable component of liberalism and of modern constitutional democracy.[22] It demarcates these regimes from medieval Europe and other traditional societies where religious authorities seek the

[21] *Dignitatis Humanae*, Declaration on Religious Freedom, Second Vatican Council, The Holy See, December 7, 1965, sec. 9, trans. Michael Pakaluk.
[22] For a more extensive definition, see Toft, Shah and Philpott, *God's Century*, 37.

state's enforcement of its doctrine and themselves exercise temporal authority and constitutional prerogatives, and where emperors, kings, and princes strongly regulate, intervene in, and support religious communities and their members. In practice, a wide variety of church-state relationships exist today in constitutional democracies. Political scientist Jonathan Fox reveals this variety in his assessment of relationships between religion and state in 183 countries according to 139 variables that measure ways in which governments support, restrict, or discriminate against religion. Yet he also shows that constitutional liberal democracies as a group contain sharply more separation between religion and state than non-liberal democracies – and that the United States contains the largest level of separation in the world.[23]

The justice of right relationship defends the independence of religion and state as the set of mutual rights and duties that state authorities and religious authorities have vis-à-vis one another, and grounds these rights and duties on the distinct ends, the distinct forms of common good, and the distinct aspects of right relationship that each association seeks. That two authorities exist, each with their proper ends and prerogatives, is a form of relationship between religion and state that has a strong pedigree in the Christian tradition. Its seed is found in Jesus' command to "repay to Caesar what belongs to Caesar and to God what belongs to God" (Matt 22:21). Pope Gelasius expressed it as "two there are" in his letter to the Emperor Anastasis I in 494, explaining that spiritual and temporal authorities are each necessary and entitled to their rightful actions. The spiritual is the superior of the two, its end being eternal salvation, but its superiority confers no right to exercise or curtail the prerogatives of the

[23] Jonathan Fox, *A World Survey of Religion and State* (Cambridge University Press, 2007) 338, 343-350, 359-360.

temporal authority. As William McCormick argues, Thomas Aquinas adopts this Gelasian combination of primacy and dualism in his work, *On Kingship*, the "mirror for princes" that he penned for the King of Cyprus between 1265 and 1266. Although Aquinas's approach was prominent and has proved enduring, it was neither unique nor dominant in the Middle Ages, McCormick explains, and was flanked by a doctrine of papal supremacy and an Aristotelianism that renders the temporal realm wholly autonomous.[24] Gelasianism is ever fragile today, confronted on both sides by Islamist regimes such as Iran's and hostile secular regimes such as those of China, Vietnam, Uzbekistan, and Eritrea.[25]

What are the ends that each authority seeks, the goods that each association brings about? Chapter Nine argued that the purpose of temporal authority is to promote the common good of a political order through public law and governmental authority. The purpose of religious associations and authorities also has a basis in natural law. It is to promote their members' natural religious end, right relationship with a superhuman power, through the actions through which they seek this end, actions that are ones of justice. These actions, including worship, rituals, prayer, education, works of charity, recreation, and communication to the larger world, often take place communally and require houses of worship, schools, and access to public means of communication.[26]

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[24] William McCormick, SJ, *The Christian Structure of Politics: On The* De Regno *of Thomas Aquinas* (The Catholic University Press, 2022), 206-212, 231-232.

[25] For an excellent typology of religion-state relationships, see Paul Marshall, "The Persecution of Christians as a Threat to Freedom," in *Christianity and Freedom*, vol. 2, *Contemporary Perspectives*, ed. Timothy Samuel Shah and Allen D. Hertzke (Cambridge University Press, 2016), 375-399.

[26] The human rights conventions, the Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights, and *Dignitatis Humanae*, recognize the communal dimension of religious liberty. See Richard W. Garnett, "'The Freedom of the Church': (Towards) an Exposition, Translation, and Defense," *Journal of Contemporary Legal Issues* 21, no. 1 (2013), 33-47.

Just as religion is widely found across time and space, so too is a duality of religious and political authority – not necessarily a healthy and mutual respect, but rather the presence of the two together. Even while emperors and kings across history have been invested with divine qualities, rarely do they fuse all spiritual and temporal authority. Ancient Israel had kings and priests, the Roman Empire, emperor and priests, traditional Japan, Shoguns and priests, and so on, across an astonishingly wide array of societies.[27] Both authorities and both communities are natural, rooted in natural ends.

In the case of the Christian church, the natural duty of religion is supernaturally directed through God's revelation in Jesus Christ. The end of the church, the *ecclesia*, or assembly of people who form a body whose head is Jesus Christ, is the salvation of the human race. Salvation, the saving action of God, is divine rectifying justice, and the Church is the incipient Kingdom of God, which is ordered to justice.[28] While Christian churches differ in their claims about indivisible and visible elements, hierarchy and sacraments, all claim to be a community founded by Christ and so merit respect and freedom.

The mutual rights and duties of religion and state flow from their mutual ends. The state has a duty to respect religious communities and to protect them from the assaults or wrongful interference of others – essentially, to uphold the communal dimension of religious freedom. It also has a duty to support the practice of religion, providing the conditions for its flourishing and contribution to the common good.[29] This might mean, according to the circumstances of each country, adopting zoning or

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[27] See, for instance, S. N. Eisenstadt, "Religious Organizations and Political Process in Centralized Empires," *The Journal of Asian Studies* 21, no. 3 (1962): 271-294.
[28] See Matt 6:33; *Compendium of the Social Doctrine of the Church*, secs. 52-55, 63, 325.
[29] *Dignitatis Humanae*, sec. 5.

registration laws that favor religious activity, funding religious schools, legislating religious holidays, or refraining from such funding or legislation, but always upholding the autonomy of religious communities in their basic activities.

Religious authorities likewise respect the right authority of the state. In the Bible (Rom 13:7), Paul exhorts Christians to give temporal authority its due – taxes, toll, respect, and honor. Religious officials refrain from holding standing political offices or constitutional prerogatives, from asking the state to enforce its doctrine or practice against anyone, including baptized Christians in the case of churches, or seeking privileges for its members that violate the principle of equal citizenship. The end of religious communities, though, does not proscribe their interest in the political order. In this case of the Christian Church, this interest derives from their end of salvation. Salvation is divine rectifying justice, which restores all human justice, which includes political orders. So, the Church teaches its justice to its members, all of whom are bound to pursue political action of some kind. Through the speeches, statements, and writings of trained clergy, the Church offers teachings about justice in general and about aspects of justice such as race, immigration, and war, to the entire political order. Church authorities sometimes speak to the state, in favor or in denunciation, about particular actions of political officials, and have paid for this speech with their lives. The Church, both clergy and laity working in the Church, performs works of mercy, usually service to the poor, immigrants, refugees, and the like, that are acts of justice in politics, bearing on law and policy. Finally, it is through the Church that Christ offers himself to its members in the Eucharist. Christian churches differ in their understandings of the Eucharist, or communion, but it is justice insofar as it is Christ's act of sacrifice – divine rectifying justice – presented to his people, who, in receiving it, are conformed to this

justice and come to perform it. In all of these ways, the Church is a leaven, but not a holder of authority, in the political order.[30]

When God has completely restored justice, what will be the status of these two authorities, each of whom upholds and restores justice in its own way? The state will disappear. The role of political authority and its laws in coordinating and enforcing human justice – this instrumental version of the common good – will no longer be necessary. Both sin and the social limitations of finiteness will vanish. The other form of the common good, civic friendship, or right relationship between people who have collaborated for goods in the political order, by contrast, will persist. Like all true human goods realized on earth, this good, friendship, along with the further goods that it yields, will be found perfected in heaven. One of the Bible's images for heaven is a city, or a New Jerusalem, where civic friendship will be perfected in a new citizenship.[31] It is the Kingdom of God, one and the same as the community of the Church, that will remain, be completed, and subsume the good of civic friendship and all forms of earthly community. It is in this sense that Pope Gelasius and Aquinas thought that the Church's end is superior to the state's. Here, two there are, there, one there is.

Both religious freedom and the independence of religion and state not only find support in the justice of right relationship but find even stronger support than in theories that do not recognize the distinctive good or salubrious social value of religion. The same justice offers strong support for other features of liberalism, which I aim to show briefly.

Other Rights

[30] See *Gaudium et Spes*, sec 42.
[31] Gal 4:26; Phil 3:20; Heb 11:10-16; 12:22; Rev 3:12; Rev 21:2; Rev 21:9-10.

Not only religious freedom and the mutual rights of religious associations and the government, but also the broad range of rights that typically inhabit constitutions and international law, find a grounding in moral principles, basic human goods, and human dignity, the combination of commitments found in the natural law portion of the justice of right relationship. How these commitments ground rights, Chapters Five and Eight describe. In short, human dignity, which basic goods manifest, gives rise to the rights of its bearers and to moral obligations on the part of others. Philosophies of liberalism that are based on the freedom and equality of individuals but do not affirm basic human goods, by comparison, are less able to justify particular rights, as are ones that defend rights as instrumental to other goods and states of affairs. Rights are not prior or indifferent to the good but are rather based on the good. This pattern of justification grounds liberalism in the justice of right relationship and makes the case for particular rights.

For instance, the rights that guard communication – free speech, press, conscience, and expression – are based on the basic goods of knowledge of truth and of interpersonal harmony, or human sociability.[32] Through speech and other forms of expression, people aim to acquire and purvey knowledge in pursuit of truth. Because knowledge is highly social, acquired and purveyed with and towards others, people also realize the good of interpersonal harmony through communicating knowledge (including civil forms of opposition). Truthful knowledge is both an intrinsic good and

[32] The argument here follows Christopher O. Tollefsen, "Rights Through Obligations: The Case of Free Speech," *Public Discourse*, November 20, 2015, https://www.thepublicdiscourse.com/2015/11/15304/; Andrew T. Walker and Kristen Waggoner, "The Unchained Word: A Public Theology of Free Speech," *Themelios* 50, no. 3 (December 2025): https://www.thegospelcoalition.org/themelios/article/the-unchained-word-a-public-theology-of-free-speech/; and Robert P. George, *Making Men Moral: Civil Liberties and Public Morality* (Clarendon Press, 1993), 192-199.

instrumental to other goods, and brings about right relationship in its three dimensions – with God, with others, and within the self. Because people realize the basic goods associated with communication rationally and freely, involving intention, judgment, and conscience, they have a right to this acquisition and purveyal. If prevented or punished, they would be violated in their dignity.

In the political order, the communication of knowledge pertains to the common good as promoted by both law and government. There, people advocate, persuade, oppose, judge, learn, and communicate in collaborating, acquiring technical expertise, and coordinating governmental activity. In politics, these pursuits are good in themselves – knowledge of the truth about justice, friendship in deliberating about laws, for instance – as well as instrumental to other ends such as winning a battle or an election. Rights of speech, press, and the like protect both dimensions of goods. The most famous defender of the instrumental value of rights is nineteenth-century philosopher, John Stuart Mill, who argued that liberty of speech and expression would best produce truth about social policy, promote progress, protect against error, spur personal development, and protect unpopular but potentially truthful opinions.[33] These rights also protect citizens against politicians' curtailments of speech based on political and financial interests, to which they are highly prone. Yet instrumental rationales alone do not ground communication rights nearly as well as do basic goods, which cannot be trumped by assertions of superior countervailing or emergency interests, the sort that political authorities typically invoke when silencing and censuring.[34]

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[33] John Stuary Mill, *On Liberty* (Macmillan Publishing Company, 1956).

[34] Rights of communication (speech, etc.), of course, involve questions such as what limitations can be justified. Here, the task is only a brief consideration of the core rationale for these rights in the justice of right relationship.

Many other rights find justification in the securing of basic human goods: the right to life, life; the right against torture, the integrity of mind and body (a form of personal harmony); the right to education, knowledge. Rights exercised in groups are also justified by goods – the good of interpersonal harmony and in some cases an additional good that the group realizes. A university has rights on account of its collaborative pursuit of knowledge, a hospital, its collaborative pursuit of health, and a family, its realization of the goods of marriage and begetting of children. Not all rights are justified by their direct protection of goods, as Chapter Eight argues. The right to private property, a natural, human right, secures the condition (stability of ownership) for the pursuit of further basic goods. Goods justify this right, but in a more indirect, derivative sense.

Equal Citizenship

Equal citizenship, a core principle of modern liberalism, is supported by the justice of right relationship. Whatever rights and duties every member of the political order possesses, she possesses them equally, including opportunities to seek public office. Nobody is more or less privileged in her rights and duties by virtue of her religious affiliation, class, social rank, sex, race, ethnicity, or nationality. Historically, liberal orders have left behind religious tests for office and any sort of minority or "dhimmi" status for members of some religions. That *Dignitatis Humanae* affirms equal citizenship along with religious liberty speaks to the close connection between liberty and equality.[35] The rationale for equal citizenship is the natural law that grounds political authority and law. Aquinas argued that political authority was thus grounded in

[35] *Dignitatis Humanae*, sec. 6.

the *Treatise on Law* and *De Regno* during the high Middle Ages, long before the Enlightenment. If the moral principles that govern politics, the goods that justify them, and the dignity of the human person are universal and based on qualities that every person shares, then everyone is equally entitled to the rights and privileges, and equally bound to the obligations, to which they give rise. The supernatural principles, too, whose public advocacy I address below – hospitality, care, forgiveness – are envisioned to be enacted and applied equally to citizens.

Liberty

Liberals extol liberty and many view it as their greatest triumph over *ancien regimes* that punished unwelcome writings, wayward religious behavior, unorthodox scientific inquiry, and subversive speech. To depart from the *ancien regime* and its real and alleged suppressions, though, is not to depart from the true and permanent tenets of Christianity, not least the principles of the natural law, which ground the liberty of persons and associations in their own unique and strong way.

The first respect in which the justice of right relationship protects liberty is in its endorsement of certain rights. As is true for freedom of speech, many rights are liberty rights (a Hohfeldian incident), granting their holders permission to carry out certain activities should they choose. In granting rights to every citizen, constitutions construct a substantial sphere of liberty.

A second way in which the justice of right relationship endorses liberty is in its respect and support for the Vocational Principle. Every person's choice of vocation involves one of an infinitely wide combination of basic goods, certain pathways for pursuing these goods, and a reliance on experience, circumstances, judgments,

relationships, and, for the religious person, divine guidance. Governments rightfully provide the conditions for people to pursue vocations – a freedom of non-interference as well as enabling primary goods – but wrongfully seek to direct these pursuits. They lack the competence for this direction. Analogously, governments establish and protect the market through property rights but leave producers and sellers to make millions of decisions regarding production, employment, pricing, and sales, for which they possess the confidence.[36] So, too, governments confer the right "to pursue happiness."

A third argument grounds liberty more fundamentally in a basic good, an intrinsic form of fulfillment, that is an aspect of right relationship in the self. It is practical reasonableness, which might also be called self-direction or self-constitution.[37] This is the good of a person's free, reflective, deliberate decision to pursue actions to bring about his fulfillment and thereby to constitute himself, to form his character, and to become the person that he envisions himself to be. This good that would be denied were a person a robot programmed by another to pursue the same actions but without his deliberation and choice; that parents seek in raising children to be adults who will take responsibility for their lives; and that the principle of subsidiarity teaches in affirming persons, families, and firms in the direction of their lives and affairs and decrying their being subsumed, controlled and smothered by giant combines. This good is an additional basis for liberty.

Self-directedness does not mean self-definition and differs from the principle of autonomy that contemporary liberal philosophers commonly espouse – the capacity to

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[36] Moschella, *Ethics, Politics, and Natural Law*, 129-130.
[37] Finnis, *Natural Law and Natural Rights*, 95-133; Moschella, *Ethics, Politics, and Natural Law*, 28-29 130-132.

form and pursue a conception of the good life that the individual determines and that is unspecified by intrinsic goods and undirected by the principles that govern the realization of these goods. This autonomy asserts the self's definition of and sovereignty over his good.[38] While advocates of this autonomy claim to be open-ended and epistemologically restrained, they proffer a strong substantive view of the person, one whose good may arise from his desires but is not necessarily integrated with his reason.

The liberty that practical reason bids is based on the just pursuit of true goods yet carries the risk that people will use it to choose against the good. Principled liberty neither guarantees nor is indifferent to these choices. Its purpose is rather to chisel out a sphere for people to pursue the good through their reflection and deliberation – that is, in the most genuine way possible.

Virtue

Political philosopher Peter Berkowitz notes at the outset of his book, *Virtue and the Making of Modern Liberalism*, that in a standard historical narrative, ancient and medieval political philosophy viewed excellence and virtue as the end of politics and modern liberal philosophy, freedom. Berkowitz argues, though, that far from shedding virtue, modern liberal philosophers from Thomas Hobbes to Stephen Macedo have welcomed virtue for sustaining the political orders that they advocate.[39] How does the justice of right relationship, a Christian conception, look upon virtue? Is this justice

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[38] Rawls, for instance, considers one of the two moral powers to be "[t]he capacity for a conception of the good," which is "the capacity to form, to revise, and rationally to pursue a conception of one's rational advantage or good," in Rawls, *Political Liberalism*, 19.

[39] Peter Berkowitz, *Virtue and the Making of Modern Liberalism* (Princeton University Press, 1999), 3-7; William A. Galston, *Liberal Purposes: Goods, Virtues, and Diversity in the Liberal State* (Cambridge University Press, 1991); Stephen Macedo, *Liberal Virtues: Citizenship, Virtue, and Community in Liberal Constitutionalism* (Clarendon Press, 1990).

liable to compel virtue, as a strand of liberals charge Christians? Or is virtue and its prudent public promotion consistent with liberal politics?

I have argued that virtue, the disposition to right action, is much the same as right order in the self, one of three dimensions of the justice of right relationship. While justice is performed through external action, as when Albert pays his bills or taxes, absent internal assent an aspect of justice is missing. A just person obeys laws and contributes to the common good because they embody justice.

That virtue fortifies political action seems common sense. Can one imagine compliance in matters of taxation, traffic, voting, and environmental cleanliness, let alone the resolution of scores of collective action dilemmas, and still more the performance of imperfect obligations such as military service, careers in government, and community service on the sole basis of narrow external incentives – economic gain, political power, or fear of sanction? "Liberalism, I shall suggest, can no more do without virtue than a person on a diet can survive without food and drink," writes Berkowitz.[40]

That government ought to inculcate virtue, at least the public virtue that disposes people to obey and serve just institutions, is also common sense, even to a fervid libertarian. Every time a government official exhorts patriotism, care, obedience, service, sacrifice, or the wisdom of a proposal for the common good, she aims to change or amplify citizens' stable and considered dispositions, their virtue. Laws are pedagogical in their potential to lead citizens to adopt their rationale through habitual obedience and reflection. Schools are the quintessential forum for inculcating public virtues, which governments shape directly in the case of public schools and indirectly in

[40] Berkowitz, *Virtue and the Making of Modern Liberalism*, 4.

setting standards for private schools. Few would dispute that governments are also limited in their ability to form the virtues of their citizens. The most efficacious incubators of virtue are families and religious communities, which merit autonomy in liberal polities.

The most genuine and heated controversy over virtue in liberal politics pertains to the public promotion of private virtue – dispositions towards actions that take place outside the legitimate sphere of government and law. The boundaries of the private are themselves disputed. Pornography and recreational drug use are walled in their practice yet socially costly. Still, much action is indisputably private, rightly taking place within families, friendships, religious communities, and innumerable other relational spheres. Recognizing that politics occupies a subset of comprehensive right relationship, the bounded sphere of action that law governs, government's inculcation of virtue ought to address those actions upon which governmental authority and law bear. This might involve actions such as pornography and recreational drug use that are purportedly private yet affect the welfare of others, the economy, patterns of crime, and the moral ecology. Even here, though, prudence demands scrutiny. That Aquinas was a medieval philosopher did not preclude his well-known counsel that governments refrain from outlawing vices when prohibition courts fail.[41] This failure might include widespread disobedience to the law, backlash and resentment, and the abetting of oppressive official surveillance and habitual intrusion into private spheres. Both the soft boundary of the public and the ample ambit of prudence restrain the government's legitimate promotion of virtue.

[41] Aquinas, ST I-II, q. 96, a. 2.

Supernatural Principles

The criticism that liberals of a negative secular strand direct towards religion accrue urgency in the case of the supernatural principles in the justice of right relationship – the divinely authorized obligations that Christians are called to promote in political orders. Do these principles especially threaten liberty? The pursuit of supernatural principles does not in fact threaten liberalism's signature principles, liberty and rights, which find a grounding in natural law. Still more, supernatural principles and their attendant practices – mercy, hospitality, forgiveness, and the like – strengthen constitutional liberal democracy through their power to heal wounds.

The potential of one of these principles, hospitality, to heal and unify constitutional liberal democracy finds reflective elaboration in reformed theologian Matthew Kaemingk's analysis of the contemporary Netherlands and its debates over its Muslim immigrants. Situating the debate, Kaemingk argues, is the Netherland's own historical battle royale between liberalisms that mirror the distinction between positive secularism and negative secularism.

In the nineteenth century, the Netherlands was one of many countries in which a republican liberalism borne of the French Revolution arose with a promise to unify countries around rights and liberties with an expectation that religion, a superstition, would fade. This ideology's Dutch partisans sought to seize schools as their redoubt for recapturing the minds of citizens from the influence of the country's Calvinists and Catholics. Battling this negative liberalism was the liberalism of the Anti-Revolutionary Party, founded in 1879, and its allies, who sought a liberal democracy supported by Christian principles. What emerged and governed from around 1900 to 1960 was "pillarization," where Calvinists, Catholics, socialists, and liberals formed a common

democratic polity yet retained autonomy in their churches, schools, and civil society organizations – a pluralism of mutual distinctiveness rather than a uniformity under the hegemony of one faction. More than anyone, the intellectual behind this pluralism was Abraham Kuyper, a Calvinist minister, theologian, and politician who was Prime Minister from 1901 to 1905. Kuyper argues on thoroughly theological grounds for a democracy based on religious freedom and what he called "sphere sovereignty," the rightful autonomy of sectors of society – church, family, business, civil society organizations – who each have their proper end and responsibilities and all live under the sovereignty of God. In the 1960's though, liberalism of the negative secular sort won nationwide governance amidst a precipitous religious decline.

It was in this setting that Muslims began to immigrate to the Netherlands as guest workers. The government expected them to return to their countries of origin; they did not; their ranks grew. The government expected them to assimilate to the dominant Dutch liberalism – to join the marketplace, to leave their religion behind. They did not. Tensions grew after the attacks of September 11, 2001 and a radical Muslim's murder of filmmaker Theo van Gogh in 2004 in the streets of Amsterdam for insulting the Prophet Muhammed. Dutch politicians and public intellectuals called for Muslim displays of loyalty to Dutch values and for curtailments on "Islamic practices, clothing, buildings, food, rituals, schools, institutions, beliefs, and family arrangements." Mosques were vandalized and burned.[42]

What Kaemingk advocates is hospitality, consisting of thousands of small acts of friendship between Christians and Muslims – ones that Kaemingk observed in his field

[42] Matthew Kaemingk, *Christian Hospitality and Muslim Immigration in an Age of Fear* (Eerdmans, 2018), 68.

research – involving dialogue and mutual pursuits in medicine, cuisine, and education. What Kaemingk advocates is Kuyper's religious pluralism extended to Muslims. Patterned on the Cross, hospitality extends beyond Kuyper's justice of liberty and rights and mimics the Christ who is "prophet, a servant, a friend, healer, reconciler, liberator, advocate for the weak, teacher, priest, and dinner host."[43] This is the wide justice of right relationship and a form of politics. "Christianity is capable of fervently defending those with whom it disagrees," Kaemingk writes. "It can speak out on behalf of deep difference. It can be an advocate of generous religious and cultural freedom. It can challenge liberal hegemony, it can contest liberal uniformity, and it can resist liberal assimilation. And it can do all of these things out of an uncompromising belief in the truth of the Christian faith."[44]

Reviewers of Kaemingk's book have taken him to task for not asking more of the Netherland's Muslims, some of whom practice polygamy, abuse Muslims who convert to Christianity, preach ideologies that breed violent jihadism, and lack a tradition of religious tolerance.[45] They have a point. A liberalism of positive secularism demands that Muslims abide by the freedom, equality, and rights that are based on natural law and anchor a just society. If Kaemingk's hospitality demands more reciprocity and his dialogue more candor, though, his justice is not negated, one in which the Way of the Cross fortifies a pluralistic constitutional liberal democracy.

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[43] Kaemingk, *Christian Hospitality*, 160.

[44] Kaemingk, *Christian Hospitality*, 73-74.

[45] Diederik Boomsma, "Just Hospitality," review of *Christian Hospitality and Muslim Immigration in an Age of Fear*, by Matthew Kaemingk, *First Things*, May 2020, https://firstthings.com/just-hospitality/; Adam Francisco, "A Hospitable Response to Muslim Immigration," *The Gospel Coalition*, May 23, 2018, https://www.thegospelcoalition.org/reviews/hospitable-response-muslim-immigration/

In sum, the justice of right relationship contains strong arguments for liberalism. It endorses religious freedom as a natural right; the independence of religion and state on the basis of their natural authority; the complement of rights, including the rights of associations, that appear in constitutions and international law on the basis of their promotion of basic human goods; equal citizenship on grounds of natural law; a wide remit for liberty on the basis of the good of self-directedness and the Vocational Principle; the promotion of virtue consonant with the common sense of constitutional liberal democracies; and the free market.[46] The pursuit of supernatural principles can not only respect but also fortify liberal rights and institutions.

Conclusion

Behind a doctrine of politics is a narrative of history. Rawls structured his argument for political liberalism with a narrative of the liberation of politics from Christianity. Allied liberals widely share Rawls's history, holding that Christianity is a straggler on the road to liberty and that *philosophes* and secularists pioneered freedom of conscience, the end of slavery, the end of torture, the advancement of women, and the abolition of public executions. Decades later, Christian churches, at least some of them, caught up and issued declarations. So the story runs.

Positive secular liberals propose a different narrative. Behind the view that Christianity justifies, strengthens, and heals liberal polities is a view of history in which Christianity sowed the seeds for liberalism. True, the sprouting and growth of these seeds took place over centuries, was sometimes halting, lacked roseate sunshine for long

[46] The free market is an important tenet of liberalism not covered in this chapter. Chapter Ten's discussion of economics under gift alludes to reasons for the liberty of economic exchange.

periods, and benefitted from influences outside the Church. The development of democracies that guaranteed religious freedom in the United States and in Western Europe after World War II, for instance, were indispensable in the historical road to *Dignitatis Humanae* in 1965.[47] Still, the core features of liberalism that I have discussed in this chapter find a seed in Christianity and its justice. Christian thinkers articulated a full-blown right of religious freedom, based on the free act of faith that Christianity teaches uniquely strongly, in the early centuries of the Church. The Christian church itself, its internal cohesion and its transcendent loyalties, was an entity that demanded separation from temporal authority. The *Imago Dei* yielded human dignity, from which came natural, eventually called human, rights. And so on, the argument runs.

In the historical narrative of positive secular liberalism, the Christian churches that once seeded liberalism later became its spreader once they fully accepted it. In the global wave of countries becoming democracies between 1972 and 2009, religious leaders and communities were influential in advancing democracy in 48 out of 78 cases. The Catholic Church played a role in 36 of these, bringing about what political scientist Samuel Huntington later called the "Catholic Wave."[48] Protestant churches were influential in 19 cases. In Poland, the Philippines, South Africa and East Germany, ministers, priests, and lay activists led crowds of thousands to protest and depose dictators. In the Catholic Church, the protest was motivated by the ideas of religious

[47] Pope Benedict XV acknowledged these influences in explaining the Catholic Church's road to religious freedom at the Second Vatican Council. See Benedict XVI, "Christmas Address, 2005," The Holy See, December 22, 2005; Daniel Philpott, *Freedom in Islam: The Fate of a Universal Human Right in the Muslim World Today* (Oxford University Press, 2019), 206-227.
[48] Samuel P. Huntington, *The Third Wave: Democratization in the Late Twentieth Century* (University of Oklahoma Press, 1991), 76.

freedom and human rights that the Church had come to embrace at the Second Vatican Council in 1965. Christian churches were forgers and not merely forged.[49]

[49] Toft, Philpott and Shah, *God's Century*, 89-119; Samuel P. Huntington, *The Third Wave: Democratization in the Late Twentieth Century* (University of Oklahoma Press, 1991), 76.

Chapter Fifteen: Engaging Christian Realism

If liberalism confronts the justice of right relationship with the values of respect and stability, the political realist tradition confronts it with power. Realism warns that this justice and its principles will be morally overambitious, summoning crusades and missions that sin and power will bring to naught, and politically underambitious, shrinking from wielding power when necessary for the success of critical political ends. Realism posits a disjuncture between traditional Christian morality and politics. It views politics as inhospitable to the consistent adherence to the principles of natural law, additional commandments in the Bible, moral absolutes, and the sacrifice of self. The Christian, or any adherent to the natural law, will be forced to choose between the Gospel and politics. If Rawls is the *paterfamilias* of contemporary liberalism, twentieth century ethicist Reinhold Niebuhr serves as realism's spokesman, not least because of the Christian underpinnings of his political thought. We may call his thought Christian realism. This chapter takes up Niebuhr's, and more broadly, realism's challenge. It grants the formidable presence of power and sin in politics but disputes that these realities diminish or truncate the practice of the principles of the justice of right relationship. Principles of rectifying justice resolutely enjoin power against injustice. Prudence calls for the wise formulation of actions to realize principles of justice, which often involves restraint. Against realism, though, this justice can never counsel the intentional violation of its principles. Maintained is the argument that all of the principles of the justice of right relationship govern every action, including in politics.

The Realist Critique

The renowned twentieth-century Christian ethicist, Reinhold Niebuhr, opened his essay of 1953, "Augustine's Political Realism," with the following lines:

> The terms "idealism" and "realism" are not analogous in political and in metaphysical theory; and they are certainly not as precise in political, as in metaphysical, theory. In political and moral theory "realism" denotes the disposition to take all factors in a social and political situation, which offer resistance to established norms, into account, particularly the factors of self-interest and power. In the words of a notorious "realist," Machiavelli, the purpose of the realist is "to follow the truth of the matter rather than the imagination of it; for many have pictures of republics and principalities which have never been seen." This definition of realism implies that idealists are subject to illusions about social realities, which indeed they are. "Idealism" is, in the esteem of its proponents, characterized by loyalty to moral norms and ideals, rather than to self-interest, whether individual or collective. It is, in the opinion of its critics, characterized by a disposition to ignore or be indifferent to the forces in human life which offer resistance to universally valid ideals and norms.[1]

Packed with propositions, the passage conveys the kernel of Niebuhr's realism and of the realist tradition of political thought and sets forth that which the justice of right relationship can learn from realism and what it must reject. Niebuhr notes that realist metaphysics and realist "political and moral theory" make different kinds of claims about reality. In metaphysical philosophy, reality is what subsists independently of the mind. Niebuhr, though, is interested in a different meaning of reality – the "factors of self-interest and power" in society and politics, which "offer resistance to universally valid ideals and norms." Idealism fails to heed these factors and this resistance and thus flaunts reality. Niebuhr's counsel for action, in this essay and throughout his writings of three decades, is: Temper the pursuit of ideals and do not renounce the exercise of power.

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[1] Reinhold Niebuhr, "Augustine's Political Realism," in *Christian Realism and Political Problems* (Charles Scribner's Sons, 1953), 119-120. This is the first published edition of this essay, which is an "elaboration" of a lecture that Niebuhr delivered at Columbia University sponsored by the Frances Carroll Memorial Lecture Foundation.

What provocation does realism pose to the justice of right relationship? Just action heeds the realities that realists stress and often the counsel of restraint that realists wisely voice. Realism, though, recognizes too little reality, not too much. Prior in importance to the realities of power and interest that the political realist discerns is the reality that moral philosophy and theology reveal about just human action – the principles that divine justice establishes, consisting of natural and supernatural norms, some of which are absolute. Not simply ideals, these principles prescribe and regulate all human action, including in the political realm, and ought not to be contravened or supplanted in the pursuit of power and interest. Viewing reality as resistant to established ideals, realists counsel a departure from principles insofar as they conflict with reality. Political realism is a separation narrative, one that places action on a footing other than the divine moral order. The justice of right relationship proposes instead to respond and adapt to political realities through the virtue of prudence, defined by Aristotle and Aquinas, by which a person judges that a particular course of action is appropriate in a given set of circumstances. In the classical and Christian tradition, prudence is not a departure from the principles of justice but rather an application of them. It is the strategic wisdom of an official or citizen. "O God, give your judgment to the King; your justice to the son of kings; That he may govern your people with justice . . .," Psalm 72:1-2 declares.

The Realist Tradition

Realist thought about politics has developed into a tradition – a "historically extended, socially embodied argument," in MacIntyre's definition – over the past

century.[2] This tradition has adopted as its *paterfamilias* the philosopher of ancient Greece, Thucydides, who tendered his realism in his *History of the Peloponnesian War* where he recounts the Athenians telling the conquered inhabitants of the island, Melos, "the strong do what they have the power to do and the weak accept what they have to accept" in reply to the Melians' successive appeals to interest, honor, justice, and the gods in their futile attempt to dissuade the Athenians from slaying them.[3] That Hobbes translated Thucydides's classic into English in 1628 is unsurprising given the realism of Hobbes's subsequent writings. The tradition's most memorable statement, though, came a century earlier in Machiavelli's *The Prince*, published in 1532. That Machiavelli's influence persists is evident in Niebuhr's sympathetic quotation of him in the passage above as it is in Maritain's far less sympathetic essay of 1942, "The End of Machiavellianism," arguing that Machiavelli's counsel to the prince to "learn how not to be good," should this prove necessary for his or the republic's interest, is a signal departure from the Christian and classical tradition, a separation narrative.[4]

The tradition's florescence began just prior to World War II in England and the United States.[5] It was theorists of international relations who took up realism especially vigorously, arguing that interest and power are strongest where politics has no common superior – the interaction of states. British historian E.H. Carr published what has

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[2] Alasdair MacIntyre, *After Virtue* (University of Notre Dame Press, 1984), 222. For an outstanding introduction and thoughtful critique of the realist tradition, see Michael Joseph Smith, *Realist Thought From Weber to Kissinger* (Louisiana State University Press, 1986).

[3] Thucydides, *History of the Peloponnesian War*, trans. Rex Warner (Penguin, 1954), 402. Thucydides reports that the Melians killed the men of military age and sold the women and children as slaves, 408.

[4] Jacques Maritain, "The End of Machiavellianism," in *A Liberalism Safe for Catholicism?*, ed. Daniel Philpott and Ryan T. Anderson (University of Notre Dame Press, 2017), 37-67; Niccolo Machiavelli, *The Prince And the Discourses* (Random House, 1950), 56.

[5] By florescence, I mean the appearance of a concentrated body of work whose authors refer to one another. An excellent account of the realist tradition is Michael Joseph Smith, *Realist Thought from Weber to Kissinger* (Louisiana State University Press, 1986).

become a fixture in the Realist canon, *The Twenty Years' Crisis: 1919-1939*, in 1939, where he argued for realism against utopianism and defended the Munich Agreement of 1938 as an accommodation to the balance of power.[6] Classic statements of realism arrived in American diplomat and intellectual George Kennan's "Long Telegram" of 1946 and "Mr. X Article" of 1947, which sought to convince Americans that its erstwhile ally, the Soviet Union, was a threat that called for future decades of "containment" through diplomacy backed by military power but also that the U.S. must avoid overcommitment fed by idealism.[7] It was political scientist Hans J. Morgenthau of the University of Chicago who laid out realism most systematically in his classic, *Politics Among Nations*, in 1948. The "concept of interest defined in terms of power" was "the main signpost" in understanding international politics and whose rational pursuit was also a prescription for "good foreign policy."[8] In an essay on Niebuhr, whom Morgenthau called "the greatest living political philosopher of America," Morgenthau wrote the following passages relevant to this book's argument:

> The moral problem of politics is posed by the inescapable discrepancy between the commands of Christian teaching, of Christian ethics, and the requirements of political success. It is impossible, if I may put in somewhat extreme and striking terms, to be a successful politician and a good Christian.
>
> I would . . . maintain that it is particularly difficult to be a Christian in politics, because the aim of man in politics is to dominate another man, to use a man as an instrument, as a means to his ends; and this is a direct denial of Judeo-Christian ethics. The political act is in a specific,

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[6] Edward Hallett Carr, *The Twenty Years' Crisis, 1919–1939: An Introduction to the Study of International Relations* (Macmillan, 1939). In 1946, he published a second edition removing his defense of Munich.

[7] The Mr. X. article, titled "The Sources of Soviet Conduct," and published in Foreign Affairs in George F. Kennan, *American Diplomacy*, expanded ed. (University of Chicago Press, 2012).

[8] Hans J. Morgenthau, *Politics Among Nations: The Struggle for Power and Peace*, rev. Kenneth W. Thompson (Alfred A. Knopf, 1985), 5, 10.

> particularly acute sense incompatible with Christian ethics, in a sense in which the non-political act is free.[9]

Subsequent to the early Cold War, realist voices – Morgenthau, Kennan, Niebuhr – became prominent again in criticizing the United States's waging of the Vietnam War.

Realist thought took a turn in 1979 when Kenneth Waltz published *Theory of International Politics*, which developed realism as a scientific theory, yielding testable hypotheses, and definitively separated this theory from normative reason.[10] In Aristotle's terms, Waltz conducted theoretical reason, in which the analyst studies phenomena outside the mind such as the conduct of politics, and did not write systematically about practical reason, which deals with what actions a person ought to perform. American political science followed suit. Since Waltz, international relations theorists, realist and otherwise, have undertaken almost exclusively empirical research.[11] Yet, sometimes they derive practical conclusions from their empirical findings. Waltz argued elsewhere that states ought to acquire nuclear weapons on the

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[9] Hans J. Morgenthau, "The Influence of Reinhold Niebuhr in American Political Life and Thought," *Reinhold Niebuhr: A Prophetic Voice of Our Time*, ed. H.R. Landon (Seabury Press), 102, 111.

[10] Kenneth N. Waltz, *Theory of International Politics* (Addison-Wesley, 1979). Joining Waltz's influence for scientific analysis was Robert O. Keohane, a liberal institutionalist whose substantive views of international politics differed but who shared the scientific approach based on theoretical reason. See Robert O. Keohane, *After Hegemony: Cooperation and Discord in the World Political Economy* (Princeton University Press, 1984).

[11] Useful here is Aristotle's distinction between theoretical and practical reason. Theoretical reason is the sort through which the analyst describes the world outside his mind, the work of the empirical political scientist, sociologist, historian, or any analyst who describes or theorizes the causes and outcomes of political action and its outcomes. Theoretical reason succeeds when its description is accurate and its theory is verified and fails when it omits reality such as competition and perfidy in politics. Practical reason is different. It aims not to describe what is outside the mind but rather to inquire into what actions the person ought to pursue, what possibilities she might bring into being through her action. It is this question to which justice poses an answer. The justice of right relationship is one such answer, consisting of a set of obligations setting forth what people ought to do and a justification for these obligations that lies in human goods. Normative international relations theory is pursued by philosophers. The journal, *Ethics and International Affairs*, is dedicated to normative argument but is written in by few empirical social scientists. See Terry Nardin and David R. Mapel, eds., *Traditions of International Ethics* (Cambridge University Press, 1992),

grounds that mutually assured destruction promotes stable peace.[12] Similarly, over the course of a book about lying in international politics, University of Chicago political scientist John J. Mearsheimer mostly undertakes theoretical reason, explaining why leaders of states lie and what effects their lies have, yet, in the introductory and final chapters, takes up practical reason, asserting that sometimes leaders ought to lie even while most of the time they should not lie because it does not work.[13]

Niebuhr cast his realism in Christian terms. As a Protestant pastor in Detroit in the 1920s, he espoused the Social Gospel, an ethic that called for building the Kingdom of God through progressive politics of the sort that theologian Walter Rauschenbusch had developed in previous decades. By the early 1930s, though, Niebuhr had turned skeptical and took up the Christian realism that he would champion for the rest of his career as a social ethicist at Union Seminary in New York City. Running through Niebuhr's thought are antinomies that flank the sagacious middle ground in which he ever situated himself. The *Children of Light and the Children of Darkness*, the title of his book of 1944, is the most well-known of these dualisms. The "children of light" are "those who seek to bring self-interest under the discipline of a more universal human

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[12] See Scott D. Sagan and Kenneth N. Waltz, *The Spread of Nuclear Weapons: A Debate Renewed*, 2nd ed. (W. W. Norton, 2003).

[13] John J. Mearsheimer, *Why Leaders Lie: The Truth About Lying in International Politics* (Oxford University Press, 2011). Mearsheimer writes in the introduction that he evaluates lying "from a strictly utilitarian perspective, mainly because there are compelling reasons that justify it" – a clear statement of practical reason, concerning what political actors ought to do (11). Confusingly, he writes two sentences later, "[t]his is not to deny, however, the importance of examining the moral dimensions of this phenomenon. Nevertheless, that task involves a different set of calculations and considerations which lie beyond the scope of this book" (11). Mearsheimer's apparent deferral of "moral dimensions," though, contradicts his clear assertion of several "ought" statements. On page 13, he judges that President Franklin Roosevelt was "right" to lie in 1941. On page 99, at this beginning of his concluding chapter, he says of leaders who lie, "sometimes they are right. Who would argue that statesmen and diplomats should not lie to a dangerous adversary – especially in wartime – if their deceptions deliver strategic benefits?"; and, "President Kennedy was right to lie to the American people." He argues on the next page, "[l]ying does not always work, however," indicating his judgment that the justifiability of lying depends on its strategic consequences (100).

law and in harmony with a more universal human good," whereas the "children of darkness" are people who "know no law beyond their will and interest." Both children are wayward, the children of light are virtuous for heeding a higher law but foolish for underestimating the power of self-interest, and the children of darkness are cynical and evil yet wise in understanding the power of self-interest.[14]

It is the children of light who have defined "[m]odern democratic civilization," Niebuhr believes, and it is them whom he criticized most sharply in his many writings. Political action, he argued constantly, always ought to take into account the pervasiveness of sin, by which he most often meant self-interest, in social affairs.[15] The Social Gospel's flaw was to envision moral progress as a "simple possibility" that failed to heed sin, complexity, and the tendency of people to mask their interests in ideals. The same flaw beset moralistic crusades of the sort to which the United States, founded on universal ideals, regarding itself as morally innocent, was prone.[16] At the other pole politics becomes cynical and destructive if it is based only on power and the pursuit of interest. Harmony between interests could be realized if fleetingly; and an ability to realize norms of justice, if only partially, was necessary for political stability. Niebuhr stated his most well-known aphorism in *The Children of Light and the Children of*

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[14] Reinhold Niebuhr, The *Children of Light and the Children of Darkness* (Charles Scribner's Sons, 1944), 9-11. Niebuhr locates the title phrase in the Gospel of Luke, which he quotes in his epigraph, "[t]he children of this world are in their generation wiser than the children of light" (Luke 16:8). It is also found in Eph 5:8-9 and 1 Thess 5:5.

[15] In *Children of Light, Children of Darkness*, Niebuhr writes, "evil is always the assertion of some self-interest without regard to the whole . . .. The good is, on the other hand, always the harmony of the whole . . .," Niebuhr, *The Children of Light and the Children of Darkness*, 9.

[16] The phrase simple possibility appears in "Augustine's Political Realism," 131. Niebuhr's major statement of U.S. history and politics is Reinhold Niebuhr, *The Irony of American History* (Charles Scribner's Sons, 1952).

Darkness: Man's capacity for justice makes democracy possible, but man's inclination to injustice makes democracy necessary.[17]

A public intellectual, Niebuhr continually addressed the issues of the day through his signature dualities. He castigated pacifism and world government schemes but also Secretary of State John Foster Dulles's moralistic Cold War rhetoric in the 1950s and eventually the Vietnam War, which he viewed as a quintessential American moralistic crusade. Yet, he endorsed the United States' fight for democracy against fascism and communism in World War II and its cause in the Cold War and promoted religious freedom, labor, and the civil rights movement of Martin Luther King, Jr. Numerous American intellectuals and politicians through this day, spanning right and left, have found inspiration and sanction in Niebuhr' writings for wielding power without forgetting principle: Samuel P. Huntington, Jean Bethke Elshtain, Michael Novak, John McCain, Jimmy Carter, Barack Obama, and many others.[18]

How The Justice of Right Relationship Adapts to the Realist's Realities

Realism's analytic axis is its description of the world, an assertion of theoretical reason: The pursuit of power is pervasive. When Morgenthau wrote that states pursue interests defined in terms of power, he meant by power the ability to coerce, which lay in military capacity and the factors that sustain it: economic strength, population, the morale of a population, and so on. When Niebuhr wrote of the pursuit of self-interest, he thought of self-interest mainly in material terms: coercive power and wealth. The latter-day scholars who follow Waltz in adopting rational choice theory from economics,

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[17] Niebuhr, *The Children of Light and the Children of Darkness*, xiii.
[18] On Obama's Niebuhrianism, see Liam Julian, "Niebuhr and Obama," *Hoover Institution*, April 1, 2009, find at https://www.hoover.org/research/niebuhr-and-obama.

theorize that states pursue power rationally. From this description flows realists' dual counsel for statecraft, an assertion of practical reason: Be willing to use power to parry threats to one's interests but do not flaunt the realities of power in pursuing one's ideals.

A Christian description of politics does not deny the pervasiveness of power but widens this pursuit to the breadth of sin. Here again, Realism is not real enough. Christianity adds envy, revenge, greed, pride, the lust for position and fame, self-exaltation, hatred, the desire for domination, and what Kant called radical evil: the unfathomable German, Cambodian, and Rwandan genocides. Sin, by definition, is irrational, the *mysterium iniquitatis,* and pervades all of politics from rivalry for position in the orange-vested highway crew to the designs of dictators. While realists warn against overestimating the possibilities for good, their cold rationalism underestimates the ambit of evil.[19]

That the justice of right relationship recognizes sin and endorses power in response to it is presupposed in several of its principles, including the enforcement purpose of government authority and in rectifying justice: war, judicial punishment, non-violent resistance, apology, reparations, forgiveness, and reconciliation. To war may be added military preparation, deterrence, and the making of alliances. To judicial punishment may be added police power.

War and police action, both coercive, are worth stressing. Both Morgenthau and Niebuhr interpret the Sermon on the Mount and its injunctions to turn the other cheek,

[19] Again, not all realists share the theory-building project on the assumption of (instrumental) rationality. But the assumption that actors pursue power through rational end-means calculations is pervasive in realist thought. Morgenthau places this assumption central in his analysis, see Morgenthau, *Politics Among Nations*, 5.

love one's enemies, and forgive to mean a command to renounce coercion.[20] This reading is behind Morgenthau's judgment that an "inescapable discrepancy" exists between Christianity and politics and Niebuhr's that Christian love is an "impossible" ethic. I argued in Chapter Twelve, though, that the evidence of scripture and the Christian tradition's dominant interpretation of it, is that Jesus was calling his hearers to forego retribution and to love their enemies but was not forbidding the coercive actions of a soldier, police officer, or judge, actions that are compatible with love.

The justice of right relationship, then, is not oblivious to power and self-interest, the factors to which realists draw our attention, or, more widely, to sin. The concept through which justice adapts to these realities is prudence. Much like several of the beyond-due principles – mercy, forgiveness, hospitality – prudence is the protagonist in a separation narrative, having once been a lead actor in the moral teaching of Aristotle, Aquinas, other classical thinkers, and the Bible and then fallen into a minor role in the past four centuries of moral and political thought. In contemporary parlance, prudence has come to be used narrowly and colloquially as a synonym of caution, restraint, and pragmatism. The classical understanding is much wider, though it may include these qualities. In the thought of Aristotle, who first developed prudence robustly, and Aquinas, who adapted Aristotle's concept and enfolded it into Christianity, prudence is the capacity to judge the appropriate course of action in any given set of circumstances. Aquinas quotes Aristotle as saying that "prudence is right reason applied to action."[21] Aquinas explains that prudence involves multiple parts, including the memory by which

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[20] Reinhold Niebuhr, "The Ethic of Jesus and the Social Problem," in *Love and Justice: Selections From the Shorter Writings of Reinhold Niebuhr,* ed. D.B. Roberston (The Westminster Press, 1957), 29-35, reprinted from *Religion in Life,* Spring 1932.

[21] Aquinas, ST II-II, q. 47, a. 2, sc.

one learns about the effects of actions through past experience, the docility by which one accepts the counsel of wise people, foresight in judging the likely effects of actions, reasoning about effective means to ends, and, ultimately, command of the will to take right action.[22] Prudence is not narrowly a matter of efficiency, although this may be a component, but is rather about effectiveness and, more so, excellence – the judgment that discerns, deliberates, judges, and determines the best course of action in all situations. Prudence is prominent in the Bible. In legal scholar Clarke D. Forsythe's book on prudence, *Politics for the Greatest Good: The Case for Prudence in the Public Square*, he writes, "the book of Proverbs addresses virtually all aspects of prudence that Aquinas does," and he finds there four common elements of prudence: discernment, understanding, giving thought to one's ways, and discipline. Forsythe cites verses that manifest prudence elsewhere in the Old Testament as well as in the New Testament, where prudence is often expressed as wisdom.[23]

In both the Bible and classical thought, what is clear and indispensable is that prudence is the carrying out of moral principles. Recall that the justice of right relationship consists of actions that conform to true principles, ones that have as their point the basic human goods that constitute flourishing. These principles are of the sort that render both what is due and what is beyond due and that are known both naturally and supernaturally, and all of them continue to be relevant in the political sphere. Prudence involves judging what actions fulfill these principles and itself becomes a principle that can be added to the right relationship: One ought to perform the action(s)

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[22] I draw these factors from Questions 47 and 49 of *Summa Theologica*. For Aristotle, see *Nicomachean Ethics*, 120-134.
[23] Clarke D. Forsythe, *Politics for the Common Good: The Case for Prudence in the Public Square* (InterVarsity Press, 2009), 59-63.

that bring about basic human goods in the right way as effectively as possible. Aquinas reasons that prudence is known through a syllogism of practical reason. A universal moral principle is the major premise; an assessment of the most effective action for realizing a principle is the minor premise; and the determination that one ought to perform the action is the conclusion.[24] Counsels of prudence are commingled with principles of justice in the Bible, sometimes joined in a hendiadys. The royal Psalm 72 (1-2) reads: "O God, give your judgment to the king; your justice to the son of kings; That he may govern your people with justice, your oppressed with right judgment"; and Psalm 89:15 reads, "[j]ustice and judgment are the foundation of your throne." Here, judgment is prudence, the actions that effect justice, which consists of principles.

Realists, insofar as they speak of prudence, relate it to principle confusingly. Morgenthau elevates prudence in *Politics Among Nations*: "[r]ealism . . . considers prudence . . . to be the supreme virtue in politics." He specifies prudence as "the weighing of the consequences of alternative political actions." The same paragraph, though, makes several hedged and inconsistent statements about principles. First, he says that "universal moral principles cannot be applied to the actions of states in their abstract universal formulation, but that they must be filtered through the concrete circumstances of time and place." Then, he says "[b]oth individual and state must judge political action by universal moral principles, such as that of liberty. Yet . . . the state has no right to let its moral disapprobation of the infringement of liberty get in the way of successful political action, itself inspired by the moral principle of national survival." A few sentences later, "[e]thics in the abstract judges actions by its conformity with the

[24] Aquinas, ST II-II Q. 47, a. 3. ad 1; II-II Q. 49, A. 2, ad 1. See Daniel Westberg, *Right Practical Reason: Aristotle, Action, and Prudence in Aquinas* (Oxford University Press, 1994), 158-160

moral law; political ethics judges action by its political consequences." What does Morgenthau mean when he writes that universal moral principles are "abstract"? The most plausible reading is that they are subject to exception and that prudence, which weighs consequences, determines when these exceptions are to take place.[25] In his sentence on liberty, he suggests that this principle may become contradicted by "successful action" and the competing principle of "national survival." Niebuhr, in the paragraph quoted at the beginning of this chapter, refers to something much like prudence when he writes of "the disposition to take all factors in a social and political situation into account," and comments that these factors "offer resistance to established norms," again posing a tension between prudence and principle.

Classical and biblical prudence, by contrast, realizes principles in action and in doing so may accommodate realism's "realities." It may counsel restraint in the pursuit of principle, for instance, on account of cost, complexity and likelihood of success. Consider some examples of the beyond-due virtues, most of which are imperfect, and thus amenable to degrees of application, in Chapters Ten through Twelve. The delivery of humanitarian aid or performance of humanitarian intervention, exercises of mercy, may be foregone or tapered if it is unlikely to succeed or likely to generate problems greater than the good of delivering relief – such as in Libya in 2011. Reparations for racism in the United States, even if justified on the duty of reconciliation, may be curtailed, postponed, or spread out if they are too costly, especially in light of the national debt. The provision of national health benefits, on the principle of care, may be limited or refashioned in light of tradeoffs among provision, quality, cost, and other

[25] Morgenthau, *Politics Among Nations*, 12.

factors whose implications for action are dependent on social and policy science. Particularly when principles are imperfect obligations, they are often indeterminate in their application.

Principled prudence also allows support for "imperfect laws" that curtail an evil even while it falls short of ending it, so long as the intention is the curtailment and not the preservation. Forsythe discusses the example of William Wilberforce, the English Evangelical Member of Parliament who, in his decades-long campaign to end slavery in the British Empire in the late 18th and early 19th centuries, accepted legislation that limited the slave trade while it allowed slavery to continue – until, days before his death in 1833, he saw Parliament finally outlaw slavery in most of the Empire. Prudence can also allow settling for a "lesser evil" so long as promoting the evil is not one's intention. In World War II, the U.S. and Britain allied with Joseph Stalin's Soviet Union against Nazi Germany with the purpose of securing Soviet military assistance, not of supporting Stalin's massive crimes against his people.[26] And, as I argued in Chapter Fourteen, the law may morally permissibly refrain from outlawing a vice if a prohibition is likely to involve interference in civil liberties or other high costs.

Most of all, prudence in politics involves a strategy for realizing principles and goods in the context of all of the relevant circumstances. Strategy in the service of constant principle marked Abraham Lincoln's efforts to end slavery in the United States, argues Forsythe in his assessment of Lincoln's prudence. Lincoln's hatred of slavery motivated his reentry into politics in 1854 as he declared in his speech in Peoria, Illinois

[26] John Paul II argues that a politician may support legislation that allows abortion and does not outlaw it altogether if the purpose of the legislation is to restrict or reduce abortion in John Paul II, *Evangelium Vitae*, sec. 73.

that year. That slavery was an intrinsic evil, a violation of human dignity, and a denial of the natural rights that the Declaration of Independence stated, Lincoln argued on many occasions.[27] That is, he stood for a principle of justice that corresponds to a right and that is known through natural law, a law that he held that God established. His choice to campaign against slavery through politics, like Wilberforce's, fulfilled an imperfect duty to pursue a vocation and to serve the common good. It is here that prudence enters in. Lincoln moved to end slavery more slowly and gradually than ardent abolitionists urged. In the 1850s, he focused his political arguments against slavery's extension; when he became president in 1861, he prioritized saving the union as the chief goal of the fight against secessionist states; he delayed issuing the Emancipation Proclamation to January 1, 1863 and applied it only to states in rebellion and not to border states; and waited until late 1864 to support publicly constitutional amendments against slavery. Lincoln made these decisions on the basis of his judgments about what was possible given political and military circumstances: this is realism. His judgments, though, applied a principle that he supported unwaveringly: this is prudence. Political philosopher Harry Jaffa summarized that Lincoln "understood the task of leadership . . . to know what is good or right, to know how much of that good is attainable, and to act to secure that much good but not to abandon the attainable good by grasping for more."[28]

Although power, sin, and complexity result in partial realizations, failures, setbacks, and reversals of justice, these possible outcomes do not squarely govern action. In politics, as in all other spheres, just action intends to realize goods according

[27] Forsythe documents these occasions in Forsythe, *Politics for the Greatest Good*, 114-121, 139.
[28] Harry Jaffa, *Crisis of the House Divided* (University of Chicago Press, 1959), 371, quoted in Forsythe, *Politics for the Greatest Good*, 112.

to principles and this action is intelligible only if a possibility of success exists. Prudence, which Aquinas called the charioteer of the virtues, steers but does not abandon the pursuit of goods and principles. Hope, the virtue and the principle that Chapter Ten discusses, is the confident expectation of justice on the theological ground of the resurrection. God's justice vindicates human justice and promises that justice will be ultimately fulfilled but also may be realized to some extent in the world within time. This hope is not the historical vector towards justice envisioned by Kant and Hegel, who thought that history is moving unalterably, albeit through struggle, towards justice. The radical evil of the past century alone refutes this expectation. Hope expects, though, that heaven may break into history in partial and episodic realizations of justice. It is a possibility seen in the successes of reformers that Chapter Ten notes at its close, Wilberforce and Lincoln among them.

How the Justice of Right Relationship Cannot Accept the Realist's Realities

If the justice of right relationship recognizes the realities of power and sin and is not ignorant of or naïve towards them, Realism fails to recognize the realities of what principles ask of everyone, including in the political realm. The principles of the justice of right relationship are universal in their application and clear in their content: They promote and protect basic human goods. Prudence takes into account complexity and circumstance and sometimes calls for restraint or partial fulfillment of imperfect obligations, yet justice does not commend the replacement of principle with other ends and never commends the violation of an absolute moral principle. Realism's departure from what is universally valid in norms is what makes it a separation narrative. While the rationales of Machiavelli's *Prince* or the Athenians' instructions to the Melians

express this departure baldest, let us consider how even the "best case" Realism of Niebuhr, who espoused both principles and Christianity, falls short.[29]

Niebuhr did not reject principles. His most careful statement of the place of moral principles in ethics, one that is broadly compatible with the rest of his writings, comes in his 1951 essay, "Love and Law in Protestantism and Catholicism." He states in the second paragraph:

> Materially, law usually represents detailed prescriptions of duties and obligations which the self owes to itself, to God, and to its neighbors. There may of course be general principles of law which gather together the logic of detailed prescriptions, as for instance the proposition, defined in Catholic thought as the "preamble" of natural law, "that we ought to do good and avoid evil"; or Jesus' own summary of the law and the prophets. But that summary is, significantly, the "law of love" and therefore no longer purely law, but a law transcending law. Some degree of detail is characteristic of pure law. The "positive law" of historical communities gains its force primarily from its specificity . . .. Even if we do not accept the Catholic theory of a highly specific "natural law" we all do accept principles of justice which transcend the positive enactments of historic states and which are less specific and not so sharply defined as positive law, and yet more specific than the law of love. There are generated in the customs and mores of communities; and they may rise to universal norms which seem to have their source not in particular communities but in the common experience of mankind.[30]

Niebuhr "accept[s] principles of justice" that are minimal and negative – do not steal, do not kill – and mitigate sin and self-interest.[31] In Niebuhr's contemporaneous essay, "Augustine's Political Realism," he affirms certain concepts that he associates with justice and places in quotes – a "'sense of justice,'" referring to "a disposition to 'give

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[29] For understanding Niebuhr on principles, I am indebted to Gerald McKenny, "Human Nature and Moral Norms," in Robin Lovin and Joshua Mauldin, eds, *The Oxford Handbook of Reinhold Niebuhr* (Oxford University Press, 2021), 347-362.

[30] Niebuhr, "Love and Law in Protestantism and Catholicism," in *Christian Realism and Political Problems*, 148-149, reprinted from "Love and Law in Protestantism and Catholicism," *Journal of Religious Thought*, Vol. 9, No. 2, Spring-Summer 1952.

[31] Niebuhr, "Love and Law,' 171.

each man his due,'" – and general principles of "rights" and of "liberty, equality, and loyalty to covenants" that are to be "distinguished from formulas or prescriptions."[32] He often writes of norms of justice mitigating conflict arising from self-interest, especially in economic disputes between owners and labor.[33] He does not appear to think, though, that these norms contain the qualities of natural law. He accepts what he calls the "preambles" of the natural law and "Jesus' own summary of the law and the prophets," by which he presumably means Jesus' Greatest Commandment, but he calls it a "transcending law" that is not "pure law." He does not identify the commandments in the Decalogue and their corollaries as the sort of law that contains the requisite "degree of detail" to be pure law, nor does he allow that they can be known by reason as universally binding precepts. In the final sentence of the quotation, he indicates that he looks upon natural law principles as something much like what the Christian and classical Roman tradition has termed the *jus gentium* – shared norms that arise from the customs and practices of communities.

Later in the essay, Niebuhr doubles down: "The moral certainties of natural law in Catholic thought are all dubious," he asserts, and are based on "rationalism," "intuitions," "propositions of analytical reason," and inferences from human nature that are all unsound. "All law, whether historical, positive, scriptural, or rational, is more tentative and less independent in its authority than orthodox Christianity, whether Catholic or Protestant, supposes . . .."[34] Niebuhr considers what may appear to be an exception: "While there are some seemingly universal moral judgments such as the

[32] Niebuhr, "Augustine's Political Realism" 135.
[33] Niebuhr, "Augustine's Political Realism," 134.
[34] Niebuhr "Love and Law," 172-173.

prohibitions of murder, it must be noted that they are the most universal if they are the most minimal and most negative expressions of the law of love." What does Niebuhr mean by "seemingly universal?" Is the prohibition of murder knowable by reason and universally binding? Is it one of the few principles that is such? His statement is tentative and ambiguous.[35]

Why did Niebuhr think that principles were subject to contingency? Did he think that principles permitted and demanded different actions in Pittsburgh, Paris, and Pyongyang? No, his concern appears not to be cultural diversity but rather sin and finiteness. But in what sense? Sometimes he seems to reason that principles involve tragic choices in which following them involves high costs, but so, too, does failing to follow them. Threatening atomic destruction is wrong but so is yielding to a totalitarian state, he wrote in 1950, as the nuclear balance of terror between two superpowers was taking shape. Sin is often unavoidable in human choices, especially in political affairs, Niebuhr reasoned.[36]

At other times, though, Niebuhr seems to have in mind an even more pervasive effect of sinfulness and finiteness – one upon the very definition of principles. "[A]ll historic norms are touched with both finiteness and sin," he writes in his largest book of theory, *The Nature and Destiny of Man*, explaining, "the sin of man perennially insinuates contingent and relative elements into the supposedly absolute standards of human reason."[37] Niebuhr voices here and in many other places in his writings an argument that the philosopher Paul Ricoeur has called a "hermeneutic of suspicion," the

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35 Niebuhr, "Love and Law," 172-173.
36 Niebuhr, "Justice and Love,", 29. Reprinted from *Christianity and Society*, Fall 1950.
37 Reinhold Niebuhr, *The Nature and Destiny of Man: A Christian Interpretation*, Vol. 1 (Charles Scribner's Sons, 1964), 284, 281. See also "Augustine's Political Realism," 132-133.

perspective of Karl Marx, Friedrich Nietzsche, and Sigmund Freud that behind principles lie material interest, power, or sexual drive.[38] For Niebuhr, it is self-interest (in material wealth and power) that principle masks. Suspicion is a common Realist theme. Carr argued in the *Twenty Years' Crisis* that Britain's espousal of free trade arose from and fortified its superior economic position.[39] Similarly, Niebuhr wrote again and again of how possessors of wealth and power preach love, forgiveness, peace, and freedom but do little to acknowledge the claims of justice of the working class and the poor or the necessity of using coercion to advance them.[40] The wealthy and the powerful preach those principles that pose the fewest demands on themselves. Principles of justice do not wholly reduce to interests, though, he also continually reasoned, and retained some capacity to adjudicate and mitigate.[41]

Higher than justice in Niebuhr's ethics, and essential for understanding the place of principles in his thought, is love. Niebuhr thought that love, like justice, is a part of human nature and a form of law. Paradoxically, though, love exceeds principles. It is rather a realm of freedom that is "indeterminate" in contrast to the "determinate" character of principles of justice. A passage from "Love and Law" expresses this well.

> In so far as man has a determinate structure, it is possible to state the "essential nature" of human existence to which his actions ought to conform and which they should fulfill. But in so far as he has the freedom to transcend structure, standing beyond himself and beyond every particular situation, every law is subject to indeterminate possibilities which finally exceed the limits of any specific definition of what he "ought" to do. Yet they do not stand completely outside of law, if law is defined in

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[38] Paul Ricoeur, *Freud and Philosophy: An Essay on Interpretation*, trans. Denis Savage (Yale University Press, 1970), 32-36.
[39] Carr, *Twenty Years' Crisis*, 42-46.
[40] See, for instance, Niebuhr, "The Ethic of Jesus and the Social Problem," 38-40.
[41] For example, see Niebuhr, "Justice and Love," 28.

> terms of man's essential nature. For this indeterminate freedom is a part of his essential nature.[42]

If love is "indeterminate" and exceeds the "specific definition of . . . ought," does it bear any normative content? To some extent, yes. Niebuhr writes of love as harmony, self-sacrifice, self-abnegation, *agape*, and the "absurd principle of the Cross," all of which are the antipode of self-interest. He associates love with the commands of the Sermon on the Mount to turn the other cheek, love one's enemies, and practice forgiveness. Again, Niebuhr thought that Jesus had commanded pacifism and the relinquishment of coercion. Love, which exists at the limits of human possibilities, is enabled by the grace of God.[43]

What difference does Niebuhr think love can exercise in human actions? Love relativizes standards of justice, by which he seems to mean that love possesses an absolute character from which the non-absolute, contingent quality of principles of justice arises.[44] Love can have a "leavening influence" in the affairs of nations, preventing an overly narrow and self-defeating pursuit of self-interest.[45] Love's transcendent quality, exceeding what any norm prescribes, can break into politics to some extent.

Far louder in Niebuhr's writings, though, is the limits of love in politics. From the time of his "conversion" to Realism in the early 1930s, he upbraided liberal Protestantism for thinking that love is a simple possibility. In 1950, he wrote, "[t]he effort to substitute the law of love for the spirit of justice instead of recognizing love as

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[42] Niebuhr, "Love and Law," 154-55.
[43] Niebuhr, "Augustine's Political Realism," 140; "Love and Law," 154, 159.
[44] Niebuhr, "Love and Law," 149, 150, 153, 163.
[45] Niebuhr, "Augustine's Political Realism," 136-137.

the fulfillment and highest form of the spirit of justice, is derived from the failure to measure the power and persistence of self-interest."[46] Justice's limitation on self-interest is normally the best that one can expect from politics.

In fact, Niebuhr "held that there are conditions in which one should not treat a neighbor with agapic love," as Wolterstorff cogently paraphrased him, for love cannot be fulfilled in the present age "*without perpetrating or abetting injustice or inviting victimization*."[47] Echoing Machiavelli's advice that the doer of good can expect to come to grief at the hands of so many who are not good, Niebuhr wrote in *The Nature and Destiny of Man*,

> [T]he perfect disinterestedness of the divine love can have a counterpart in history only in a life which ends tragically, because it refuses to participate in the claims and counterclaims of historical existence . . .. [A] love that seeketh not its own is not able to maintain itself in historical society. Not only may it fall victim to excessive forms of the self-assertion of others; but even the most perfectly balanced system of justice in history is a balance of competing wills and interests, and must therefore worst anyone who does not participate in the balance.[48]

Because love means renouncing coercion, Niebuhr argues that it would compromise justice, inviting anarchism, communism, and the triumph of evil ideology.[49] In his book of 1949, *Faith and History*, he writes:

> In the collective relationships of mankind ruthless aggression must be countered by resolute defense; and the impulse of dominion must be resisted, if slavery is to be avoided. A sacrificial submission to a ruthless antagonist may mean a noble martyrdom if the interests of the self alone are considered. But if interests other than those of the self are sacrificed, this nobility becomes ignoble "appeasement." This fact our Christian

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[46] Niebuhr, "The Spirit of Justice," 25.

[47] Nicholas Wolterstorff, *Justice in Love* (Eerdmans, 2011), 63, italics in original. I profit from Wolterstorff's clear discussion of love and justice in Niebuhr, 62-72.

[48] Niebuhr, *The Nature and Destiny of Man*, 2, 72.

[49] Niebuhr, "The Ethic of Jesus and the Social Problem," 32.

> perfectionists learned (and sometimes failed to learn) in the tragic decades of recent history . . .. A saintly abnegation of interest may encourage the ruthless aggrandizement of the strong and the unscrupulous. These facts are so plain that every effort to introduce suffering love as a simple alternative to the complexities and ambiguities of social justice must degenerate into sentimentality.[50]

The ethic of Jesus, he argues in a 1932 essay, is a personal not a social one. A defensible social ethic involves coercion, which is a violation of pure love.[51] Agape is a social ethic for the age to come, not for this age, Niebuhr concluded.

The Reality of Justice

Niebuhr "took remarkably little notice . . . of the theme of justice in the New Testament," Wolterstorff writes.[52] This is the nub of the tension between the justice of right relationship and the thought of Niebuhr and the other realists. Their ethic for action falls short of the wide meaning of justice in the Bible – comprehensive right relationship, consisting of actions governed by the entirety of true principles, some of which are absolute, or exceptionless. Justice governs all human actions, including ones in the political realm. The justice of right relationship acknowledges realism's insight into the place of self-interest and power in social life, and even more so the presence of all forms and degrees of sin, in its principles of rectifying justice and prudence. This justice is not naïve about these realities, nor is it utopian. Participating in divine justice, directing the pursuit of human fulfillment, and known through reason, this justice professes to be real, and realer than realism.

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[50] Niebuhr, *Faith and History: A Comparison of Christian and Modern Views of History* (Charles Scribner's Sons, 1949), 184; quoted in Wolterstorff's *Justice in Love, 66.* Ellipses are Wolterstorff's.
[51] Niebuhr, "The Ethic of Jesus and the Social Problem," 30, 35.
[52] Wolterstorff, *Justice in Love,* 63.

The Bible's treatment of justice differs from Niebuhr's argument that love exceeds justice and is scarcely attainable in political affairs. I have argued that love in the Bible means both delight in someone or something, and a will towards the good, and that this second meaning converges with the Bible's comprehensive justice. Human justice is equivalent to the person's love of God, love of neighbor, and love of self.[53] Because love and justice involve acts that are governed by principles, love is not indeterminate or above principles, as Niebuhr argues. To love God, neighbor, and self are Jesus' "great commandments," which, Jesus teaches, summarize "all the law and the prophets" (Matt 22: 37-40). Some obligations are imperfect, or open-ended, most of which are supernaturally authorized, yet they are principles for action, defining types of action and always promoting basic goods. In Chapters Ten through Twelve, I sought to illustrate their practice in politics. While it is true that the Christian acts by grace, in freedom, and with God as his end, this supernatural orientation does not dispense with principles, which are the contours of God's love and justice. Contrary to Niebuhr and Morgenthau, none of the principles that Jesus taught prohibit coercion, including that of the police officer and the soldier.

If justice and love comprise principles, so, too, realists are wrong to argue that people, even when they act in the political realm, may intentionally violate principles. While principles, especially imperfect ones, are subject to prudential application and may be realized partially or sometimes foregone, quite different is the contention that the contravention of a principle is permissible. The principles that officials in the political realm most often violate for "realist" reasons are prohibitions of murder,

[53] For this argument, see Chapter Four.

torture, and lying.[54] These prohibitions belong to natural law, the set of principles that are found in the Decalogue and that are widely and historically shared among civilizations and thought to be embedded in the "common conscience of humankind." They are at the at the core of the just war ethic and of the renewal of international law that took place after World War II through the Universal Declaration of Human Rights (1948), the Genocide Convention (1948), the Geneva Convention (1949), and Convention Against Torture (1987). These principles belong to the justice of right relationship, are ones that render what is due, are absolute, and are knowable by reason.

Niebuhr holds that some actions may permissibly violate principles in his assertion of the contingency of principles, as does Morgenthau in his definition of prudence and Mearsheimer in his approval of lying. During Niebuhr's career, the question of this violation arose in the policies of the United States in the Second World War and the early Cold War, subjects on which he wrote frequently. His wonted antinomies overhung his judgments during this period, on the one hand, cautioning against pride and American pretensions of innocence as well as of idealist projects for transcending international rivalry through world order and law, and on the other, rejecting of a pure, cynical pursuit of power. Niebuhr also looked upon just-war norms consonantly with his skepticism of absolute natural law principles. In 1955, he and a coauthor wrote that the just war ethic's "rules" are too rigid, opining in vintage Niebuhrian fashion that the ethic's "efforts to construct a precise guide through detailed elaborations . . . result in a rigid and highly artificial structure more likely to confuse

[54] Other principles may also be commonly violated in times of political exigency and alleged "emergency," such as civil liberties.

than illumine conscience."[55] Consequently, in 1943, Niebuhr sanctioned the American and British bombing of cities in Germany, which directly targeted civilians as a means of breaking the morale of Germany and hastening an end to the war.[56] He also came to support U.S. President Harry Truman's decision to drop atomic bombs on Hiroshima and Nagasaki on August 6th and 9th, 1945, an act that aimed at a mixture of military and

[55] Angus Dun and Reinhold Niebuhr, "God Wills Both Peace and Justice," *Christianity and Crisis*, June 13, 1955, 76-77.

[56] The essay, "The Bombing of Germany," appeared in *Christianity and Society* in Summer 1943 and is reprinted in Niebuhr, *Love and Justice*, 222-223. Characteristically, Niebuhr begins by taking issue with pacificists and self-righteous gloaters. He proceeds to defend the bombings as an inescapably sinful but necessary choice. By contrast, the just war ethic, rooted in natural law, forbids the intentional bombing of civilians as murder, allowing the death of civilians only as a proportionate side effect of a just military act, e.g., one that intends to destroy a military target and does not all intend the death of civilians. At first Niebuhr appears to be ambiguous about whether he regards the bombing as intending civilian death (as a means to the end of victory) or as causing but not intending civilian death. He writes "[i]t is not possible to defeat a foe without causing innocent people to suffer with the guilty," a statement that could be interpreted as viewing civilian death as a side effect. However the second half of the essay portrays the bombing as an action that involves "guilt" and "sin" that is inevitable and unavoidable. "No man has the moral freedom to escape from these hard and cruel necessities of history" he writes. This position is only intelligible if Niebuhr regards the bombing as sinful and it is sinful if it involves the intentional targeting of innocents, which, in historical fact, it did. The best that "the necessities of history" allow, he argues, is that people have the freedom to "do these things without rancor or self-righteousness." Niebuhr even offers the example of Christian pilots who refuse to take communion prior to "their perilous trips" because they know that they are about to commit sin. He admires their conscience yet argues that their sins are ones in which they are involved "inexorably by reason of their service to a 'just cause.'" In addition, in a piece in *Christianity and Society* in fall 1945, "The Atomic Bomb," that is reprinted in Niebuhr, *Love and Justice*, 232-235, Niebuhr refers to the U.S. strategy of "obliteration bombing and incendiarism," terms that denote the intentional targeting of civilians. For extensive documentation of the British aim of targeting German civilians in their bombing campaign in World War II, see John Finnis, Joseph Boyle, and Germain Grisez, *Nuclear Deterrence, Morality and Realism* (Oxford: Clarendon Press, 1987), 38-44. For a strong historical case that both the United Kingdom and the United States targeted civilians in their bombing campaigns in World War II, see A.C. Grayling, *Among the Dead Cities: The History and Moral Legacy of the WWII Bombing of Civilians in German and Japan* (Walker & Company, 2006), 117-178.

civilian targets in order to break the morale of Japan and bring the war to an end.[57] Once the Cold War got underway and both the United States and the Soviet Union acquired nuclear weapons, Niebuhr supported the U.S. policy of nuclear deterrence and its threat of "massive retaliation" against the population of the Soviet Unions. Niebuhr agreed with U.S. policymakers that the deterrent was necessary to prevent the subjugation of Europe by the communist Soviet Union. Proponents of the traditional just war ethic argue that it is wrong to threaten what it is wrong to do, making the nuclear deterrent threat intrinsically evil.[58]

Was Niebuhr a consequentialist? A consequentialist is one who evaluates actions not by whether they conform to principles but rather solely by the overall state of affairs

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[57] Niebuhr defends the use of the bomb in Reinhold Niebuhr "The Atomic Issue," Christianity and Crisis 5, no. 19 (October 15, 1945): 5–7. Here again, he argues for historical inevitability: "It is a simple matter to condemn the statesmen who made the decision to use the bomb. The question is whether they were not driven by historical forces more powerful than any human decision." He righty points out that the bomb culminated the strategy of total war in which the U.S. had already been involved (involving the targeting of civilians), a strategy that indeed took hundreds of thousands of Japanese civilian lives. He criticizes statesmen, however, for not having first demonstrated the power of the bomb, which would have given them "tremendous . . . moral advantage." The next year, Niebuhr signed a statement issued by the Federal Council of Churches condemning the bombing. Around the same time, though, he argued that the bombing was justified as a means to shorten the war. See Federal Council of Churches, "Atomic Warfare and the Christian Faith," excerpted in "Theology and the Bomb," *Christian Century*, April 10, 1946; and Reinhold Niebuhr to James B. Conant, letter of March 12, 1946; both cited in Richard Wightman Fox, *Reinhold Niebuhr: A Biography* (Pantheon, 1985), 224–5. For a helpful discussion of Niebuhr's positions on these matters, I am indebted to Gregory Moore, *Niebuhrian International Relations: The Ethics of Foreign Policymaking* (Oxford University Press, 2020). On the targeting of the bombings, see Martin Sherwin, *A World Destroyed: Hiroshima and its Legacies*" 3rd ed. (Stanford University Press, 2003), 209; Richard G. Hewlett and Oscar E. Anderson, Jr., *The New World, 1939/1946*, vol. 1 of *A History of the United States Atomic Energy Commission* (Pennsylvania State University Press, 1962), 358-360; Henry L. Stimson, "The Decision to Use the Atomic Bomb," *Harper's Magazine* 194, no. 1161 (February 1947), 100-101. For these citations and their discussion, I am indebted to John Finnis, Joseph M. Boyle Jr., and Germain Grisez, *Nuclear Deterrence, Morality and Realism* (Clarendon Press, 1987), 33-34, 93.

[58] In *The Irony of American History*, Niebuhr argues that America had its pretensions of innocence dispelled when, after World War II, "the exercise of . . . power required us to hold back the threat of Europe's inundation by communism through the development of all kinds of instruments of mass destruction, including atomic weapons." The U.S. now "finds itself the custodian of the ultimate weapon which perfectly embodies and symbolizes the moral ambiguity of physical warfare," 38-39. See also his essay, Reinhold Niebuhr, "The Hydrogen Bomb," *Christianity and Society*, Spring 1950, reprinted in Niebuhr, *Love and Justice*, 235-237. On the wrongness of the threat of nuclear destruction even as a deterrent, see Finnis, Boyle, and Grisez, *Nuclear Deterrence*, 104-131; 45: G. E. M. Anscombe, "War and Murder," in *Ethics, Religion and Politics: Collected Philosophical Papers*, vol. 3 (Basil Blackwell, 1981), 51-61.

in which they result. Utilitarianism is the baldest form of the doctrine, adopting as its sole standard a calculus of utility. Niebuhr's willingness to approve of actions that violate principles, in this case, the prohibition of murder, raises the question. Each of Niebuhr's judgments involves a comparison of scenarios typical of consequentialism. The Hiroshima bombing allegedly prevented a prolonged war, the deaths of thousands of American soldiers who would have had to invade mainland Japan, and other evils, all of which outweigh the civilian deaths wrought by the bombing and the long-term moral and strategic effects of using an atomic weapon. Debates over nuclear deterrence pit against one another scenarios of being red rather than dead, risking being dead in order not to be red, risking killing in order not to be red, and so on.[59] The scenarios involve judgments about risks, costs, the probability of future courses of action, and the desirability of states of affairs, all of which are ones of assessing consequences.

Defenders of Niebuhr hold that he is not a consequentialist because he invokes principles and does not solely assess actions by their aggregate outcomes.[60] He invokes sin, after all, which, by definition, is a violation of moral principle. He reasons that the decision to bomb innocents and to deter a country through threats to kill innocents involves sin, not least the sin of murder. Yet he then commends sin to avoid greater sin, arguing that sin is often unavoidable, especially in politics, and that not to act is also a sin. Much like a consequentialist, Niebuhr holds that persons may act against principles if the costs of upholding them outweigh the good that they effect.

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[59] The reference to "red" arises from the culture of the Cold War. To be "red" means to live under communist domination. So, debates took place about what kinds of actions or scenarios would be preferable to Soviet conquest.

[60] See Mark L. Haas, "Reinhold Niebuhr's Christian Pragmatism: A Principled Alternative to Consequentialism," *The Review of Politics* 61, no. 4 (1999): 605-636.

Whether or not Niebuhr escapes being a consequentialist in the end, it is this support for performing actions that intentionally violate principle through which Niebuhr departs from the justice of right relationship (in this case, its natural law norms). This justice (and the natural law tradition) holds that persons never ought to perform certain actions, even should avoiding them incur suffering. It is justice of this kind that prohibits, in morality and in law, murder, rape, torture, lying, and slavery. From the standpoint of the justice of right relationship, what is morally pivotal are the principles that govern actions, which, in turn, are governed by an intention to bring about a certain object for a certain reason. When a general commands a pilot to bomb a civilian neighborhood in enemy territory in order to break the morale of the enemy population so as to hasten victory, killing civilians is the object of the action and ending the war is the reason for it. This action violates the principle, never kill an innocent person intentionally as a means or an end, which is an instance of the more general principle, never act to destroy a basic human good. For the consequentialist, who employs a form of reasoning that became popular among philosophers, theologians, and politicians in the 20th century, morality is not a matter of an agent acting according to principles, which forbids destroying basic goods, but is rather a matter of optimizing the good (minus the bad) that an agent causes. His mistake is that intrinsically valuable goods can be weighed against other goods, and even more so that a person may intend through his actions the destruction of intrinsically worthy goods.

Realism's mistakenness about principles is evident also in its core concepts of interest and power. What is in dispute is not how extensive interest and power are in social life – how is such an assessment ever to be evaluated? – but rather the relationship of these concepts to principles. Realists typically pose interest and power as

standing in contrast to principles. Niebuhr often equates self-interest to sin. This contrast is at the core of Realists' classic critique of idealists and Sermon-on-the-Mount Christians: They are naïve about interest and power.

Neither interest nor power, though, inherently contradicts principle. Both citizens and officials may pursue or adopt either in order to protect goods (as long as their means are licit). They may act out of self-interest. Jesus, after all, commanded love of self. Traditional Christian morality allows individuals to defend themselves when they are attacked and to resist and protest when their human rights are violated, and allows states to defend their territory and national community – the latter of which embodies the good of interpersonal harmony – against attack. They may wield power, interpreted to mean coercion, justifiably by legitimate authority in a legitimate manner. The legitimacy of actions that pursue interest and wield power, then, is contingent upon these actions' conformity to principles – the justice of right relationship. Because neither interest nor power is inherently sinful, this justice is not utopian.

Realism's shortcoming, then, is not its assertion that power pervades but rather its failure to prescribe action according to principles that promote intrinsically worthy goods. This is what makes it a narrative of separation from the justice of right relationship. In focusing upon interest and power in social life, it mistakenly prescribes action according to this description, which is not only a logical flaw – for no description of social life can tell a person or state what it ought to do – but also misses the true criteria for action, principles that are more real than the putative realities of power and interest.[61] Principles are real in the sense of reality that Niebuhr did not take up in his

[61] The logical flaw referred to in the first part of the sentence is that of deriving an ought from an is, or deriving conclusions about practical reason from theoretical reason.

introduction to “Augustine’s Political Realism” – they are known through practical reason and constitute the moral order, or the human justice, that God established in his divine justice. To abide by them is not only to respect the dignity and the goods that manifest this dignity, of oneself and others, but is also to remain in friendship with God. It is to make choices consistently with the justice that is vindicated, restored, and perfected in heaven, and to bring about goods that are achieved partially now but will be restored to their full reality in the new heavens and earth.

A different challenge to the justice of right relationship also comes from a tradition that has developed since the middle of the twentieth century, one that may be called Christian Radicalism. It is radical literally in its proposal to return to the roots of Christianity as it existed prior to the conversion of the Roman Emperor Constantine in 312 CE, after which Christianity allegedly allied with and conformed itself to kings and eventually states, to their power and to their violence, and forfeited its own power (*dynamos*) to shape the social world. Christian Radicalism shares a diagnosis of politics with Realism, perhaps surprisingly given the two traditions' divergent prescriptions for action.[1] The two traditions agree that a vast disjuncture exists between the Christian gospel and politics practiced in the nation-state. What Machiavelli averred and what Morgenthau stated so starkly in the passages quoted in the last chapter – an "inevitable discrepancy" – Christian radicals endorse insofar as they view politics darkly, as characterized fundamentally by power, violence, greed, sin, and idolatry. Where Realism and Radicalism differ is in their response to this disjuncture. Realists propose that politics be practiced but that this practice must compromise Christian principles, whereas Radicals propose that the Gospel be adhered to but that its practice restricts involvement in politics of the nation-state. Radicals insist that they are not advocating withdrawal from the world but rather a different politics that is to be practiced by the Church – a witness to the state but mostly not a direct participation in it.

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[1] Stanley Hauerwas, perhaps the most famous Christian Radical, criticizes Niebuhr as a prime source of Christian conformity to the state in Stanley Hauerwas, *With The Grain of the Universe: The Church's Witness and Natural Theology* (Baker Academic, 2001), 87-111. Interestingly, Hauerwas is far more critical of Niebuhr than he is of Walter Rauschenbusch, the early twentieth-century theologian who espoused the "the social gospel," a doctrine of justice envisioned as being situated in liberal democracy, in Stanley Hauerwas, *A Better Hope: Resources for a Church Confronting Capitalism, Democracy, and Postmodernity* (Brazos Press, 2000), 71-107.

Disjuncture views are separation narratives, decoupling principles of the justice of right relationship from action in the political realm. The justice of right relationship rejects the disjuncture, holding that principles of justice govern all of the actions that bring about right relationship, of which action in the political sphere is a subset, and that this action is purposed to the common good. Principled action meets obstacles, incurs costs, and requires prudence but can and ought to be practiced in politics.

How does Christian radicalism go about presenting its challenge? The *paterfamilias* of contemporary Christian Radicalism is the late theologian, John Howard Yoder, and the *locus classicus* of the tradition is his book of 1972, *The Politics of Jesus*. Government institutions, Yoder argues, are "fallen powers" that enslave humans to sin but were defeated by Jesus Christ in his Cross and Resurrection, enabling humans to be liberated from sin's hold. The mark of this liberated life is the rejection of violence and the pursuit of peace.[2] This tradition that would return Christians to their roots finds its own roots in "Anabaptist" churches – of which Yoder's Mennonite church is one – that suffered persecution in the sixteenth and seventeenth centuries at the hands of states that upheld the Catholic Church and "magisterial" Protestant churches.[3] The most famous among today's Radical Christians has been Christian ethicist Stanley Hauerwas, who, like Niebuhr, appeared on the cover of *Time* magazine, which called Hauerwas "America's Best Theologian" in 2001. Yoder was one of Hauerwas's strongest influences, as were Karl Barth and Alasdair MacIntyre, to whom Hauerwas looked for his idea of

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[2] John Howard Yoder, *The Politics of Jesus: Vicit Agnus Noster*, 2nd ed. (Eerdmans, 1994), 134-161. The first edition was published in 1972.

[3] "Anabaptist" churches were Protestant ones of the "Radical Reformation," which espoused a doctrine by which a person only received baptism upon profession of faith (and thus not as an infant). These churches were generally smaller than Anglican, Lutheran, and Presbyterian churches and were not established by states. Today, Amish, Hutterite, and Mennonite churches descend from Anabaptist churches.

tradition and his rejection of the abstract universal norms that the Enlightenment taught. Among Biblical scholars, the most prominent Christian Radical is Richard Hays, whose book of 1996, *The Moral Vision of the New Testament*, became a leading text for ethics in Protestant seminaries and colleges.[4] Among theologians, William Cavanaugh, once a doctoral student of Hauerwas, has written a succession of intellectually sophisticated books and articles in this tradition over twenty-five years.[5] Practicing and preaching the tradition are "peace churches," most of them Anabaptist.[6]

Radicals call Christians back to their story. Narrative is a central theme. Christians ought to derive their ethics – guidance for action – not from universal principles that are abstracted from social ties, community and history, but rather in the story of God's redemption through Jesus Christ that the Bible recounts, a story in which they are now situated. Ethics consists chiefly of virtues, practices, and the formation of character according to this story. This ethics will be distinctive from the politics and economics of the state, including liberal capitalist democracies and the rationales of their left and right partisans. "Does it really make any difference, in our life together, in what we do, that in Jesus Christ God is reconciling the world to himself?," Hauerwas

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[4] Richard Hays, *The Moral Vision of the New Testament: Community, Cross, New Creation: A Contemporary Introduction to New Testament Ethics* (HarperSanFrancisco, 1996). Hays includes Karl Barth, John Howard Yoder, and Stanley Hauerwas as three of "Five Representative Hermeneutical Strategies" that he discusses. He is strongly sympathetic to these three.

[5] Cavanaugh's thought is arguably the most theologically developed and intellectually ambitious of Christian Radical critiques of secular modernity, and pointedly, of Christian conformity to it. His book of 2024, William T. Cavanaugh, *The Uses of Idolatry* (Oxford University Press, 2024), stands as a compendium of his thought over 25 years and freshly engages thinkers such as Max Weber, Charles Taylor, Emile Durkheim, and Jean-Luc Marion.

[6] Other thinkers whom I place in the Christian radical tradition include Michael Baxter, Daniel Bell, Jr., Hendrick Berkhof, Michael Budde, Craig Carter, Michael Cartwright, Shane Claiborne, Jacques Ellul, Kelley S. Johnson, John Paul Lederach, Eugene McCarraher, James McClendon, Nancey Murphy, Margaret Pfeil, Williard Swartley, and Allen Verhey.

and coauthor William Willimon ask in their widely-read book of 1989, *Resident Aliens*.[7] In *The Moral Vision of the New Testament*, Hays proposes cross, community, and new creation as the three "focal images" through which to read the Bible in matters of ethics.[8] Pacifism, which Christian radicals read in the Sermon on the Mount, is the most distinctive practice of Christian discipleship, and finds siblings in peacebuilding, reconciliation, forgiveness, direct care for the poor, and care for the land.

Be the Church! This is the signature cry of Christian Radicals. Closely related to narrative is community. In contrast to the atomism of modern life, Christians "[live] out their story together" and "togetherness happens" in the "colony" of the Christian community, Hauerwas and Willimon write, not as an end in itself "but only as the by-product of the main project of trying to be faithful to Jesus Christ."[9] Ethics is not derived from the Christian community, Christian Radicals like to say, but rather ethics is the Christian community, especially its liturgy and worship.[10] Against the familiar charge that they are sectarian and tribal, Christian radicals answer that their prescription is not withdrawal and isolation but rather a different sort of politics based on Biblical practices such as non-violence. Exemplifying this engagement is the Mennonite Central Committee, which has practiced economic relief, development, and peacebuilding around the world since it was founded in 1920. Within the Church, Christian Radicals include Church authority and discipline in their conception of community, a practice

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[7] Stanley Hauerwas and William H. Willimon, *Resident Aliens: A Provocative Christian Assessment of Culture and Ministry For People Who Know That Something is Wrong* (Abingdon Press, 2014), 95. This is the expanded 25th anniversary edition.

[8] Hays, *The Moral Vision in the New Testament*, 193-205. Narrative and story also feature prominently in Allen Verhey, *Remembering Jesus, Christian Community, Scripture, and the Moral Life* (Eerdmans, 2002).

[9] Hauerwas and Willimon, *Resident Aliens*, 78.

[10] See William Cavanaugh, *Migrations of The Holy: God State, and the Political Meaning of the Church* (Eerdmans, 2011), especially Chapter Seven, "The Church as Political,"123-140.

they find only minimally in today's church, which has conformed itself to Western individualism.

Hauerwas and Willimon declare, "[w]e believe both the conservative and the liberal church, the so-called private and public church, are basically accommodationist (that is, Constantinian) in their social ethic. Both assume wrongly that the American church's primary social task is to underwrite American democracy."[11] This accommodation is manifested in a nationalism that involves worship of the state, militarism abroad, violence within the society, consumerism, acquisitive capitalism, individualism, social isolation, worship of technology, breakdown of the family, and a displacement of local communities by the central government and the business corporation. Almost all of the Christian Radicals are from the United States and find conformity to the secular most pronounced in the United States.

Idolatry is the concept through which Cavanaugh mounts his critique of secular modernity, and, most pointedly, of Christian conformity to it. Recurrent in his work is the "Migration of the Holy," an idea that he borrows from the French theologian of the mid-twentieth century, Henri de Lubac, which holds that in late medieval and early modern Europe (the fourteenth through the seventeenth centuries), popular loyalties shifted from the Church to the modern state, which grew in its size, military might, and capacity for taxation. The modern state thus acquired the devotion that people once accorded to Christ: idolatry. Cavanaugh takes issue with Enlightenment thinkers of the eighteenth century who looked back on this period as one of rampant religious war and proposed – as Rawls did – that peace required sidelining religion from politics. In fact,

[11] Hauerwas and Willimon, *Resident Aliens*, 32.

Cavanaugh contends, wars that burgeoning states fought for land, wealth, and power dwarfed wars that rulers fought for or against the papacy or the Eucharist.

That religion is violent became a myth that defines modernity, Cavanaugh argues.[12] He aims persistently over the course of his writings to call into question this myth and the dichotomy that frames it, that between the secular and the religious. This dichotomy, which pervades the modern state and much of modern political thought, social theory and religious studies, holds that the secular is rational, unifying, stabilizing, and apposite to the state while religion is irrational, divisive, fanatical, violent, destructive, and demanding to be contained. Rawls echoes here. It is wrong, though, Cavanaugh argues, to think of the modern state as a cool realm of disenchantment, an immanent horizon, and restrained rationality. By nature, human beings desire to worship, to be devoted to something transcendent, and if they do not worship God, they will turn to something else to fill their God-shaped hole. Modern people, including Christians, transfer their devotion to the nation and the state, making it their religion and practicing idolatry. Most revealing is their willingness to kill and die for the state. Paralleling nationalism is the economic idolatry of consumerism, that is a devotion to material goods.[13] The modern state and the capitalist economy have sucked up the loyalties of people in modern western societies; are violent and exploitative; have cabined the Church to "civil society," which it inhabits with the Audubon Society and the Teamsters as merely one of many "intermediate associations"; and have exported their godlike status to the rest of the world. Ultimately, modern idolatry is the way of the

[12] See William T. Cavanaugh, *The Myth of Religious Violence: Secular Ideology and The Roots of Modern Conflict* (Oxford University Press, 2009), 15-56.
[13] Cavanaugh defines consumerism in *The Uses of Idolatry*, 280-281

earthly city, whose citizens worship themselves, individually and collectively, to the point of contempt for God, and a rejection of the City of God, whose citizens worship God to the point of contempt for self – the enduring dichotomy of Augustine, whom Cavanaugh extols.[14]

Finally worthy of note in Christian Radicalism is its scant place for natural law principles and for the natural goods that are their point. Hauerwas consistently rejects an ethic of universal rules, which he associates above all with Kant and his autonomous, detached individuals, and argues instead for ethics as a set of practices learned through habit and formed in the community of the Christian Church.[15] Hays finds and invokes principles in the Bible but does not view them as the natural law and says little about how their obligatoriness is known. Cavanaugh, too, makes scant reference to the natural law. Ethics for him follows from worship – God or the self? – and takes on normative content only in his references to the Sermon on the Mount and its counsel of non-violence and to the Bible's command to care for the poor. His ground principle is the First Commandment, prohibiting idolatry. Rights, attendant upon natural law principles, find even less of a place in Christian Radical thought.

How does Christian Radicalism comport with the justice of right relationship? In Christian radicalism's insistences; in its calls for political action that emanates from

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[14] This dichotomy can be found in Augustine, *The City of God*, 136-137

[15] See Stanley Hauerwas, review of *The Abuse of Casuistry: A History of Moral Reasoning*, by Albert R. Jonsen and Stephen Toulmin, *Interpretation* 44, no. 1 (January 1990): 95-97; Hauerwas and Willimon, *Resident Aliens*, 74-97. The authors write, "[g]rowing up, becoming a mature, functioning adult is thus defined as becoming someone who has no communal, traditionalist, familial impediments. This heroic, radically individual and subjective ethic was best articulated by Kant and survives today in perverted form in the so-called Contextual or Situation Ethics – as well as in the conventional ethical wisdom of the average person in our society," Hauerwas and Willimon, *Resident Aliens,* 79; "We fail to do justice to the radically communal quality of Christian ethics," Hauerwas and Willimon, *Resident Aliens,* 80; "All Chrisitan ethics are social ethics because all our ethics presuppose a social, communal, starting point – the church," Hauerwas and Willimon, *Resident Aliens,* 81.

Jesus Christ, his Cross and Resurrection, and the community of the Church and liturgical devotion; in its criticism of Christian conformity to the secular – in all of this lies convergence with the foregoing pages. In the justice of right relationship, supernatural principles, their promulgation by Jesus and their pronounced imitation of the Cross and Resurrection; the foundational place of the Bible; the Church's mission of salvation in the world, including in the political order; a recognition of the pervasiveness of sin, the quest for power, and the ubiquity of wounds; and distinctive practices such as non-violence, hospitality, peacebuilding forgiveness, and the building of social ties – all share in Christian radicalism.

Cavanaugh's criticism of idolatry finds resonance here, too. In the negative secularism that Chapter Thirteen criticizes, in separation narratives, in Rawls's thought, can be found the pivotal dichotomy, secular vs. religion, and all that Cavanaugh plumbs and decries in it. While religion arguably played a greater role in causing war in early modern Europe than Cavanaugh recognizes, there is little doubt that many Enlightenment thinkers pointed to this period as evidence for religion's inherent fissiparousness and that their critique has endured to this day.[16] It is difficult to deny idolatrous nationalism –epitomized by German liberal Protestant theologian Adolf von Harnack's writing of a speech for Kaiser Wilhelm II making the case for Germany entry into war on August 4, 1914 as a defense of German civilization based on religious faith – or flagrant consumerism. Idolatry persists and provokes self-examination.

[16] My argument about religion's role in early modern war and politics is in Daniel Philpott, *Revolutions in Sovereignty: How Ideas Shaped Modern International Relations* (Princeton University Press, 2001), 97-149. Cavanaugh sets forth his argument in Cavanaugh, *The Myth of Religious Violence*, 123-180.

Where the divergence of Christian Radicalism from the justice of right relationship lies is in the very absence of this justice in its prescriptions for action. This is what makes Christian Radicalism a separation narrative. The justice of right relationship consists of action governed by principles that direct the pursuit of goods that constitute human flourishing. Far from being severed from the Bible and its story, these principles are commanded by God through Christ, reflect the wisdom and truth of God, and are intelligible, known by reason as the natural law and as supernaturally authorized determinations of reason. Some of the principles entail rights, which protect dimensions of human dignity. Far from presupposing or promoting a detached, radically autonomous individual, these universal principles direct persons to right relationship with others and to the social ties of friendship, family, nation, and community in their history and their particularity. These principles of justice also make government presumptively good. Coercive action, when undertaken lawfully, is just in principle and does not amount to violence. Economic activity, too – production, exchange, work, employment – is presumptively good, that is, oriented towards flourishing and subject to principle. On these grounds, the Catholic magisterium, the largest Protestant churches, and the Orthodox Church have looked upon the monarchies of early modern Europe and, later, constitutional liberal democracies, as legitimate institutions, allegiance to which is required by citizens in fidelity to commandments that God has given the world, most importantly, love of neighbor.

Absent a firm incorporation of principles, Christian radicalism fails to offer reasons for action. It underdetermines justice. While Christian Radicals plea that they do not advocate withdrawal from political and economic action, they provide few criteria for determining whether this action is conformist, wrongly worldly, and idolatrous, or

good, legitimate, or even morally required. Their jeremiad risks condemning what is right and fails to specify what is wrong. Reasoning about ethics based on Jesus Christ, understood through story, the Bible, Church, and community, but without the principles that constitute life in Jesus Christ, is like riding a bicycle without a frame.

How ought we to judge choices that bear on the nation, for instance, in light of Christian Radicalism's indictment of nationalism as idolatry? A young man's decision to join his country's army; a citizen's commitment to her country's war effort; a monument to the fallen veterans of a war; the payment of taxes to governments that fight wars; the display of flags at homes; the just treatment of dissenters from wars or national minorities; the claims of a nationalist secessionist movement – does the justice of these actions hang on idolatry alone?

Chapter Nine argues that a nation is a community of people tied by language, history, culture, and a government (or an aspiration to one). Historically, nations have always contained a political dimension. The friendship between members of a nation, especially their collaboration in political matters, is a basic good, or intrinsic form of fulfillment. Patriotism is the virtue of loving the nation and the fellow citizens of one's state or one's patria, and the action to which it tends is a form of love of neighbor, or justice. Principles give contours to this justice – the state's status as a coordinator and enforcer of justice, the obligations and rights of citizens, the norms that make up the just war ethic, the rights of minorities, and the norms that govern national self-determination. These principles justify commitment to and sacrifice for the nation but also determine whether this commitment is unjust, excessive, or, yes, idolatrous, as when nation-states aggress upon other states, commit war crimes, or mistreat their

minorities. Upon these principles, nations and their states merit – and usually obtain – the devotion of citizens in a way that the telephone company does not.

In an article in 2023, Cavanaugh looks at Ukraine's war with Russia.[17] He professes sympathy for and does not deny the justice of Ukraine's war and does not espouse strict pacifism.[18] Yet he upbraids the West, especially the United States, for assisting Ukraine – people like us, he writes – while ignoring Muslims in Syria or Africans in Congo. He worries that Ukraine's nationalism will calcify into an undemocratic and intolerant form, and questions the "good war" narrative for overlooking the slaughter on both sides and underselling the possibility of non-violent resistance. I wish not to evaluate these arguments so much as to point out that they presuppose the legitimacy of the nation and implicitly rely on a set of moral principles beyond the prohibition of idolatry. In acknowledging Ukraine's just cause, Cavanaugh (rightly) endorses the judgment of Ukrainians that their nation, unlike the phone company, is a good worth defending, as he does when he (rightly) rejects Russian President Vladimir Putin's and Patriarch of Moscow Kirill's denial that the Ukrainian nation exists. His worry about the deformation of Ukraine's nationalism allows that a commitment to the nation can be just and is subject to principles of human rights and democracy. His argument about consistency in foreign policy requires an assessment of conflicts in Syria and Congo according to principles regarding the justice of war, the justice of rebellion, human rights, mercy, non-violence, and prudence. His appeal for non-violence and love for enemies in Ukraine can only find application in conjunction

[17] At the time of the writing of this book, this war was underway.
[18] William Cavanaugh, "No War Is Good," *Commonweal*, May 10, 2023, find at https://www.commonwealmagazine.org/ukraine-war-francis-nonviolence-putin-cavanaugh.

with norms governing just coercion and likelihood of success, as discussed in Chapter Eleven. In judging an actual conflict, Cavanaugh relies heavily on a set of principles, including love for one's nation, that are largely absent from his and other Christian Radicals' writings.

So it goes for Christian Radicals' critique of consumerism. Economic idolatry is rampant, they tell us, as endemic to modern capitalism as idolatry of the nation is to the modern state. Here again, though, how are we to distinguish consumerism and idolatry from legitimate economic activity? How are we to assess the millions of actions of production, exchange, hiring, investment, lending, and advertising that take place every day? Cavanaugh illustrates idolatry with companies such as Amazon, which, he shows, mistreat workers, reap massive inequalities in earnings, manufacture consumer desires through advertising, and destroy competitors.[19] He writes nothing of Fred, an engineer in Chicago who works for a company that manufactures heaters, sells them to people who need them and pays him and his fellow workers fairly and treats them humanely. Or Susan, who undertakes to start a small business selling handbags in Tuscaloosa. Or millions of other people who engage in ordinary economic activity without apparent idolatry. He writes little of the good that market economies do in lifting people out of poverty and providing goods that contribute to human flourishing. Nothing in the argument at hand denies the injustices that he finds in economic activity, but are we to judge it and scale it against the justice that such activity brings about? Only if we know what goods economic activity yields and what moral principles direct the pursuit of these goods – fairness, honesty, the dignity of workers, care for the poor, respect for the

[19] Cavanaugh, *The Uses of Idolatry*, 287-289

natural environment, and so on. Absent such principles and goods and their robust application, Christian Radicals defeat their own aim of exposing injustices in the economy.[20]

Christian radicals' approach to the most disputed issue of our time, abortion, illustrates how their neglect of principles of justice undermines their ability to make determinate judgments. Hays and Hauerwas adopt a common approach. They reject the principles and rights through which contemporary partisans approach the debate: the principle that it is wrong to kill and the corresponding right to life, and the right of a pregnant woman to choose abortion. Clashes between these abstract principles are intractable, they argue, and reflect the paralysis of secular politics. Even more so, these "lines of argument from *reason*," Hays writes, "come into collision" with the New Testament.[21] Hays quotes Hauerwas:

> . . . Christian opposition to abortion on demand has failed because, by attempting to meet the moral challenge within the limits of public polity, we have failed to exhibit our deepest convictions that make our rejection of abortion intelligible. We have failed then in our first political task because we accepted uncritically an account of "the moral question of abortion" determined by a politics foreign to the polity appropriate to Christian convictions.[22]

Hays claims that the Bible lacks principles that explicitly govern abortion. He considers the Fifth Commandment, which he renders, "thou shall not murder," and argues that it begs the question, What is murder?, and leaves us without an answer. What he turns to in the Bible instead are three passages that make the case for welcoming life in a

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[20] To be fair, Cavanaugh discusses the example of fair trade "as a [pathway] for avoiding idolatry, in Cavanaugh, *The Uses of Idolatry*, 390-395.

[21] Hays, *The Moral Vision of the New Testament*, 454-55. Italics in original.

[22] Hays, *The Moral Vision of the New Testament*, 445, quoting Stanley Hauerwas, *A Community of Character: Toward a Constructive Christian Social Ethic* (Notre Dame Press, 1981), 212-213.

"metaphorical" sense: The Good Samaritan, the description of the Jerusalem community's care for the needy in the Book of Acts, and Paul's call to imitate Christ by welcoming the weak.[23] Hays concludes from the Bible that "[t]o terminate a pregnancy is not only to commit an act of violence but also to assume responsibility for destroying a work of God." He allows that "[t]here might be circumstances in which we would deem termination of such a life warranted, but the burden of proof lies heavily upon any decision to undertake such an extreme action."[24]

It is in the Christian community that the Christian ethic of life is rooted, Hays and Hauerwas both argue. Hauerwas and Willimon argue in *Resident Aliens*, "[s]o our response to an issue like abortion is something communal, social, and political, but utterly ecclesial – something like baptism."[25] Hays tells a story that he borrows from Willimon of an African American congregation that baptized and placed in the home of an elderly couple the baby of a fourteen year old girl who had been pregnant and feared raising her baby.[26] The Church community's willingness to care for babies, living out the Bible's narrative, is the best approach to protecting life in an era in which the issue of abortion will not be solved in the secular political realm, argues Hays.

Here again, several Christian Radical themes resonate with the justice of right relationship: the political nature of the Church community's actions; the importance of care; and a valuation of the good of life. Yet, Hays' and Hauerwas' reliance on the Bible's metaphors, symbols, and narrative themes, and their focus on the church community, as

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[23] Hays, *The Moral Vision of the New Testament*, 451-453. The passages from which he draws are: Luke 10:25-37; Acts 4:32-35; Rom 15:1-7; 1 Cor 11:1; Gal 6:2; Phil 2:1-13.
[24] Hays, *The Moral Vision of the New Testament*, 450.
[25] Hauerwas and Willimon, *Resident Aliens*, 81.
[26] Hays, *The Moral Vision of the New Testament*, 459, quoting William H. Willimon, *What's Right With the Church?* (New York: Harper and Row, 1985), 65.

sources of ethics all fail to deliver their ethic of valuing life. Alone, the narratives of the Good Samaritan, the Jerusalem community, and the imitation of Christ, considered apart from principles, do not deliver the conclusion that they want to defend. Why could not the same narrative passages support the decision to abort, which might, after all, mercifully alleviate hardship, including that of poverty? Nor do these passages alone explain how wide are the "circumstances" that Hays believes sometimes warrant abortion – an elastic concept whose broad interpretation could eviscerate a commitment to life. Hays and Hauerwas claim that principles of justice based on unaided reason cannot resolve the issue. But, by what reason ought we to evaluate this claim? By what argument do they argue that the question is not amenable to argument?

If the justice of right relationship is sound, Hays is mistaken in holding that the Bible lacks a principle that governs abortion, one that belongs to the natural law. The fifth commandment prohibits taking an innocent life, is a principle of the natural law, and serves as the major premise of the argument for the prohibition of abortion. The minor premise, that the life of a human being begins at conception, reason can also apprehend as a principle of science and the nature of the human person, as I argued in Chapter Ten. The duty of the state to enforce justice, particularly in the matter of the lives of its citizens, makes the issue a public one. If these principles are true, they are no less true – or biblical, or those of the Church community – for being espoused in the debates of a secular democracy. It is no secret that the principles are contested and that the contest will not likely be resolved soon. Pro-choice voices will counter that the prohibition of taking a life is not absolute, vies with a right of bodily freedom, or does not apply in the case of some fetuses, who are not yet persons. Apart from the principles

that make up justice, it is impossible to settle the matter and to arrive at a determinate ethic of abortion.

Christian radicals in the end are *contra mundum*. To them, the world is the *aion*, the world of the principalities and the powers in the grip of darkness. The New Testament, though, contains two other Greek words for world: *cosmos*, the heavens and earth that God created, and *oikumene*, the realm of human activity. Justice in the Bible holds that human activity in the political and economic realm can realize flourishing in the form of goods that God created. The Bible contains universal moral principles that govern this activity and are known by reason as well as norms that more pronouncedly imitate God's redemptive actions in Jesus Christ.

To a third set of potential critics, the justice of right relationship is complacently conservative in including actions, principles, and goods but omitting structures of injustice. What spurred the contemporary expression of this criticism was Latin American countries in the middle twentieth century where a tiny minority hoarded wealth and power, masses in favellas utterly lacked it, a military dictatorship enforced the arrangement, cultural norms sanctioned it, and prelates often blessed it, leading the region's Catholic Bishops to decry "structures of justice that can be called institutionalized violence" when they met at Medellin, Colombia in 1968. Other structures of injustice include human trafficking networks, practices of depositing industrial waste proximate to the dwellings of the poor, racist cultures and laws, and norms that deny opportunities to women. These critics argue not for a disjuncture between justice and politics and economics, as do Christian Realists and Radical Christians, but rather for a far wider recognition of injustice, and a far wider pursuit of justice, than a justice of principles and rights envisions. Justice must involve liberating people from the structures that oppress them. Let us call this view Christian liberation.

Philosopher David Estlund credits the Catholic Church with bringing structures of sin, or injustice, to the world's attention. One participant at Medellin, Peruvian theologian Gustavo Gutierrez centered his book of 1971, *A Theology of Liberation*, on structural sin and became known as the founding father of liberation theology. In two "Instructions" on liberation theology in 1984 and 1986, the Catholic Church's Congregation of the Doctrine of the Faith, under its Prefect, Cardinal Joseph Ratzinger, criticized liberation theology's veer towards Marxism yet did not deny structures of sin. Pope John Paul II developed the idea in his apostolic exhortation of 1984, *Reconciliatio*

et Paenitentia, his encyclical letter of 1987, *Sollicitudo Rei Socialis*, and, innovatively, his encyclical of 1995, *Evangelium Vitae*, where he argued that the "culture of death" in western societies is a structure of sin that authorizes the death penalty, abortion, and other threats to life.[1] Over the years, Christian liberationists have confronted new structures of sin – race in the work of theologians James Cone, Willie James Jennings and others, sexism in the work of Rosemary Radford Reuther, Ada Maria Isasi-Diaz, and others, and other forms of structures by other authors. Structural injustice has become prominent in the work of secular ethicists as well, for instance in that of philosophers Iris Marion Young and Ann Cudd. "Even if the general idea of structural injustice is puzzling in certain ways," Estlund reflects, "I think that over the past fifty years it has become too important and plausible a part of critical discourse to deny that there is any such thing."[2]

In dialogue, the justice of right relationship welcomes Christian liberationists' core claim that social structures are real, that some of them are sinful, and that the sinful ones are justly opposed. The justice of right relationship in fact contributes much to understanding these structures – their origins, their content, their effects, and the response that they merit. Structures are a form of relationship among the members of a society, or people across societies when they are global. When these structures are just, they are a form of right relationship. They are created, constituted, and sustained by

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[1] John Paul II, *Reconciliatio et Paenitentia* [Reconciliation and Penance], Apostolic Exhortation, The Holy See, December 2, 1984, sec. 16, https://www.vatican.va/content/john-paul-ii/en/apost_exhortations/documents/hf_jp-ii_exh_02121984_reconciliatio-et-paenitentia.html; John Paul II, *Sollicitudo Rei Socialis*, encyclical letter, The Holy See, December 30, 1987, sec. 36-37; John Paul II, *Evangelium Vitae*, sec. 18, 59.

[2] David Estlund, "What's Unjust About Structural Injustice?" *Ethics* 134, no. 3 (April 2024): 334. Iris Marion Young, *Responsibility for Justice* (Oxford University Press, 2011); Ann E. Cudd, *Analyzing Oppression* (Oxford University Press, 2006).

actions, which are free and always involve a reason and an end, and by the principles that govern actions. It is through actions governed by principles that people challenge, reform, and make structures just. Structures, then, are not impersonal forces that inflict injustices apart from the actions of persons. The role of free, intentional actions and the principles that govern them, critical to the justice of right relationship, is also critical for the justice of liberation. It is because structures consist of actions and principles that we may criticize and challenge them according to justice.

Structures

Understanding structures best begins with examples. The traffic system again illustrates -- the totality of the system of roads, lanes, intersections, speed limits, licensing regulations, pedestrian crossings, traffic courts, the department of motor vehicles, and the government's design and direction. Another example is the university in which I am a professor, whose norms govern which and how many classes I may and must teach, what I am supposed to provide for the students, how much leeway I have to decide and create, what I may expect from the students, what actions are impermissible on the professors' and the students' part, what the grading standards are, and so on. The "international system" is a structure according to international relations theorists, one shaped by the size and power of states, how they are aligned, and the norms that govern their boundaries and their behavior. Culture can be a structure, too: the shared racist or ethnocentric beliefs of a dominant group, the attachment of Western Pennsylvanians to the Pittsburgh Steelers, the strong norm of forgiveness in Amish communities, or the global prevalence of the English language. From families and villages to the globe, structures pervade the social world of everyone.

A formal definition of social structures comes from theologians David Cloutier and Daniel Finn, who borrow from sociologist Douglas Porpora and the school of Critical Realism in holding that social structures are "ontologically real systems of relations among social positions rooted in material foundations."[3] The traffic system is real, not a mere idea in a society's imagination, and relates people – drivers, pedestrians, police officers, magistrates – in a system of roles and has material foundations in asphalt, curbs, paint, cars, trucks, offices, and traffic lights. All structures are sources of constraints and opportunities whose reality is revealed most vividly to defiers – the driver in the wrong lane, the professor who makes offensive remarks, the wearer of a Dallas Cowboys shirt in Steelers Country, or the state who would invade a neighboring state with strong allies. These actors in these examples know first-hand what a structure is.

Structures, though, cannot be explained solely as impersonal labyrinths, constraining and channeling persons absent intentions, actions, and principles. Social structures involve actions – free willed behaviors that entail an object, an intention, and a reason – in four respects. First, structures do not suffocate or negate human free will, which a Christian view of the person must affirm. The Catholic magisterium strongly affirmed free will in its writing on liberation theology in the 1980s. Structures can reward and deter but cannot stop a motorist from speeding, a Dallas Cowboys fan from wearing his t-shirt in Steelers country, a dissident or a martyr. Constrained but free,

[3] David Cloutier and Daniel K. Finn, "Improving Theology's Understanding of Complicity and Oppression in Sinful Social Structures," *Horizons* 52, no. 1 (June 2025): 35, citing Douglas V. Porpora, "Four Concepts of Social Structure," *Journal for the Theory of Social Behaviour* 19, no. 2 (June 1989): 195–212.

influenced but not determined, people may purposely follow structures, mindlessly conform to them, or actively oppose them.

Second, persons create social structures. While structures may not have single designers and some of them may develop over generations among large numbers of people, all of them nevertheless originate in time and are fashioned by people who first adopted and espoused the commitments that they involve. Someone founded the Steelers football team and at one time people first decided to follow it avidly; the people of a society began to hold racist and ethnocentric beliefs at some point in history; Amish leaders once decided to take seriously Jesus' teaching of forgiveness and to inculcate it in their children; people designed and legislated the traffic system; and a person or group of people founded a university and crafted its norms.

Third, persons sustain and reproduce structures through their actions. One kind of structure, a symphony, is created anew by the actions of the players of an orchestra – actions that are related in a system and involve material instruments – every time they perform the piece. Every other structure is maintained by people enacting its scripts – the motorists, cops, pedestrians, clerks, and officials who act out the traffic system, the Amish residents of Nickel Mines, Pennsylvania who forgave the man who shot their daughters in a schoolroom in 2006, the racists who deny access, and the Steelers fans who wave their Terrible Towels. Apart from actions, structures do not exist.

Fourth, structures then influence persons. They recruit people into their networks of action and heighten the adherence of people who already belong. They exercise this influence in two ways. One is through the costs and opportunities that they create. A girl becomes a Steelers' fan to win acceptance by a clique at her high school, a motorist heeds the speed limit to avoid a costly ticket, a person refrains from

challenging ethnocentric practices in order to avoid retaliation. Structures influence secondly through habituation and persuasion. Professors and students come to love the university and thereby to follow its norms, Amish children learn forgiveness through instruction and repeated practice, and the citizens of a state share a commitment to the norms of the international order.

Not only do structures include actions in these four respects but they also include principles, or obligations that take the form of propositions. This is obvious in the case of public laws and the norms of organizations and communities, which directly prescribe or proscribe action: Motorists ought to obey traffic laws, professors and students ought to follow the university's rules, ethnic minorities are to be treated differently by the (unjust) laws and policies of a government, and Christians ought always to forgive. In the case of the symphony, the score functions as norms, telling the instrumentalists to play these notes at this time in this manner. Principles are also embedded in cultures and shared beliefs. In the Steelers fans' shared affections is the principle that one ought to display one's loyalty to the team. The people within a structure cause and are caused by a structure's principles and their shared enactment.

The challenge to this argument is that structures are huge and impersonal and that their influence is unintended, not the result of actions and principles. The distribution of wealth in a society or globally is a common example. Economists typically gauge this distribution by the Gini Coefficient, which ranges from 0, indicating perfect equality, to 1, indicating perfect inequality, meaning one person possesses all of the wealth. South Africa, Brazil, and Turkey have high scores whereas Norway, France, and Pakistan have low ones. This distribution alone, absent actions and principles, is

asserted to be a structure, one that a person born in poverty will find highly constraining.

Does distribution alone function as a structure, though? Imagine two countries with identical Gini Coefficients. In Country A, wealth is fluid. A person born into poverty has opportunities to gain wealth through education, available health care, and laws that facilitate finding jobs and starting a small business. People in the bottom tier of income and wealth commonly rise to higher levels. In Country B, the class structure is rigid, held in place by laws backed by violence, a culture that regards the structure as natural, a failure to provide good schools and health care for the poor, and laws that stymie economic mobility and initiative. In neither country does the brute material spread of wealth alone determine whether the inhabitants face economic costs and opportunities. The structure consists rather of the distribution of wealth as well as laws, norms, and practices that determine how constrained people are by it – in other words, principles that govern actions. Such principles overlay the distribution of wealth, explicitly or implicitly, in actuality or in absentia, in every society. They not only determine what constraints and opportunities people face but also they influence their members' beliefs. The picture of society that liberation theologians painted was one of principles and action as much as one of mere maldistribution.

If structures comprise principles and actions, structures can easily be admitted into the justice of right relationship, which comprises actions in conformity to principles that direct the pursuit of goods. Social structures are indeed forms of right relationship – systems of relations, as Porpora's definition puts it. The justice of right relationship will ask of any structure: Are its principles just ones? If they are not, then the structure is one of injustice.

Unjust Structures

Structures do not sin; people do. This is a point that Cardinal Ratzinger and Pope John Paul II were eager to stress in the 1980s, when they adopted the concept of structural sin while warning against its misuse. Sin is an act that people commit freely in violation of a moral principle. Some sins are committed by officials in the name of an institution or collective group, in which case the sin also takes on a collective dimension, as I argued in Chapter Eleven. Any sin, though, is a deliberate act. Structural sins are wrongs committed through the actions that attend structures – ones that create structures, maintain structures, and are caused by structures. These include the decisions of legislators to exclude African-Americans from massive government transfers, laws in Afghanistan under the Taliban that forbade girls from receiving an education, the practice of dumping toxic waste near slums, the running of human trafficking networks, and many others. It is the intentional, deliberate character of structural sins that warrant what Estlund calls grievance attitudes, ones that are much similar to what Strawson calls reactive attitudes, including resentment, shame, indignation and the desire for punishment, reparations, apology, forgiveness, and remembrance. These attitudes make little sense if they are not directed at free action.[4]

Is there any sense in which structures entail sin that extends beyond action, a sense that takes the form of an impersonal deposit, something like the structure of a bridge, which does not manifest action and to which people are forced to adapt? Consider an unjust law. In addition to the senses in which law is created by, maintained by and directive of action, there is a sense in which it "stands," amounting to a "thing"

[4] Estlund, "What's Unjust About Structural Injustice?" 335-336.

that is written in the books, something that people may support, denounce, try to change, or adapt to. Not involving action, this sense of sin is an analogous one. The same is true about original sin, the disposition towards sin with which Christian theology says everyone is born and which is shared among communities. Original sin is not an act, sin in its focal sense, but rather sin in an analogous sense. Full structural sin is the free actions that are associated with structures. It is these actions that rightly merit reaction – denunciation, punishment, reparations, forgiveness, reform, in sum, the actions that make up the justice of right relationship.

The indispensability of action for the sin of sinful structures, or synonymously, the injustice of unjust structures, is seen in forces that cause much suffering but that lack intentionality. Consider again the example from Chapter Three, an earthquake that destroys a large metropolitan area. The earthquake has caused great harm but has not committed an act of injustice. It has not committed an act of any sort. Now, it may turn out that suffering is far greater in a part of the city inhabited by a minority whose homes were not built to code on account of racist housing policies. This is precisely a structure of injustice and one that underlines the indispensability of action. It is the racist policies that were deliberate actions.

Even laws that in some sense cause unjust actions are not necessarily structures of injustice. Recall Aquinas's argument that law ought not to forbid all vices. Ought law to allow the consumption of alcohol? The purchase of alcohol? Drug sale and use? Prostitution? Pornography? Should laws regulate the free market to prevent exploitation? In each case, we cannot simply characterize laws as structures of injustice on account of the fact that they permit, and, in this sense, cause, acts of injustice. Whether laws are just in allowing injustice is a matter subject to prudence.

Structures of justice are most apparent when deliberate unjust actions create, maintain, and are further caused by structures. Actions are unjust according to their object, what the agent deliberately seeks to bring about. The laws that officials create to deny access and opportunities to minorities, the denial of access to restaurants and schools to minorities, the teaching of racial superiority to children, the choices of companies to dump toxic waste near poor areas because they know they will incur little opposition, the trafficker's efforts to recruit impoverished girls into their business, the construction of a sweatshop with hazardous working conditions – these and other actions are structurally unjust and subject to just rectification.

What are the principles that structural injustices violate? These are principles that protect human dignity and the goods that manifest it, and it is usually the dignity of the weak, the poor, and the vulnerable that is at stake. The two most important such principles are those forbid the destruction of basic goods in persons as a means to an end, and the principle of fairness. Both principles correspond to rights, usually human rights, and are thus due to bearers of dignity.[5] The rights are most commonly life, property, bodily integrity, and health and are guaranteed through protections against violations and through minimum thresholds of food, water, health care, and education. Prohibitions of racism and sexism, in which a people are unjustly deprived of goods on account of their race or sex, are derivative of the principle of fairness. Exploitation, in which A deprives B of freedom and opportunities to which B is entitled and A benefits

[5] In the place of rights and well-being in structural injustices, see Madison Powers and Ruth Faden, *Structural Injustice: Power, Advantage, and Human Rights* (Oxford University Press, 2019), 116–45.

(in the form of profits or position) from the deprivation and oppression, in which A deprives B but A does not necessarily benefit, are specific forms of these principles.[6]

Is economic equality a principle that informs structural injustice? Above I argued that the distribution of wealth is not a structure but that actions and practices that determine the rigidity of this distribution form a structure. A parallel truth obtains for the justice of economic equality. Inequality of holdings is not alone a sin, or an injustice, but unjust actions and practices can accompany it and assemble a structure of sin.

It may seem that maldistribution is unjust. Economists report rising inequality in developed democracies in recent decades. The wages of workers have stagnated while executive salaries have increased multifold.[7] Doubtless this distension creates dissatisfaction and has provoked populist politics.

Is inequality itself unjust, though? Equality is a relative, comparative, standard. It is not a matter of how much wealth people possess but rather of how much they possess in comparison to others. Wealth and income are what Rawls called primary goods and what I call an instrumental good, one that is a means to other goods and states of affairs, some of which are basic human goods. If inequality is intrinsically unjust, then it must be the case that everyone ought to possess the same amount. Virtually nobody takes that position. What is more common among philosophers is a perspective that takes economic equality to be a baseline standard, one that is *prima facie* valid, and then justifies departures from this baseline by principles that override perfect equality: a net

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[6] These definitions are drawn from Matt Zwolinski, Benjamin Ferguson, and Alan Wertheimer, "Exploitation," in *The Stanford Encyclopedia of Philosophy* 9fall 2026 Edition), eds. Edward N. Zalta and Uri Nodelman, https://plato.stanford.edu/archives/fall2026/entries/exploitation/.

[7] Josh Bivens, Elise Gould, and Jori Kandra, "CEO Pay Declined in 2023: But It Has Soared 1,085% Since 1978," Economic Policy Institute, September 19, 2024, https://www.epi.org/publication/ceo-pay-in-2023/.

increase in aggregate wealth; the maximization of the position of the least advantaged, as in Rawls' difference principle; the desert of rewards for creating goods and jobs through business; the different need for wealth among people, especially on the part of the ill, infirm, or impoverished; and property rights.

All of these rationales contain merits, but the prior question is: Why the baseline? Why ought people to have the same as everyone else, even as a *prima facie* principle? If need, desert, maximizing the position of the least well off, and so on justify levels of wealth, then why ought we not simply appeal to these principles and dispense with the baseline? Apart from the draconian and likely tyrannical efforts that would be required to bring about equality of possession, what is the reason for it, in principle? I know of no good reason that has been proposed for equality of possession. A concept of justice based on goods affirms that everyone ought to have the wealth to secure the goods that make up a decent life and recognizes that providing these goods is an urgent, demanding, and far from finished task. This standard, though, is not absolute equality of possession. "[W]hat is important from the point of view of morality is not that everyone should have the same but that each should have enough," argues philosopher Harry Frankfurt. "If everyone had enough, it would be of no moral consequence whether some had more than others," he adds.[8] Other principles in the justice of right relationship exist for possessing different amounts of wealth, too, such as the vocational principle. The different pursuits of different people require different amounts of wealth.

Still, certain injustices are closely associated with equality. When groups defined by characteristics such as race, ethnicity, and sex are denied wealth and goods

[8] Harry Frankfurt, "Equality as A Moral Ideal," *Ethics* 98 (October 1987), 21-22.

deliberately on account of these characteristics, and when communities become divided by this denial, an injustice obtains. High degrees of inequality in a society beget political domination, erode solidarity, and strain care and hospitality. Chapter Ten noted the "big sort" by which the wealthy have become physically isolated from and numb to their responsibility towards the poor in the United States. If injustice is not entailed in inequality, it derives from inequality.

The justice of right relationship, then, accepts Christian liberationists' claims that structures of sin exist, readily recognizes their composition by actions and principles, and contains principles that prescribe reparative action. Principles that correspond to rights demand bringing to an end the violations of human rights and denials of human dignity that structural sin involves: the establishment and enforcement of civil rights for minorities; of rights not to be recruited into human trafficking networks; rights to safe working conditions; social and economic rights to minimums thresholds of subsistence, education, and health care; to the wide range of other rights denied in dictatorship – to vote, not to be arbitrarily arrested, and to legal representation, for instance; and any human rights or just positive rights that unjust structures are denying to people. It is governments who legislate and protect the rights that structural injustices deny while civil society actors – organizations dedicated to change, investigative journalists, and churches – bring attention to these injustices, campaign against them, and build political support for their change. Changes in the form of political institutions can also change structural injustices as took place in the global wave of democratization that began in 1974 and continued into the 2000s. The wave of transitions to democracy and away from military dictatorship in Latin America in the 1980s, for instance, brought

hope for change in the structural injustices to which liberation theologians had drawn attention.[9]

Structural justice, like the justice of right relationship, is also expanded through beyond-due principles that carry the potential for healing, repair, provision, and solidarity that rights principles alone do not. Economic structural injustices, again, ones upheld by actions and principles, not merely maldistributions of wealth, are not eradicated alone by guarantees of economic and social rights and their minimal thresholds, as important as they are. Rather, they are combatted through human development, enhancing and integrally connecting wealth, health, education, social ties, and religion, all directed toward the realization of genuine human goods, where these goods are lacking.[10] The criterion is not equality of outcome, understood as relative possession, but rather the enhanced development of all. Certain principles of rectifying justice also address the wounds that structural injustices have left behind, as Chapters Eleven and Twelve discussed with regard to racism. Characteristically, beyond-due principles are more open-ended in their pursuit than rights principles. In promoting integral human development, what are the relative and distinct roles of government, international institutions, and the market? While care for the poor is non-negotiable, this question is left open-ended by the justice of right relationship.

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[9] Samuel P. Huntington, *The Third Wave: Democratization in the Late Twentieth Century* (University of Oklahoma Press, 1991); Larry Diamond, "Facing Up to the Democratic Recession," *Journal of Democracy* 26, no. 1 (2015):141-155.

[10] The concept of integral human development is found in Paul VI, *Populorum Progressio*, Encyclical Letter on the Development of Peoples, The Holy See, March 26, 1967, find at https://www.vatican.va/content/paul-vi/en/encyclicals/documents/hf_p-vi_enc_26031967_populorum.html

Chapter Eighteen: Recapitulating Justice

In 1858, Abraham Lincoln said in a speech: "School-boys know that Wilbe[r]force, and Granville Sharpe, helped that cause forward; but who can now name a single man who labored to retard it? Remembering these things I can not but regard it as possible that the higher object of this contest may not be completely attained within the term of my life. But I can not doubt either that it will come in due time."[1] Lincoln honored these politicians who devoted their political careers to ending slavery in the British Empire, just as he would devote his own political career to "the higher object of this contest." When, in his speech in Peoria on October 16, 1854, he said that "I can not but hate" the spread of slavery, a hatred directed at the "monstrous injustice of slavery itself," he declared his motivation to reenter politics from private life. He would voice this principle repeatedly over coming years – that every human being possesses a right not to be owned by another person and to have his labor taken away from him, and that this right stood at the core of the Declaration of Independence, which Lincoln revered as his "ancient faith." Every human being possessed this right on account of the transcendent qualities that made her different from other animals, especially his will, or his capacity to consent, which slavery crushed.[2] Lincoln said that the right was rooted in human nature and could be known by the heart, an expression of reason that recalls St. Paul's language of the law of God being "written on the heart:"

> Repeal the Missouri compromise---repeal all compromises---repeal the declaration of independence---repeal all past history, you still can not repeal human nature. It still will be the abundance of man's heart, that

[1] Abraham Lincoln, speech fragment concerning the abolition of slavery, ca. July 1858 (Gilder Lehrman Collection, GLC05302), find at https://www.gilderlehrman.org ›05302_FPS.
[2] On Lincoln and consent theory see Chapter Nine.

> slavery extension is wrong; and out of the abundance of his heart, his mouth will continue to speak.[3]

Lincoln understood God to have established this right, its basis, and human knowledge of it, and thought that this is God's justice. Speaking of the authors of the Declaration of Independence in a speech in Lewistown, Illinois on August 17, 1858, he argued:

> This was their majestic interpretation of the economy of the Universe. This was their lofty, wise, and noble understanding of the justice of the Creator to his creatures. Yes, gentlemen, to all His creatures, to the whole great family of man. In their enlightened belief, nothing stamped with the Divine image and likeness was sent into the world to be trodden on, degraded, and imbruted by its fellows.[4]

To oppose slavery was "love of justice," Lincoln said in his Peoria speech.

That abolishing slavery was Lincoln's mission is not negated by his adoption of a political platform of opposing the extension, rather than advocating the immediate abolition, of slavery in his campaigns for the U.S. Senate in 1858 and the presidency in 1860, a decision that Lincoln grounded on political prudence and constitutional law. Nor is Lincoln's commitment to this mission minimized by his aim in the Civil War of preserving democracy – rule "of the people, by the people, and for the people," as he expressed it in the Gettysburg Address – an aim that he looked upon as inseparable from the principle with which he opens the Gettysburg Address, that "all men are created equal." It was constitutional liberal democracy that Lincoln defended, a regime that incorporates basic natural rights. He argued in major speeches that the country could not endure half-slave and half-free; maintained that slavery diminished the credibility of U.S. democracy in the world's eyes; issued the Emancipation Proclamation

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[3] Abraham Lincoln, "Peoria Speech, October 16, 1854," Lincoln Home National Historic Site, National Park Service, https://www.nps.gov/liho/learn/historyculture/peoriaspeech.htm.
[4] Quoted in William J. Wolf, *The Religion of Abraham Lincoln* (The Seabury Press, 1963), 96.

as soon as he thought the moment was politically and militarily propitious; and advocated constitutional amendments that would outlaw slavery.

In sum, Lincoln committed himself to a natural right that reason apprehends, that is established by God in his divine justice, and that is rightly promoted by citizens and protected by governments as human justice – the elements of the justice of rendering due for which I have argued. Along with Frederick Douglass and other prominent Americans of the time, Lincoln was a classic liberal. As he expressed in his praise of Wilberforce and Sharpe in 1858, he thought that the cause of abolition would triumph, perhaps not within his lifetime but through successive gains. He agreed with what abolitionist preacher Theodore Parker said in 1853: "the arc of the universe is long but it bends towards justice."

Lincoln's leadership in realizing rights enacted other principles that exceed rights, ones that reflect God's rectifying justice and that aspire to heal wounds, repair wreckage, and begin to reconcile. He believed that God acted in response to sin and injustice in history and that this action was his justice. Late in the Civil War, he wrote in a letter, "[i]f God now wills the removal of a great wrong, and wills also that we of the North, as well as you of the South shall pay fairly for our complicity in that wrong, impartial history will find therein new cause to attest and revere the justice and goodness of God," and spoke in an interview in 1862 of "His plans of dealing with this nation, in the midst of which He means to establish justice."[5]

Believing that God intervened in history, Lincoln devoted much thought and conversation to what this meant, especially during the war. In contrast to some ardent

[5] Quoted in Wolf, *The Religion of Abraham Lincoln*, 174, 146.

abolitionist Northern preachers, he looked upon slavery as a national problem, one for which both sides were responsible. This humility was evident as early as his Peoria speech of 1854: "[T]he Southern people . . . are just what we would be in their situation." The providential purposes of the war were larger than either side's cause. Lincoln maintained this theme through his Second Inaugural Address of March 4, 1865: "Both read the same Bible and pray to the same God and each invokes his aid against the other . . .. The prayers of both could not be answered – that of neither has been answered fully."[6]

Yet in contrast to the view of many of Lincoln's twentieth century interpreters, he did think that God exercised justice through the Civil War and that the nature of this justice could be discerned: the war was a punishment on the entire nation for slavery, an offense against God. He prayed that this punishment would come to an end and thought that it would serve to atone. His statement of this justice in his Second Inaugural Address was so eloquent and succinct that it since has been chiseled into public walls:

> If we shall suppose that American slavery is one of those offenses which in the providence of God must needs come but which having continued through His appointed time He now wills to remove and that He gives to both North and South this terrible war as the woe due to those by whom the offense came shall we discern therein any departure from those divine attributes which the believers in a living God always ascribe to Him. Fondly do we hope – fervently do we pray that this mighty scourge of war may speedily pass away. Yet, if God wills that it continue until all the wealth piled by the bondsman's two hundred and fifty years of unrequited toil shall be sunk and until every drop of blood drawn with the lash shall be paid by another drawn with the sword as was said three thousand years ago so still it must be said the judgments of the Lord are true and righteous altogether.

[6] Abraham Lincoln, "Second Inaugural Address," March 4, 1865, The Avalon Project, Yale Law School, accessed July 3, 2026, https://avalon.law.yale.edu/19th_century/lincoln2.asp.

In the last line, Lincoln quotes from Psalm 19, and righteous may of course be translated as just. Lincoln thought that while God may continue the war, God might also allow it to end, in which case the atonement of "blood drawn" would yield to the task of building peace. In contrast, again, to some Radical Republicans in the North, Lincoln disfavored punishment for Confederate leaders and soldiers even though the retributive principle authorized punishment for the crime of initiating hostilities. He proposed forgiveness, whose criteria were met in his policies of amnesty combined with a will to "bind up the nation's wounds." He articulated reconciliation: "With malice toward none, with charity towards all." He advocated mercy: "To care for him who shall have borne the battle and for his widow and for his orphan." Lincoln's concept of human justice may not have been the justice of right relationship, and was probably the justice of due, but the blend of principles that he brought to politics corresponded to the justice of right relationship and arose from the Bible. He sought equal rights along with, and through, mercy and reconciliation.

Lincoln's influence for rights through reconciliation would be a posthumous one following his assassination on April 14, 1865. Historian Jay Winik argues that Lincoln's forbearance, reciprocated by certain Confederate leaders, allowed the settlement of the war that same month.[7] Over the next half-decade the U.S. government passed constitutional amendments granting rights to slaves and amnesty to Confederate leaders. Reconciliation and rights, though, would become an ever more strained blend, and the arc of the universe would lengthen, over ensuing decades in the Jim Crow South and in nationwide policies of discrimination.

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[7] Jay Winik, *April 1865: The Month That Saved America* (HarperCollins, 2001).

"Lincoln was unquestionably our most religious President," Wolf argues, one whose "religion cannot be hermetically sealed off from his social, economic, and political attitudes. His political action, as revealed by his own words, was ultimately the social expression of an understanding of God and of man that demanded responsible activity."[8] Rawls, who invoked Lincoln as a hero of political liberalism, allows Lincoln's religious language to pass because it matches public principles. Lincoln's principles, though, included some that reason alone cannot know and were authorized divinely even as they could be accepted widely.

The justice that Lincoln's principles composed is the justice for which this book argues. The book's first purpose is to identify, retrieve, explicate, and defend the justice of right relationship. Comprehensively, this justice includes principles that render another her due and ones that promote goods beyond what is due, ones that reason alone may know and ones received from divine communication, ones that fulfill the rights that secure the dignity of persons and the ends of associations and states, and ones that repair, heal, and reconcile persons and relationships, including in political orders. This justice is established by, participates in, is redeemed by, and will be brought to completion by God and is depicted in the Bible.

The book's second purpose is to situate this justice in political orders. Political authority and law are obligatory upon the people who live under them because they enforce and coordinate, and thereby reflect and support, the justice of right relationship, which exists prior to this authority and law. Because justice includes the full range of norms – due and beyond due, natural and supernatural, rights and reconciliation – and

[8] Wolf, *The Religion of Abraham Lincoln*, 91, 192.

because justice governs public institutions, then mercy, care, generosity, hospitality, peacemaking, love for enemies, and forgiveness are public and political principles. To situate this justice in politics is to situate it in constitutional liberal democracy, whose very features this justice prescribes. This justice imposes limits on politics, but politics does not limit its range of principles. It is enacted by employees of governments – presidents, police officers, soldiers, administrators, orange-vested road workers – and by citizens not employed by government when their actions bear on public law – volunteers, voters, taxpayers, protesters, organizers, forgivers, and motorists.

The justice of right relationship sets forth its concrete meaning through principles and does not yield a party platform or a detailed ethic that offers full prescriptions for the many tasks of politics. Whether and how a state ought to fight a war, how and to what extent it ought to provide health care, and many other matters are left to a vast realm of prudence that practitioners must plumb and carry out. Still, the set of principles in the justice of right relationship has much to say about political action.

Neither does the book set forth an original history of thought about justice or a balance sheet of history's justices and injustices committed by the Church, by Christians, or by polities. Like all accounts of justice, this one presupposes a history of when and why and how it emerged. Certain segments of the book offer short accounts of this history, but their central aim is to contribute to building a conception of justice.

A brief elaboration of these disclaimers, in reverse order, serves to recapitulate and to propose political relevance for the justice of right relationship. First is a contrast with other historical conceptions of justice. Second is a portfolio of political principles.

Contrasts

Broadly speaking, the justice of right relationship, the biblical conception, is distinguished by its fullness. It is the entire set of commandments, or principles, by which human beings are obligated to live. The principles govern and direct the range of goods that make up human flourishing. The orientation to God that a Christian adopts directs all of his actions and does not override or obviate the principles, goods, or virtues. Most competing conceptions of justice entail one or another truncation. This truncation is what makes them separation narratives.

The will to render another her due, or fulfill her rights, the dominant conception of justice in the world's laws and constitutions and in western political thought, is such a truncation. It entails a valid set of principles but omits other principles that belong to Biblical justice. A further truncation can be found in the thought of Machiavelli and Hobbes, who departed from the classical tradition of Plato, Aristotle, Cicero, Augustine, and Aquinas in separating the purpose of the political regime from the moral order that existed prior to the regime. Many later thinkers in the western tradition followed Machiavelli and Hobbes in this departure and pursued it more radically.

Similarly contrastive are other prominent conceptions of justice. One live tradition, utilitarianism, holds one axiomatic principle, that an action ought to maximize universal pleasure. Mill prescribed principles such as liberty but justified them by their maximization of utility. The justice of right relationship rejects the principle of pleasure, which merits praise only when integrated with true principles and goods, and proposes a far wider set of principles and goods.

The justice of right relationship, at least the natural law portion of it, joins Kant in the tradition of "common morality," which is based on principles.[9] In Kant's rejection of eudaimonism, though, he fails to anchor his principles in the range of goods that constitute human flourishing, as does Aquinas.[10] Further, Kant's political justice incorporates only the "principles of right," the ones that render due, and omit imperfect duties, which he identifies and develops in his morality. Again, the justice of right relationship holds more.

Kant's liberal legatees differ similarly. As Chapter Thirteen argues, the justice of right relationship joins Rawls in basing the political order on principles of justice but takes issue with his severance of political principles and discourse from "comprehensive" foundations, that is, true principles. Other liberals such as Raz are "perfectionist," basing politics on moral principles that they hold to be true. The justice of right relationship shares this commitment, though it differs from Raz's commitment to autonomy as authoring one's life, a prominent idea in modern western political thought, favoring instead the principle of self-directedness, the freedom to pursue a pathway that realizes basic goods and respects principles. Again, the justice of right relationship also adds principles that go beyond rights.

Virtue theory has arisen in recent years among western moral philosophers as a third alternative to the dueling giants of Kantianism and utilitarianism, one whose roots reach back to Stoic philosophers.[11] The justice of right relationship affirms the virtues,

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[9] On common morality, see Alan Donagan, *The Theory of Morality* (University of Chicago Press, 1977).

[10] Kant offers the Formula of Humanity, "treat others always as an end," but does not endorse the range of basic goods that fulfill persons. See Immanuel Kant, *Grounding for the Metaphysics of Morals*, trans. James W. Ellington, 3rd ed. (Hackett Publishing Company, 1993), 35–36.

[11] Prominent are the words of Julia Annas, *The Morality of Happiness* (Oxford University Press, 1993); and Rosalind Hursthouse, *On Virtue Ethics* (Oxford University Press, 1999); and Alasdair MacIntyre, *After Virtue*.

regarding the rightly ordered self as a part of justice, but maintains principles – governing acts, promoting goods – at the center of ethics. Virtues are dispositions towards right action and are directed to principles. Again, the justice of right relationship again holds more.

Common in Western universities are postmodernists in the tradition of Friedrich Nietzsche and Michel Foucault, who unmask principles in order to reveal and then take up power. Rejecting universal principles as true and obligatory, they assert moral plurality and the ubiquity of power, or in the thought of Foucault, power-knowledge, by which knowledge and power are conjoined and mutually constitutive. Postmodern theories, though, indubitably assert universal propositions, namely that universal principles do not exist and that power lies behind every principle, rendering their claims incoherent. In the justice of right relationship, power is subject to authority and authority is based on universally binding principles of justice. To reduce justice to power is to separate justice from truth.

How does the justice of right relationship compare with Christian schools of thought of the past century-and-a-half? It profits from and joins the revival of natural law in Christian political thought from the late nineteenth century through today, and differs from radical Christians who interpret the Bible without natural law. It joins the natural law thinkers who also affirm natural rights, a concept that Christians have voiced from the early Church onwards, and differs from secular thinkers who regard Christianity as inhospitable to rights and Christian thinkers who regard rights as inhospitable to Christianity. The justice of right relationship also profits, though, from Christian theologians who have integrated supernatural principles into ethics and politics. Spurring a Catholic "supernatural turn" was the thought of French theologian

Henri de Lubac, who sought in the 1930s and 1940s to break natural law's monopoly and integrate the supernatural into ethics.[12] The Second Vatican Council's primary document on social ethics, *Gaudium et Spes*, one that De Lubac influenced, taught that "the truth is that only in the mystery of the incarnate Word does the mystery of man take on light" and that "in Him all the aforementioned truths [about the social life of humanity] find their root and attain their crown." This teaching would encourage Catholic supernatural ethics such as those of Pope John Paul II, who also contributed to *Gaudium et Spes* as Archbishop Karol Wojtyla. John Paul II quoted from this passage in *Gaudium et Spes*, for instance, in his encyclical of 1980, *Dives in Misericordia*, whose teaching of mercy, forgiveness, and reconciliation has informed the argument at hand. Among Protestants, Miroslav Volf, the Christian Radicals of Chapter Sixteen, and others have taught supernatural principles for politics. It is in combination with natural law that supernatural principles contribute to the justice of right relationship. The omission if either is a separation narrative.

Recent "post-liberal" thinkers plea for a recovery of Christianity in politics and society, and an attendant diminution of liberalism, which they think amounts to individualism, subjective freedom, acquisitiveness, moral skepticism, and a theological rationalism which they attribute to Enlightenment thought, modern economic systems, the sexual revolution, and the culture of western liberal democracies.[13] Certain post-liberals seek to narrow religious freedom and equal citizenship, which, in their eyes, help foment this liberalism. The liberalism that these thinkers condemn, though, is not

[12] Henri de Lubac, *The Mystery of the Supernatural*, trans. Rosemary Sheed (Crossroad Publishing Company, 1998).
[13] See Chapter Fourteen.

the liberalism that the justice of right relationship affirms, a set of features of political institutions that are justified by natural law – and ought not to be separated from politics.

Can a Christian state be defended? Post-liberals think that a public enshrinement of Christianity – which could take the form of an established church, religious holidays, greater government support for religion of many kinds – can encourage a public renewal of Christianity. Critics today associate the idea with right-wing Christians in the United States and warn against the patriarchy, racism and violence that they find in it.[14] The public enshrinement of Christianity, though, is common, not extreme, in democracies. The United Kingdom, Denmark, Finland, and Iceland have established churches and Sweden and Norway had them until recently in history, and many European states recognize or raise taxes for particular churches. The United States has long named God in its Pledge of Allegiance, national motto, money supply, and prayers that open sessions of Congress. Other religions enjoy national recognition in Israel (Judaism), India (Hinduism), Sri Lanka (Buddhism), and elsewhere. In all of these contexts, the just role and boundaries of government's expression and promotion of religion is debatable and debated – the stuff of court cases. In the justice of right relationship, absolute natural law principles demand that any public enshrinement of God or a church must respect the religious freedom and equal citizenship of persons, especially the full right of minorities, but is otherwise subject to prudence according to each country's circumstances.

[14] Increasingly over the past decade, articles in the mainstream media excoriate "Christian nationalism." For a scholarly analysis, see Philip S. Gorski and Samuel L. Perry, *The Flag and the Cross* (Oxford University Press, 2022).

A Politics?

Does the justice of right relationship yield a politics? Though it is not a platform or a political position and leaves much guidance to prudence, its principles yet enjoin action, narrowing and proscribing, and also prescribing and directing. In determining what these actions are, much is at stake in the definition of justice. Because justice is the governing principle or virtue of public institutions, then what merits to be included in justice thereby becomes a governing criterion of politics. To be sure, it is not my argument that modern governments never pursue beyond-due principles such as mercy and care; I have offered many examples of governments carrying out these principles (especially in Chapters Ten through Twelve). If these principles are excluded from justice, though, they are far more prone to be separated from politics, that is, to be considered optional or exceptional, and far less fortified with the legitimacy and status that favors their enactment in politics, than if these principles are included in justice.

What, then, does the justice of right relationship mean for politics? Most broadly, that "politics is a good thing." This was the slogan of political scientist Larry Sabato, one of my teachers at the University of Virginia, and is the nucleus of a Christian politics. The statement is not a descriptive one, aiming to affix the quotient of good and evil in political behavior in an empirical fashion. Rather, it is a purposive one, setting forth the ends of politics. It is the idea behind Pope Pius XI's statement that politics is the "highest form of charity" and of *Gaudium et Spes*'s phrase, "the noble art of politics."[15] It contrasts with a minimalist politics, advocated by some Christians, whose point is only to protect life and property, and with a politics that is nothing but a contest for power.

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[15] Pius XI, "Address to the Italian Catholic University Federation (FUCI)," speech, Rome, December 18, 1927; Paul VI, *Gaudium et Spes*, sec. 75.

Politics is a site of love of God and neighbor in the full set of actions that this love entails.

Old in the Christian tradition is the teaching of Aristotle and Aquinas that no one form of regime is clearly best on the basis of reason alone. I concur. Non-negotiable in just polities, though, are natural, or human, rights and the rule of law. In the modern world, constitutional liberal democracies are far and away the form of regime that best upholds these principles. So, the first political requirement of the justice of right relationship is to build and sustain regimes based on human rights, to support their presence in international law and to promote them where they are absent. Just political orders uphold rights based on the dignity of the person and the goods that manifest this dignity. They uphold the right to life for unborn persons, people nearing the end of life, and civilians in war; the right not to be tortured; the right of religious freedom; the entire range of political and civil rights enumerated in international law and in most constitutions; and socio-economic rights that guarantee minimal levels of food, subsistence, housing, health care, safe working conditions, and education. Because all of these rights are controversial among scholars and in politics, the defense of them is one way in which the justice of right relationship yields a distinct politics.

Principles that exceed due also sculpt this politics. Most of them are a distinct form of the Christian duty of mercy, which in turn specifies further the natural duty of benevolence. All of them aim to heal wounds in persons and relationships and, in doing so, both exceed and fortify rights. Almost all of them are imperfect, open-ended duties. Beyond minimal levels they do not admit of thresholds or clear criteria of completion and their pursuit is subject to prudence and to balance with other principles. Yet, they prescribe the pursuit of particular goods and ought to be followed in ways that increase

the overall good.[16] The provision of care for health, the natural environment, the poor in the form of economic development, and victims of suffering in the form of humanitarian relief are all examples. The repair of social ties in family, religious community, and civic organizations is a duty of justice both because friendship is a basic good and because its absence begets further economic and political rupture.

Principles of rectifying justice address wrongs and their wounds towards the end of restoring right relationship. Restorative justice in criminal punishment, restorative measures that widen the just peace that is the end of a just war; non-violent resistance of injustice; and the past half-century's wave of political measures that address past injustices of war, dictatorship, and genocide are principles of this rectifying justice. Diverging most sharply from the justice of due, prying its way into politics in recent times, is the principle of forgiveness. Summing up these principles, recapitulating right relationship, is reconciliation, God's justice. One of the most concrete recommendations of the justice of right relationship for the politics of democracies is that they address the wounds of their past through practices of reconciliation.

Who carries the justice of right relationship? Saints, Maritain thought. After Maritain ceased around 1927 to place hope in an alliance of Church, state, and nation to sustain Christianity in France's public life, he looked to ordinary lay people to bring Christian principles and virtues into a constitutional liberal democracy. Saints prompt realist cries of utopianism. Yet, they are what Christian teaching calls every person to be.[17] In politics, a saint is one who practices well the full complement of virtues and

[16] Increasing the overall good may be understood as bringing about a Pareto improvement, meaning that the good is being expanded and not that a mere tradeoff (say, of guns and butter) takes place.

[17] Jacques Maritain, *Integral Humanism, Freedom in the Modern World, and A Letter on Independence*, ed. and trans. Otto Bird, vol. XI of *The Collected Works of Jacques Maritain* (University of Notre Dame Press, 1996), 151–152.

principles. He may be inside or outside of the government and even may be the fellow who works on the third floor of the phone company who MacIntyre doubted people ought to die for. The heroic love of saints may be most vivid in reformers, people and groups who effect change by laboring to make the structures and practices of politics more just. Lincoln pointed to reformers as exemplars of the abolitionist cause that he had taken up.

Can a lone person or group really change the culture or politics of a society? The idea is naïve, a misguided Hegelian idealism, sociologist James Davidson Hunter contends. Change is slow, he argues, and happens only through allied elites, favorable networks of influence, intense struggle, the effective wielding of cultural symbolic power, and an alignment with economic, political, and cultural influences.[18] The arc of the universe is long. Even if accepted, though, Hunter's argument may be read as strategy and wisdom and not as a counsel of despair. If you want to change the world, seek elite allies, line up your cause with interests, develop a strategy, wield effective symbolic power, and remember that you are in for the long haul. Add the supernatural virtue of hope. "I can not doubt . . . that it will come in due time," as Lincoln said. The arc bends towards justice.

[18] James Hunter Davidson, *To Change the World: The Irony, Tragedy, and Possibility of Christianity in the Late Modern World* (Oxford University Press, 2010), 44-45.