

FORMING A CHRISTIAN MIND: THE LAW

There are three students asleep in their rooms in College one night: an engineer, a physicist and a mathematician. The engineer wakes up to discover that his waste paper basket is on fire. He looks round the room, sees a fire extinguisher, and empties the entire contents of the fire extinguisher into the waste paper basket, thereby putting out the fire. The physicist in the room next door wakes up to discover that her waste paper basket is on fire. She looks round the room, sees a fire extinguisher, lies in bed for a moment, calculates precisely the amount of foam she needs to put out the fire, and then gets out of bed, sprays exactly that amount of foam into the waste paper basket and puts out the fire. The mathematician in the room next door wakes up to discover that his waste paper basket is on fire. He looks around the room, sees a fire extinguisher, lies in bed for a moment, calculates precisely the amount of foam he needs to put out the fire and then, content that a solution exists, turns over and goes back to sleep.

There are at least three dangers which the Christian faces when thinking about the relationship between their faith and the law. The first is to assume that the Bible's focus is solely or primarily spiritual whereas the law is solely or primarily technical and therefore one's faith has no effect on one's study of or practice of law, or at least none beyond enjoining us to act honestly, to work hard, and to give away a proportion of whatever profits we happen to make from our law-work. The very fact that you are here this afternoon means that you have avoided that danger.

The second danger is one into which we can fall, with the best intentions, if we go to a church in which the preaching is built around systematic exposition of Scripture and we read our Bible with the aid of daily Bible reading notes. We can get used to developing our spiritual life on the basis of having a really good understanding of particular passages of Scripture. I am all for that. In fact, I would say that having a really good understanding of particular passages of Scripture is essential both to a healthy spiritual life and to that spiritual life manifesting itself in a godly character.

But there is a danger that if we spend all our time looking at particular passages of Scripture in depth, we forget to devote the time and resources we need to develop an understanding of God's overall plan, of the big story which the Bible tells about humanity and God's work in

the world. What is worse, we become like the engineer in the joke, shooting at random, or picking a proof-text to support a pet theory which we arrived at on other than biblical grounds. We can know where to find what we want to find in the Bible rather than exposing ourselves to the full breadth of what Scripture has to say on the questions to which we already think we have answers. I want to help you to avoid that danger as you go forward in your interaction with the law.

The late, great, John Stott identified four biblical searchlights which we need to train on anything that we are considering from a Christian perspective. Like the four floodlights at the corners of a football field, we need to look at things in the light of creation, the Fall, redemption and the future hope which we have as Christians. I was present at the ‘Integrated Conference’ at All Soul’s Langham Place on 1st October 2011 and heard Professor John Wyatt work through how those 4 searchlights can help us integrate our faith and our work life today in the twenty-first century.

I’d love to walk you through how the great Dutch Neo-Calvinist philosopher of law, Herman Dooyeweerd developed an explicitly Christian jurisprudence in the twentieth century, founded on the central meta-narrative of creation, fall into sin, and redemption by Jesus Christ in the communion of the Holy Spirit.¹ I’d take great delight in showing you how Thomas Aquinas’s thirteenth-century treatise on law in the *Summa Theologiae* is in fact a developed account of the big biblical story of creation, fall into sin and redemption by Jesus Christ as the incarnate Word of God, in the communion of the Holy Spirit, which has significant implications for Christian legal theory.² The end of the *Prima Secundae* of the *Summa Theologiae* is, as Nicholas Sagovsky described it, a piece of “theological jurisprudence”.³ Read as a whole, in unabbreviated form, in Aquinas’s treatise on law, human law is situated within a grand (meta-)narrative, a particular account of the story of God’s dealings with humanity, in which Aquinas sweeps from creation, the providential work of the Spirit in revealing God’s laws through nature (*ST* I-II.94), to the law of Moses (the Old Law)

¹ Dooyeweerd, *Encyclopedia of the Science of Law, Volume 1: Introduction* (Lampeter: The Edwin Mellen Press, 2003) 1:47-49, 58-61; *In The Twilight of Western Thought*, (Nutley, NJ: Craig Press, 1975) 35, 41, 64, 111, 125, 136, 144, 186.

² This section of the lecture is a shorter version of chapter 4 of D.H. McIlroy, *A Trinitarian Theology of Law: In Conversation with Jürgen Moltmann, Oliver O’Donovan and Thomas Aquinas* (Milton Keynes: Paternoster, 2009). The essential argument is also set out at ‘A Trinitarian reading of Aquinas’s treatise on law’ *Angelicum* 84 (2007) 277-292.

³ N. Sagovsky, *Christian Tradition and the Practice of Justice* (London: SPCK, 2008) 113.

(*ST I-II.98-105*), and on to the significance of the death and resurrection of Christ, and the regenerating work of the Holy Spirit (the New Law) (*ST I-II.106-114*).

Failing that, I'd love to spend our time together simply working through the four biblical searchlights of creation, fall, redemption and the future hope, and thinking about how we ought to understand each of them. However, I think that when we are thinking about law in the light of the Bible there are three more searchlights which we need to switch on. If we are to understand God's purposes for law, not only must we think about law in the light of creation, in the light of the faith, in the light of redemption, and in the light of our future hope, we must also think about the place of the law in Israel's history, the relationship between law and common grace, and the place of law in the light of the mission of the Church.

I'd love to spend our time together taking you through why I think the story about law is integral to the grand sweep of the biblical narrative, and why I think we need to attend, as Aquinas did, to the place of the law in Israel's history, the relationship between law and common grace, and the place of law in the light of the mission of the Church as well as the obvious, big biblical themes of creation, the Fall, redemption and the future hope.

However, those of you who have been keeping score will have noticed that I have mentioned only two of the three dangers which I said we must avoid when trying to think Christianly about the law. The third danger is the danger I would fall into were I to spend all our time together setting out the basic framework through which we ought to reflect on law and none of it actually applying that framework in practice. You see, I suspect you are probably here because you want to be 'thought through' on the question of how your Christian faith relates to your studies or to your practice of law. It can be a pleasant distraction from the demands of learning the law or applying it to be able to stand back and ask some big picture questions. But there is a danger that in doing that we become like the mathematician. We have a 'thought through' solution but we never get round to applying it.

So what I am going to do today is to show you how I have applied the framework of using our seven searchlights to think about law to the question of rights.

1. Law and Creation
2. Law and the Fall

3. Law and Israel's History
4. Law and Common Grace
5. Law in the Light of Jesus
6. Law and the Mission of the Church
7. Law and the Last Judgment

And although I want you to feel special and privileged, you need to know that this is not an issue that I have 'mugged up' specially for this occasion. In fact, I was speaking last month at Swansea University on the topic of Christian understandings of human rights.

Shining the seven searchlights on the issue of rights gave me seven questions:

1. Are there rights given to human beings in creation?
2. How has the Fall affected human relationships and are rights part of the answer?
3. Do we see an emphasis on rights in Israel's history?
4. How should Christians react to secular accounts of human rights?
5. In what way has Jesus affected human relationships?
6. The Church: object of rights, servant of rights, proponent of rights or opponent of rights?
7. Do we have any rights against God?

1. Are there rights given to human beings in creation?

The short answer to that is no, but then again yes.

Why might we want a theory of rights? We might want a theory of rights in order to defend the weak against the strong, or people against unjust actions by their government. If those are the purposes for which we want an account of human rights then we need to recognise that those purposes were fulfilled for centuries in Christian thought not by a theory of human rights but by a theory of natural law. The idea of natural law was given its classical expression by Thomas Aquinas in a single question of his uncompleted multi-volume *Summa Theologiae*. Law students still read Aquinas's idea of natural law today (or at least the more diligent amongst them might do). But they read it as students who have been told that natural law theory is conservative and reactionary, used to defend the power of rulers by creating a

presumption that it is moral to obey the law. I want to suggest that we should read Christian natural law theories with a very different eye, as seeking to balance the rightful authority of kings against an insistence that because each individual citizen could reflect upon the natural law, each citizen was always under a duty to decide for himself or herself whether a law should be obeyed or not.

Natural law theory shares with human rights theory the commitment to an objective moral order of right and wrong which determines how human beings ought to be treated and that governments should be held accountable when they violate that objective moral order. However, they are not identical.

The first significant development from a theory of natural law towards a theory of human rights comes with John Locke. Up until Locke, arguments about how Christians should treat one another were couched, both by Catholics and Protestants, mainly in terms of the natural law and natural justice. Locke's theory is not a theory of natural law and natural justice. Locke's theory is a theory of natural rights. Locke makes three key moves which distinguish a natural rights theory from a theory of natural law. First, Locke emphasises the idea of property. Second, Locke stresses the rights of individuals. Third, Locke separates the question of what it is right to do from the question of what is good for human beings.

Locke's theory of natural rights was built around the idea of property, which, for him, meant "that property which men have in their persons as well as goods".⁴ What Locke gave us was not human rights in its modern form, but rather a theory of natural rights "which served the interests of a property-owning male elite bound to the state by the social contract".⁵ This is a theory of human rights for rich men. But is a theory which seeks to use rights to limit the power of government. Locke's ideas undoubtedly inspired the American Revolution and influenced the framers of the U.S. Declaration of Independence.

Locke's emphasis on property is tied up with a focus on the entitlements of individuals. With Locke we move away from the idea that God gave the riches of the earth to humanity as a

⁴ Locke, 'The Second Treatise of Government', paragraph 173.

⁵ Tina Beattie, "A fulfilment that is recognisable and yet unknown", p.2.

whole and to the idea that God gave the riches of the each to individuals. It's the possessive individualism of the ideology of rights which we should oppose.

Third, natural law theory integrated the questions of the right and the good. Natural law theory started with what was good for human beings and worked outwards from there to identify how human society should be organised. Locke begins by assuming that the question of what is good for human beings is one which is contested and on which consensus cannot be reached, so he starts with the question of how it is right for human society to be organised, and begins the trajectory of liberalism which seeks to create and sustain a society in which people can pursue diverse conceptions of what they think is good for human beings.

I think Locke took a wrong turn when he started his political theory with an account of the natural rights given to individuals. The biblical account of creation is not centred around the idea of the natural rights of individuals, it is centred around the idea of *shalom*, the *shalom* which is built into the goodness of creation, which is built into the Sabbath day rest within creation, and which is built into the great Sabbath rest at the end of history when the evil which mars this creation has been undone.

Shalom: the Judaeo-Christian Concept of the Good

The Bible's idea of the good is the idea of *shalom*. *Shalom* is a state of wholeness and harmony within a community which exists when all the relationships within that community are good. It is a good which is promoted by acts of justice and mercy, love and compassion. It is a good which is about each person being able to participate fully in the community not a good in which each person is able to express themselves individually regardless of the cost to the community.

The Judaeo-Christian concept of *shalom* is founded in the idea that all members of the human species, both male and female, have been created by God in the image of God (Genesis 1:26)⁶ and are therefore to be treated with dignity and respect (Proverbs 22:2; 29:13).⁷ Oppression or mockery of the poor amounts to contempt for their divine Maker

⁶ Roger Ruston, *Human Rights and the Image of God* (SCM, 2004); Nicholas Wolterstorff, *Justice: Rights and Wrongs*.

⁷ Milbank, 'The Gift of Ruling: Secularization and Political Authority' *New Blackfriars* 85 (2004), 237.

(Proverbs 14:31; 17:5). The Bible presents a clear picture of human beings as having worth because they have been created by God and because they are loved by God.

A positive Christian way of endorsing much of the content of human rights without accepting the rhetorical and theoretical underpinnings is suggested by Gary Haugen who writes:

"Justice occurs when power and authority is exercised in conformity with God's standards. Injustice occurs when power is misused to take from others what God has given them, namely, their life, dignity, liberty or the fruits of their love and labour." (*Good News About Injustice* p.72).

Haugen finds these gifts of God in the first chapters of Genesis.⁸ The enjoyment of these gifts of life, dignity, liberty, and a capacity for meaningful relationships and rewarding work is integral to the Judaeo-Christian concept of *shalom*.

- we understand them to be gifts from God⁹ not inviolable personal property over which we have an indefeasible claim;
- we see them as gifts to persons in relationship with one another not as things which belong to self-made, self-centred, self-sufficient individuals;
- we recognise that these gifts are to be exercised within a framework of objective good not in pursuit of goods that we have arbitrarily made or chosen for ourselves.

I want to focus on that last point for just a moment. Christian engagement with human rights theory has to involve the claim that there are some things which are objectively good and which deserve social acceptance. Marriage between one man and one woman, as a lifelong commitment, is an objective good. It is a good form of life, whether you are a Christian or a Jew, a Muslim or a pagan. Similarly, rewarding work is an objective good, to be enjoyed whoever you are.

⁸ See the discussion of them in McIlroy, *A Biblical View of Law and Justice* (Carlisle: Paternoster, 2004), chapter 2.

⁹ These gifts can be found in the first chapters of the book of Genesis. Christianity sees these gifts as the result of the goodness of God. We do not have the right to these things on a self-evident basis. We do not have the right to these things irrespective of whether this world evolved as a matter of chance or whether it was created by God. In respecting the rights which other people have to these God-given goods, we do right by everyone, including God.

This is an insistence that in the creation order there is both a physical order and a moral order. The moral order is the grain of creation, living in accordance with this is wisdom, living in defiance of this is folly. On this account, freedom is NOT freedom from the moral order but freedom to be myself within the moral order, to find my fulfilment within the possibilities that God has intended and left open for me.

This begins to highlight differences between how we should think as Christians and how secular rights theorists think. All too often, human rights are presented by secular theorists as a means of escaping from the moral order which God has given, as a means of sidestepping questions about what is good for human beings by only asking questions about how far individuals have a right to autonomy.

Nonetheless, although it should be clear from what the Bible says about creation that Christians should think about rights differently from the way in which contemporary non-Christian theorists do, when reflecting on the good gifts which God has given in creation, we might identify people's rights by asking ourselves the question: what has God given to people which others do not have the right to take away from them?

2. How has the Fall affected human relationships and are rights part of the answer?

It is, perhaps, trite to state that because of the Fall, human relationships have become disharmonious. Augustine went so far as to justify the entire edifice of law and government by reference to its role in combating the disruption to human relationships which has resulted from the Fall. That role of law is clearly important, although there is room for disagreement among Christians about whether that role is exhaustive of law's task.

On the one hand, law is autonomous in that it is made by human beings, not by God. It therefore participates both in the rebellion of humanity against God and yet also in the providential purposes of God by which that rebellion does not lead to total annihilation of human society and of the human race. This creates a dialectic at the heart of Christian legal theory which cannot be synthesised but only resolved at the Last Judgment.

Because law both participates in the rebellion of humanity against God and yet is used providentially by God to restrict the consequences of that rebellion, we can expect to see and do see, laws which oppress people and deny them their rights, laws which grant rights to people which enable them to act out their rebellion against God more fully, and laws which by protecting people's rights restrict some of the worst effects of the Fall.

Because of the Fall, we need some mechanism such as rights by which the interests of the weak can be protected against the powerful, against the injustice which can occur within social structures and institutions, and against the State.

Because of the Fall, people assert their human rights as claims by individuals to the detriment of wider society. The logical conclusion, she argues, is that rights will be claimed to everything which can be the object of human desire and possession. What gets squeezed out in the clamour for more and more rights are the shared goods of community.

3. **Do we see an emphasis on rights in Israel's history?**

In the Torah?

One of the most tricky parts of the Bible for Christians to handle is the Law of Moses. I learned from John Calvin and Thomas Aquinas that attention to the Law of Moses is not optional for Christians. But even if you are not convinced of that as a general proposition, I cannot see how Christian lawyers can deny their need to reckon with the Law of Moses. I'd recommend that you read both Chris Wright's *Old Testament Ethics for the People of God* and Jonathan Burnside's *God, Justice and Society* before you attempt to do so. Wayne Grudem's *Politics According to the Bible* is, in many respects, almost a textbook example of how not to do it.

I couldn't possibly navigate you through all the different ways in which Christians have understood the relationship between the Law of Moses and the message of Jesus and Paul in the time available. Instead, I want to make a simple point which is of particular importance to us as lawyers.

As lawyers we face an elephant trap, the elephant trap of assuming that when the Bible talks about law it is conceptualising law in the same way that you or I would conceptualise law today. Most of the time, the Bible is talking not about state law as we know it. Such law is to

be found in the edicts of Nebuchadnezzar and Pharaoh and in the decrees of the Persian and Roman empires. Most of the time, however, the Bible is concerned with the *Torah*, and that is not primarily state law but rather a moral code, a way of life.

Bernard S. Jackson and Jonathan Burnside have demonstrated that what Israelites in the millennium before Christ understood by Torah and how it functioned is radically different from the Roman and mediaeval understandings of law.¹⁰

What I think we can say when we read the *Torah* is that it does not contain a heavy or explicit focus on rights. However much Christians can endorse the idea of human rights, Judaeo-Christian ethics gives priority to responsibilities. The point is made simply enough by the fact that God gave Moses at Mount Sinai not the Declaration of the Rights of the Israelites but the Ten Commandments, a list of the people of Israel's obligations.¹¹ God did not give us 10 rights God gave us 10 responsibilities. God knows that we don't need reminding about our rights, we are very good at insisting on them. We do need reminding about our responsibilities.

Nonetheless, Chris Wright suggests that: "To say that B has certain rights, is simply the entailment of saying that God holds A responsible to do certain things in respect of B. B has rights *under God*, because God is as concerned with how B is treated as with how A acts. The two are correlatives of the single will of God regarding the well-being of his human creatures" ('Human Rights', p.9).

¹⁰ Jonathan Burnside *The Signs of Sin: Seriousness of Offence in Biblical Law* (Sheffield: Sheffield Academic Press, 2003); 'Criminal Justice' in Schluter and Ashcroft (eds.) *The Jubilee Manifesto* 234-54 at 237; Bernard S. Jackson *Studies in the Semiotics of Biblical Law* (Sheffield: Sheffield Academic Press, 2000).

¹¹ The Ten Commandments can, however, be rendered in the form of Ten Rights, as follows:

1. God has the right to be worshipped as the only God.
2. God has the right to ban the use of idols.
3. God has the right not to have His name taken in vain.
4. Human beings have the right to one day off a week to worship God and to rest.
5. Parents have the right to be respected by their children.
6. Owners of property have the right not to have it stolen.
7. People have the right not to be murdered.
8. Married people have the right to expect that their marriage vows will be respected by their spouse and by others.
9. Judges have the right to expect that witnesses giving evidence to them will be honest (actually this is the most difficult of the Ten Commandments to put into rights).
10. I have the right not to have my wife, donkey, or other belongings taken away from me, and the right to expect that others will not even think about doing so.

In the prophets?

For the purposes of today's session I do not need to come down on one side or other of the question whether Hohfeld was right to assert that rights and responsibilities are always correlative, always just two sides of the same coin. Nonetheless, I think that we can say that the responsibilities which the law of Moses imposes on those who are in a position to help the widow, the orphan, the foreigner and the poor are understood by the prophets to give the most vulnerable in society rights. If oppression of the poor shows contempt for their Maker, has God not given the poor the right to be free from oppression?

4. How should Christians react to secular accounts of human rights?

If, in creation, God has given good gifts to human beings, we can understand human rights theory as a flawed human attempt to recognise and defend those good gifts. If human thinking has been affected by the Fall, we can expect human rights theory to contain elements which express humanity's rebellion against and rejection of God.

To Alexander Pope's claim that the proper study of mankind is man, theology responds that a proper study of human beings must recognise that human beings are God's creatures. To fail to recognise this dimension of human life is to miss what Jacques Maritain called the priority of the spiritual.¹² The consequence of such a failure is that our thinking, our theories about human life, human activities and human institutions becomes disordered.¹³

Let's have a look at how an influential secular theorist described rights. In 1955, the greatest legal philosopher of the twentieth century, H.L.A. Hart (and I say that with all due deference to the recently deceased Ronald Dworkin), wrote an essay which addressed the question: are there any natural rights? In that essay, Hart says this about the concept of rights: 'Rights are typically conceived of as *possessed* or *owned by* or *belonging to* individuals and these expressions reflect the conception of moral rules as not only prescribing conduct but as forming a kind of moral property of individuals to which they are as individuals entitled; only

¹² J. Maritain, *Primauté du Spirituel* (Paris: Librairie Plon, 1927).

¹³ This is at the heart of Oliver O'Donovan's moral theology, as it lay at the heart of Augustine's arguments regarding love: O'Donovan *Resurrection and Moral Order: An Outline for Evangelical Ethics* (2nd edn.; Leicester: Apollos, 1994) 85-86, 249; *The Problem of Self-Love in St. Augustine* (New York: Yale University Press, 1980) 79, 159.

when rules are conceived in this way can we speak of *rights* and *wrongs* as well as right and wrong actions.’¹⁴

Rights, according to H.L.A. Hart, are usually thought about as “things which belong to people”. This is a vision of rights which Joan Lockwood O’Donovan denounces as “possessive individualism” . Human rights seem to go hand in hand with an individualistic worldview, in which each person is entitled to claim as much from the community for themselves as their rights will allow, and in which relationships with other people can be picked up and discarded at will. Human rights are used today to make individualistic claims in the name of ‘Me First’. It is ‘my rights’ that matter, never mind the cost to the community of satisfying them. It is ‘my rights’ that matter, never mind the fact that I have obligations to others.

The result of thinking of rights as “things which belong to me” is that people come to see themselves as individuals, with the right to be free from pressure from other people, externally imposed obligations, and natural limitations. This leads, Lockwood O’Donovan claims, to rights being asserted as demands, as claims by individuals, to the detriment of wider society. The logical conclusion, she argues, is that rights will be claimed to everything which can be the object of human desire and possession.

At this point we need to turn on another searchlight: the searchlight of God’s providence and common grace. God’s common grace is the work of God in the world even among non-Christians so that, despite the Fall, something of the original goodness of God’s creation is still visible in human societies . God’s providence is the way in which God continues to be at work in the world, limiting the consequences of humanity’s rebellion against Him . Christian theology may affirm that human law is sustained by the action of the triune God, is used by God for God’s own purposes, and that to an extent and even when law does not recognise or even explicitly rejects its dependence on the Christian God.

Christian academic lawyers can approach the language of human rights with one of three attitudes. We could see it as poisoned at the root, inextricably bound up with such flawed assumptions about who human beings are and the basis for their interactions that it should be

¹⁴ Hart, ‘Are There Any Natural Rights?’, (1955) 64 *Philosophical Review* 182.

rejected out of hand. The major problem, it seems to me, with adopting that approach in our generation is that if we avoid using the language of human rights altogether, we end up talking in our own private language and unable to communicate with others. The second approach is to regard human rights as a kind of *lingua franca*, a second language, into which we as Christians are able to translate some of our views so that they can be understood by others. This is the approach favoured by Nicholas Sagovsky (*Christian Tradition and the Practice of Justice*, p.79).

The third approach, not necessarily incompatible with the second, is to identify the flaws in the current language of human rights and to seek to reform that language in a more biblical direction. This is the way in which Nicholas Wolterstorff addresses the issue. In *Justice: Rights and Wrongs*, Wolterstorff seeks to give an account of rights in which rights are not things, rights are not personal possessions, and rights are not individualistic.

Rights are not things

According to Wolterstorff, rights are not things at all, but rather a form of “normative social relationships: sociality is built into the essence of rights. A right is [always] a right *with regard to someone*”.¹⁵ Rights describe a particular aspect of the relationship between two people, a situation in which A owes a duty to B and B has a right against A. Wolterstorff describes the normative social relationships which rights are as a “normative bond between oneself and the other. ... This normative bond is in the form of the other bearing a legitimate claim on me as to how I treat her, a legitimate claim to my doing certain things to her and refraining from doing other things.”¹⁶ Possessive individualism is, Wolterstorff argues, not intrinsic to rights but a distortion.

Rights are not personal possessions

Lockwood O'Donovan accuses contemporary rights-talk of being inevitably *possessive*, of leading inexorably to the conception of rights as things belonging to the rights-holder. The phrase “My rights” carries with it the idea that rights are some sort of thing which belongs to me. Wolterstorff denies that rights are possessions. For him, rights are not an answer to the

¹⁵ Wolterstorff, *Justice: Rights and Wrongs*, 4.

¹⁶ Wolterstorff, *Justice: Rights and Wrongs*, 4.

question: what ought each of us to get?, but rather to the question: how ought each of us to be treated?

Rights are not individualistic

Wolterstorff denies that an emphasis on rights is inevitably individualistic. Readers who get no further than his book *Justice: Rights and Wrongs* are unlikely to be persuaded by his defence on this book as in that book he talks almost exclusively about rights in terms of the rights of individuals. However, in his latest book, *The Mighty and the Almighty*, the last chapter gives an extensive account of how groups, organisations and social institutions have rights which governments ought to respect.¹⁷

The strength of Wolterstorff's approach to rights is that it is relational. For him, rights are not defined in the abstract but in relation to other people. The fact of our relationships with one another gives rise to, or better still, carries with it a network of rights and obligations which we owe to one another.

5. In what way has Jesus affected human relationships?

Jesus shows us the limits of law in achieving justice

The Christian message has some serious implications for law. If the Law of Moses had enabled people to be perfectly law-abiding, would Christ have needed to come? The question is central to the Christian message, because behind it lies the acknowledgement that all have sinned and fall short of the glory of God. No-one can be right with God through perfect, unerring obedience to law, whether human or God-given. No-one but Jesus is capable of that. Precisely because of its understanding of the work of Christ, Christianity argues, against Islam, that government's role in enforcing righteousness through law is limited.¹⁸ Because Christ has already 'put the world to rights', human legal institutions are freed from the pretension of having to do so. Their function can be seen to be important, but limited.

¹⁷ Wolterstorff, *The Mighty and the Almighty: An Essay in Political Theology* (Cambridge: Cambridge University Press, 2012).

¹⁸ D.H. Mellroy, 'The Role of Government in classical Christian political thought', in N. Spencer and J. Chaplin (eds.), *God and Government* (London: SPCK, 2009).

You see this in Aquinas's treatise on law where Aquinas's most significant, though by no means only, departure from Aristotle is his denial that human rulers are competent to ensure the virtue of the communities which they govern.¹⁹ True virtue comes only through the indwelling power of the Holy Spirit who conforms us to Christ-likeness. Given the limits on their powers, all human rulers can achieve is shallow justice, a concern with worldly goods, and a protection of the freedom in which true virtue may flourish.²⁰ The primary function of human law is restraining the wicked; promoting defined forms of the good, whilst important and on Aquinas's account, pre-dating the Fall, is only secondary.²¹

Although this point is of general application, it does have a specific relevance to human rights. One of the tendencies in human rights theory is to assume that all the problems in our society can be overcome through the use of law. Instead of negotiating our way to pragmatic compromises, we stand on our rights and escalate disputes through the use of legalistic language and threats of litigation. The way in which Jesus went about His mission shows us that there are other ways of achieving social change and godly outcomes other than through legislation and litigation.

Jesus shows us our need for forgiveness where we have violated the rights of others

The Lord's Prayer, in its traditional version, says "Forgive our trespasses, as we forgive those who trespass against us." Failing to recognise this dimension of the moral order risks treating people as objects rather than subjects and this is injustice, or at the very least, quickly leads to injustice.

Wolterstorff finds the idea of *inherent* rights in the Bible's description of forgiveness. He reasons as follows: (1) God forgives us; (2) if God forgives us, God must have been wronged; (3) if God has been wronged, God must have been deprived of that to which God has a *right*; (4) that right was not conferred on God but is inherent; (5) Jesus taught His human disciples to forgive one another just as God has forgiven them; (6) human beings therefore have inherent rights which can be breached.

¹⁹ J. Finnis, *Aquinas: Moral, Political, and Legal Theory* (Oxford: OUP, 1999) 222-52.

²⁰ T. Gilby, *Principality and Polity* (London: Longman Green, 1958) 130; Finnis, *Aquinas*, 237-38.

²¹ Gilby, *Principality and Polity* 179-80, 306; *Between Community and Society: A Philosophy and Theology of the State* (London: Longman Green, 1952) 327; Finnis, *Aquinas*, 228-31.

Jesus shows us the power of giving up our rights

Into our fallen, broken world, Jesus came. He had the right to be born in a palace, but He gave that right up to be born in a stable. He had the right to be the ruler of Israel, but He gave that right up to flee as a refugee to Egypt. He had the right to lead the people's worship in the Temple, but He gave that right up to preach in the fields. He had the right to a fair trial, but He gave that right up to save the world. The one who had the right to be acknowledged as Lord of all, came and lived among us as a slave (Phil 2).

One of the key developments Jesus made in the way in which He formulated the Golden Rule was that He made it a proactive standard. It is not that we do unto others as they have done to us (what Wolterstorff calls "the reciprocity code"), but rather that we do unto others as we would wish them to do to us. This too would indicate that our responsibilities have a certain priority over our rights.

The challenge for all Christian lawyers to be primarily concerned about the rights of others, not our own rights, and to be prepared, if necessary, to follow the example of Jesus and lay down our own rights in order to serve the needs of others.

6. The Church: object of rights, servant of rights, proponent of rights or opponent of rights?

I've already indicated in that last section where I might be going when I come to reflect on the question of how the mission of the Church affects the question of human rights.

The Church is an object of rights . We need to insist in our generation that Churches and religious organisations have collective rights. However, we should not just do so for our own sake, but for the sake of our society. Churches should insist on their rights as a service to our society, by standing against the tyranny which comes when the power of government is seen as unlimited or counterbalanced only by the rights of individuals.

The Church should be a servant of rights, following the example of Jesus in working to uphold the rights of others, especially those who are most disadvantaged and excluded.

The Church should be a proponent of rights, continually reminding governments that there are limits to their powers.

However, the Church should also be an opponent of rights where rights themselves have become an idol, distorting the way in which people relate to one another and to structures of authority.

7. Do we have any rights against God?

My instinctive answer to this question is no. I would want to affirm very strongly that God is not bound to save us and that any Christian account of rights must make that clear. Wolterstorff's does so.

Nonetheless, Christianity and Judaism understand God to have dealt with humanity through a series of promises, of commitments, of covenants . Insofar as we can speak of rights against God, those rights are wholly dependent on God's prior decision to oblige Godself, to enter into obligations towards the creatures God has made. What follows the covenants which God enters into in Genesis, with Adam, Noah and Abraham, and in Exodus with Moses and the people of Israel, is that God places obligations on the people of Israel, obligations which result both from the prior action of God and which determine the implementation of right relations amongst God's people.

2 Corinthians 1:20 might also enable us to centre our concepts of rights in Christ. It says: "For no matter how many **promises** God has made, they are "Yes" in Christ. And so through him the "Amen" is spoken by us to the glory of God."

We can call on God, not to vindicate our rights, but to honour God's promises, those responsibilities of love which God has freely accepted towards God's creatures.

Conclusions

Chris Wright suggests that "The 'two greatest commandments' of the law are in effect God's 'Universal Declaration of Human Responsibilities'. It is because the essence of sin, since the Fall, is to neglect *both*, that human preoccupation with rights is all at the same time so inevitable, so necessary, and yet, apart from God's redemptive action, so frustratingly ineffective." ('Human Rights', p.16).

Christians need to engage critically with secular human rights theory. It is fast becoming a *lingua franca* for public discourse in the West. It is not enough to denounce it. If Christians do so they must be able to say what their alternative social vision is. If, on the other hand, Christians choose to adopt rights language in order to make themselves understood, then Christians must be clear about what they mean by the various human rights they are advocating. We need to be clear that what we mean by rights is not “things that belong to people” but ways of expressing the responsibilities involved in relationships.

Developing a Christian mind requires wisdom, and wisdom is a spiritual gift which we cultivate through prayer, inspiration and sheer hard work. It is also a gift which God gives to the Christian community as a whole. I don't expect I have convinced you on every point regarding how Christians should think about rights but what I do hope to have done is to show you how to apply those seven searchlights to the areas of law which you are studying or which you practise.