

Ought the Mighty To Punish Blasphemers?

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In *The Mighty and the Almighty: An Essay in Political Theology*, Nick Wolterstorff defends the claim that Christian and liberal democratic conceptions of political authority are fundamentally compatible.¹ They are fundamentally compatible because both affirm the claim that governmental authority is bound by robust normative constraints. According to liberal democratic conceptions of political authority, government must never violate the natural rights of its citizens, not because so doing would be an abuse of its authority, but because it lacks entirely the authority to do so. “Liberal democracies, as we know them in the West today, have an ‘idea’ behind them, an implicit commitment to values or principles that make sense of the whole; they are not just fortuitous collocations of disparate elements. I have tacitly been assuming that a central component in the governing idea of those polities is that the natural rights of citizens place normative limits on the authority of government” (153). This generic conception of the ‘rights-limited state’ comports with a Pauline understanding of political authority and thus an understanding that is normative for Christians: “When we put what Paul says in Romans about the task and authority of the state together with the political implications of the nature and existence of the church, what we get is an argument for a state that is limited in exactly the sort of way that our liberal democracies are limited. . . . That there are normative, rights-based, limits on state authority is implicit in what Paul says God authorizes government to do” (151). At the core of a Christian conception of political authority, says Wolterstorff, is the claim that God authorizes the state to curb wrong-doing and thus that the state lacks the authority to issue directives that wrong citizens (99). In short, in a serendipitous convergence, Christian theology and liberal democracy affirm the legitimacy of a properly limited, morally constrained state.

To be sure, this compatibility claim would be rather empty were it not married to the further claim that Christian and liberal democratic conceptions (roughly) agree on the moral limits that define the contours of state authority. Wolterstorff believes that there is substantial agreement and he focuses primarily on the ‘first freedom’—the right to religious freedom (152). Both Christian and liberal conceptions of political authority incorporate the claim that each citizen has a right to the ‘free exercise’ of religion: to speak about God, to gather with others in worship of God, to urge others to join in that worshipping community—all without the

¹ Unless otherwise indicated, all citations in the text are to this book.

'pressure' engendered by the threat of governmental coercion. Other familiar 'liberal' rights follow in train (152). So, for example, if the state ought to respect each citizen's right to speak freely about God, then the state ought to respect each citizen's right to speak about all manner of other topics. After all, if the state should allow citizens to say what they want about God, then why not about such comparatively trivial matters as whether or not to adopt the flat tax? Again, if citizens have a right to gather together to worship God as they see fit, then surely the state ought to respect each citizen's right to associate with like-minded compatriots to produce goods for the market, or to debate governmental policy, or to create worthy art. In short, not only do Christian and liberal conceptions of political authority include a commitment to a rights-limited state, there is substantial overlap in their understanding of the specific limitations to which the state is subject.

I wonder, however, whether the convergence that Wolterstorff envisions is sufficiently robust. More particularly, I wonder whether the conception of political authority that he extracts from Paul is sufficiently liberal. Even more particularly, I wonder whether Wolterstorff's Pauline understanding of political authority allows, and perhaps requires, the state to interfere with the religious practices of its citizens in ways precluded by a sufficiently robust liberal conception of the right to religious freedom. Why might we think this? Consider the following four points.

First, the state can fail to fulfill its God-authorized task of 'curbing wrongdoing' in a variety of importantly distinct respects. One of the central ways in which it can fail to curb wrongdoing is by becoming a wrongdoer. Wolterstorff is clear that the state can become a wrongdoer not merely by acting but also by failing to act (92). Citizens easily can, and often do, violate the rights of their compatriots. They have a right against the state that it prevent others from violating their important rights,² and, should the state "turn a blind eye to serious wrongdoing among its citizens," then it thereby violates the rights of those citizens (92). The state becomes a wrongdoer when it fails to curb serious wrongdoing.

Second, citizens can commit many different kinds of wrong. Most obviously, human beings can wrong one another: for Wolterstorff, preventing and punishing these kinds of wrongdoing is clearly at the core of the state's God-authorized mandate. But human beings can also wrong God: Wolterstorff believes that God has rights against human beings and that human beings can violate God's rights. So, for example, they can wrong God by way of wronging their fellow human beings: when Perkin murders Jack, Perkin wrongs Jack and he wrongs God as well, for God has a right that Perkin not violate the rights of any child of God, as all human beings are. But not all rights-violations involve the violation of rights possessed by human beings. After all, we can fail to accord God the honor due to God, we can blaspheme God, and in so doing we wrong God. Blaspheming God, I take it, is a moral violation that human beings can commit without thereby violating the rights of any human

² Wolterstorff defends a version of this claim in (2012b, 270). Here is one relevant passage: "I have a moral claim-right against my fellow citizens to their not burglarizing me; if one or more of them does burglarize me, they morally wrong me. And I have a claim-right against my state to its doing what it reasonably can to protect me against violations by my fellow citizens of my right not to be burglarized; if my state does not do what it reasonably can to protect me from being morally wronged in that way, it morally wrongs me."

being.

Third, given the capacious mandate God grants to the state—to 'curb wrongdoing,' given that the state can fail to act in accord with that mandate by "turning a blind eye to serious wrongdoing on the part of its subjects (92), it seems that God authorizes the state to curb wrongdoing that wrongs God. At least, this seems to be the clear implication of two claims at the heart of Wolterstorff's conception of state authority, viz., that the state is authorized to curb wrongdoing and that human beings can wrong God. It is, of course, beyond doubt that many theists have believed, and still believe, that human beings can wrong God without thereby violating the rights of any human being and that the state is authorized to prevent its subjects from doing so.

Fourth, I take it that a properly *liberal* understanding of the right to religious freedom includes the claim that the state ought not prevent citizens from blaspheming God or from otherwise wronging God (in respects that do not also involve wronging other human beings). Correlatively, any properly liberal conception of political authority denies that any state is authorized to prevent citizens from wronging God. Consequently, the core Pauline idea that God authorizes the state to 'curb wrongdoing' seems to permit the state to curb citizens from performing certain kinds of wrongs—blasphemings—that the state is not authorized to curb on any properly liberal conception of political authority. This is a serious problem, I take it, for Wolterstorff tells us that "essential to the emergence of the rights-limited state was the rejection of [the principle that wrongdoing should have no civil rights] by theorists and citizens alike. I may think that your religion is wrong; but I will defend your civil right to be free to practice it" (144).

What resources does Wolterstorff have to repair this apparent rift between Christian and liberal conceptions of political authority? Well, Wolterstorff is clear that the state should not curb all moral wrongdoing. He specifies two conditions in which the state should not do so. First, "Government . . . lacks the resources. To insult someone is to wrong her; but no government has the resources to curb all insults" (90). Even a modern, bureaucratic state cannot hire enough police to quash all of the insulting, demeaning, degrading wrongings that pervades human existence. Certain wrongs, then, the state should not try to punish because it cannot succeed in doing so or because doing so would not be worth the effort. Second, "even if the government does have the resources to curb a certain sort of wrong-doing, it must refrain if doing so would require a more serious wronging of the public than the wronging it was trying to curb" (93). No doubt the government could prevent Nazis from spewing their anti-Semitic bile in public, but doing so would, plausibly, infringe on the Nazis' freedom of speech and so the state ought not prevent the insults directed by Nazis at Jewish people.³ So the state is authorized to curb wrongdoing, but it is not authorized to curb all wrongs, and perhaps blaspheming God is the kind of wrongdoing that the state lacks the authority to curb (126).

But it seems to me that neither of Wolterstorff's constraints on the wrongs

³ This kind of judgment requires very difficult and contentious axiological assessments, for example, that the right of citizens to speak freely takes precedence over the right other citizens not to be insulted, demeaned, or dehumanized.

that the state has the authority to curb generate that result. Consider the first: that the state cannot, and so ought not try, to prevent certain moral violations because it lacks the resources to do so. This constraint provides good reason for the state not to police the subjective, private heresies of its citizens. A citizen who pens in her diary all manner of hateful and blasphemous expressions about God is simply beyond government's reach; even a modern bureaucratic state with its manifold regulatory tentacles cannot effectively police the theological ruminations of, and so potential blasphemies, of its many citizens. But not all blasphemy is so difficult to detect! Some acts of blasphemy are performed for all to witness: they occur before large crowds, or are inscribed in widely available texts, or are recorded in mass media. That is, some blasphemous or sacrilegious acts are done in public, they are available for many to witness, they are easily detectable by the state, and they are therefore well within the state's capacity to punish or prevent.⁴ To the many who believe, or who have believed, that the state does have the authority as well as the duty to curb grave wrongdoing by its subjects, Wolterstorff's appeal to the state's limited capacity seems an unpersuasive response.

Consider Wolterstorff's second constraint: that the state ought not curb wrongs when doing so would require a more serious wronging of the public than the original offense. This also seems an unpromising basis for denying the state the authority to curb public blasphemy. After all, those who, like John Calvin, believe that the state *is* authorized to curb public blasphemy will also likely, and reasonably, believe that wronging God is among the worst kind that a human being can commit: not only can we wrong God, doing so is a most egregious moral violation. So it will not likely be the case that curbing wrongs committed against God “would require a more serious wrongdoing” than that to be curbed. Of course, this assessment depends on a comparative axiological assessments that is very difficult to vindicate in any principled way. But it is a plausible claim, I take it, and sufficiently so to blunt this second potential response.

It might seem that the state's curbing public sacrilege is inconsistent with, or does not 'comport well with,' core Christian claims about the nature of the church—that the 'Spirit blows where it will,' that Christians cannot willingly accede to the state's using its coercive resources to 'pressure' those who are not in the church to join in its life, practices, or rituals, and the like. But I don't see that punishing public sacrilege is inconsistent with such claims. Curbing public sacrilege doesn't pressure anyone into joining the Church. Preventing citizens from blaspheming God needn't involve coercing them into the True Faith. For the state to prevent subjects from

⁴ Consider in this regard a passage Wolterstorff cites from Calvin: government “does not merely see to it . . . that men breathe, eat, drink, and are kept warm, even though it surely embraces all these activities when it provides for their living together. It does not, I repeat, look to this only, but also prevents idolatry, sacrilege against God's name, blasphemies against his truth, and *other public* offenses against religion from arising and spreading among the people” (143, my emphasis). Here, I take it, Calvin articulates a very common conception of the authority of the state with respect to religiously specified violations: the state has the authority and the duty to curb those grave injustices that it has the capacity to curb, among those grave injustices are violations of the rights of God performed 'in public,' and so the state has the authority and the duty to prevent and punish “public sacrilege” (143).

insulting Muhammad is not thereby to force any of its subjects to embrace Islam. For the state to fine those who curse Jesus is not thereby to pressure anyone into becoming a Christian. Indeed, the state might curb public wrongings of God, not out of any concern for the moral or religious state of the wrongdoer, but for the well-being of the community. After all, there is a very long, venerable Christian tradition of thought according to which God holds states, nations, and governments accountable for doing justice, such that no community that commits—or tolerates—grievous injustice can prosper over the long term. If wronging God is among the most grievous wrongs that human beings can commit, if the state has the wherewithal to punish those who commit such grievous wrongs in public, and if God holds the state accountable for curbing serious wrongdoing that it has the capacity to curb, then it seems to have excellent 'reason of state' to punish those who publicly wrong God. Many have so believed in the past and many continue to believe so today.

I am not a fan of blasphemy laws. I am only unsure of how 'liberal' Wolterstorff's Pauline conception of political authority is. I suppose that there are many different conceptions of what makes for a rights-limited state, only some of those conceptions are appropriately liberal, whether or not they are liberal depends on the specific rendering of the rights by which the state is limited, and it seems that Wolterstorff's Pauline account of political authority accords to the state an authority to curb religiously specified wrongs that card-carrying liberals must deny to the state.

Bibliography

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