

BOOK REVIEWS

CHRISTIAN PERSPECTIVES ON HUMAN RIGHTS AND LEGAL PHILOSOPHY edited by PAUL R. BEAUMONT, Paternoster Press, 1998, ix + 147 pp (paperback, £15.99) ISBN 0-85364-901-4.

As Paul Beaumont recognises in the introduction of this book, many legal studies have been written from liberal, Marxist and many other philosophical perspectives, but very few modern authors approach legal sources from a purely Christian point of view. Of course, many lawyers and other experts on legal science profess Christianity, and their research has been clearly influenced by Christian values, but this does not mean that the links between law and the principles of Christianity have been the express focus of their studies. This book aims to make them so, and for this reason is innovative. Like the world in general, society in the United Kingdom is pluralistic, an extraordinary mixture of races and religions. Christians in Britain know that respect for other faiths is essential in any democratic country, but at the same time they are aware of the importance of their doctrines and values in a Europe with a heritage of so many religious traditions. As a consequence, this book pursues a welcome goal, not least in its treatment of fundamental propositions that are usually taken for granted. The book itself consists of five studies, written by distinguished academic lawyers.

In the first essay, 'The foundation of human rights: a Christian perspective', Matthijs de Blois recognises the pluralistic character of society, and (whilst a believer) challenges those authors who consider that all human beings should conform to Christian ethical principles. De Blois' moderation is a good stepping stone to analyse the role of the Churches in society in the 20th century. In a robust study, he defends the view that morality should function as a critical standard for the evaluation of law, which itself concerns the maintenance of peace and justice in public life. For de Blois, dignity, equality and freedom represent the core of human rights, and are themselves rooted in Christian morality: the creation of people in the image and likeness of God is the foundation of the equal worth and dignity of all human beings. Professing a faith must be a free choice and the state does not have any right to impose belief. Nowadays, these long-recognised Christian values have become universal, there being a general respect for them, but nevertheless de Blois enumerates examples of their violation, reminding us of the constant need to pursue them actively. Indeed, whilst agreeing generally with the philosophy of human rights, de Blois agrees with the Dutch humanist philosopher Paul Cliteur that the human rights tradition has since the Second World War become 'the first real world religion, albeit without God, church or rituals'; for de Blois 'Christians should not be found among the followers of this religion', because the faith which they profess is that in which Christ is the Supreme Lord.

The second essay, 'Towards a Christian approach to religious liberty' by Ian Leigh, is a very deep critique of the liberal approach to religion and an analysis of the Christian perspective. In an exhaustive way, Leigh criticises general liberal considerations of religion as a private matter. Whereas faith is private, in so far as it derives from personal choice, it has social implications; the activities of religious bodies, above all established Churches, should be considered public at least on some occasions. Moreover, Leigh challenges the notion of neutrality as the basis of religious liberty and explores the idea that tolerance itself may be understood as contradictory to liberalism. The liberal approach to religion may be criticised internally in failing to resolve conflicts of rights and freedoms, particularly the problem which liberals have with

tolerating those who behave in ways with which they disagree because of the absolute nature of their religious beliefs. Nevertheless, Leigh's criticism of state blasphemy law, in its confinement of protection to Christianity, might itself be welcomed by liberals: God has nothing to fear from free speech. A major contribution in Leigh's study is his analysis of the likely effects of the incorporation of the European Convention on Human Rights in United Kingdom law. For Leigh, the Human Rights Act 1998, which forbids public authorities to act in a way which is inconsistent with Convention rights, represents a challenging opportunity for religious groups to carve out a positive civil right to manifest their faith for the first time in British law as a valuable defence in an increasingly pluralistic society. He warns how essential it now is to determine when bodies of religious organisations are public authorities. According to a liberal approach, religious activities are fundamentally private, but the matter becomes of critical importance with established churches in England and Scotland and a disestablished church in Wales, which itself continues to perform certain public law functions (with regard to marriage, for example).

In the third essay, 'Why a Christian philosophy of law?', John Warwick Montgomery provides an analysis of what he sees as a shift in legal philosophy from natural law based on biblical revelation, to natural law based on the human reason, to legal positivism in which rules are treated as valid law regardless of their moral quality. His appeal is for lawyers to find the basis of law in biblical principles. Nevertheless, Montgomery recognises that it is possible for a Christian to take a legal positivism position whilst at the same time appealing to biblical principles as a yardstick against which to measure positive law: if law is incompatible with these, the Christian does not need to claim that it is not law at all but that it is bad law in need of reform. On this basis, biblical principles do not tell us what the law is; rather, they indicate what it should be. Montgomery defends vigorously an explicit and divine idea of justice, and argues against moral relativism. It is the essential task of 'the prodigal philosopher of law' to rediscover the basic principles of 'higher law'; however, identifying them is not an easy task.

The fourth essay, by Thomas Watkin, deals with 'The concept of commitment in law and legal science'. Before analysing commitment in legal science, the author identifies steadfast commitment as a concept in both Scripture and Christian tradition, where he finds God's commitment to humankind. In civil life, Watkin maintains that the concept has affected the development of legal institutions and social living; political relationships have been characterised by commitment between the state and its citizens: the responsibility of the state in this regard is, for Watkin, the result of a clear Christian influence. According to Watkin, whereas enforced commitment is no sign of grace, 'there is nothing to prevent societies arranging the legal structures which support relationships within them, whether between the state and citizen or employer and employee, in a manner which expects and facilitates, rather than frustrates or even derides, the practice of commitment'. There is particularly perceptive and lengthy treatment of the security of tenure in employment (especially in universities) in the context of ideas about commitment. Whilst we cannot expect that the civil world must behave according to the high standards of God's grace, the biblical concept of *hesed*—steadfastness—should function as a standard against which to measure political, social and legal developments.

In the final essay, 'A Christian approach to international laws of armed conflict', Hilaire McCoubrey examines whether, from a Christian perspective, war can be justified, and whether force is compatible with Christian principles. McCoubrey dismisses the concept of a holy war as being justified in the context of New Testament teaching. Rather, the author explores the respective merits of Christian pacifism and

a just war. The study deals with biblical principles and the development of international law with its prohibition against aggression, which for McCoubrey is entirely consistent with a Christian position. However, the author favours the limited use of force currently permitted by international law as an expression of collective security against acts of aggression or self-defence authorised by the United Nations: where, 'notwithstanding international morality and law, military aggression does take place, a defensive military response may not only be unavoidable but may even be an ethical duty'. The essay gives a thorough overview of international law methods and describes the historical development of worldwide organisations on human rights. McCoubrey maintains that all those engaged in armed conflict, even those who consider the use of force to be an answer to an aggression, must be mindful of the enemy as brothers and sisters in Christ in need of pastoral care.

There is no doubt that this book is an important contribution to a Christian perspective on Human Rights. The different papers are clear and stimulating, with useful subject and biblical indices. Through its theme that the lack of connection between law and morality is a persistent danger, this book seeks to remind us that law divorced from moral considerations can be an instrument of fear and injustice. It also serves to stress the moral responsibility of Christians in the development of human rights. All the essays are very readable and enriched by treatment of the many biblical, historical, legal and political implications of the subjects dealt with. For this reason, this book is essential to enable readers to bring the complex array of issues discussed into sharper focus: they make a real attempt to identify Christian ideas which may function as standards by which to measure legal developments in the area of human rights. Nevertheless, one criticism of the volume is a neglect of sociological data, particularly in the context of the secularisation of society which may bring into question the realistic likelihood of strengthening the links between the scriptures and state law, a basic theme in the studies: religious goals are, after all, very different from those in the political and civil fields. For this reason, some readers may find the papers overly utopian. In sum, then, the editor and contributors are to be congratulated on an innovative achievement, a real stepping stone in a new, Christian approach to legal science.

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RELIGION, POLITICS AND PEACE edited by LEROY S. ROUNER, University of Notre Dame Press, 1999. xvii + 209 pp (hardback £ 23.95) ISBN 0-268-01664-X.

This collection of essays makes up volume 20 of the Boston University Studies in Philosophy and Religion under the general editorship of Leroy S. Rouner. The series has come to be characterised by the eminence of its authors and the readability of its style, and this volume is no exception. From a variety of perspectives, the essays seek to challenge the liberal assumption that religious diversity represents a threat to political stability and that religion should therefore be kept separate from public life.

In Part I, essays by Jürgen Moltmann, Jean Bethge Elshtain and Elie Wiesel consider the relevance of theological concepts for political reconciliation. Moltmann reflects on his own personal experience of forgiveness as a German prisoner-of-war and expands the ideas of confession, forgiveness and reconciliation in the context of a critique of Germany's attempts to come to terms with its own past both in 1945 and 1989. Elshtain takes up a similar theme in a broader setting, focusing finally on South Africa's Truth and Reconciliation Commission. Elie Wiesel writes movingly