

## Justice after Conflict

Bethan Willis

*Pursuing justice after conflict poses particular problems. There is an urgent need to restore relationships in order that peace might be maintained, but often processes of justice compound existing divisions by causing further injustices (real or imagined) to those involved. This article draws on two theologians, Nicholas Wolterstorff and Miroslav Volf, to find theological resources in the Trinity and eschatology which might address this issue. These doctrines suggest particular characteristics of justice which might be brought to bear on existing post-conflict processes, in order to reshape them in ways which both offer a better outcome in practice and more closely pursue the justice of God.*

### Introduction

As we commemorate the start of World War One in 2014, the bloody conflicts embroiling the Middle East and Africa today remind us that war is always with us. What hope is there that peace and justice will flourish after such conflicts? Today's 'new wars' and civil conflicts often include mobilisation around identity groups, the displacement of populations, increased violence against civilians and other forms of criminal activity.<sup>1</sup> Such factors arguably pose more serious (and complex) obstacles to future peace than the state-on-state warfare which dominated the first half of the twentieth century.

The core challenge comes in facing the reality of destroyed relationships and the pressing need for those relationships to be restored in some sense if states are to flourish. Traditional justice processes (such as criminal trials) can be ill-equipped to pave the way for the kind of relational changes which are required. But even new processes (such as truth commissions) designed for these periods of transitional justice often fail to provide the kind of outcomes victims demand and expect.<sup>2</sup> In this failure victims are wounded for a second time.<sup>3</sup>

Last month Radovan Karadžić, the man accused of both the massacre at Srebrenica and the shelling of Sarajevo during the conflict in Bosnia, summed up his defence at the International Criminal Tribunal for the former Yugoslavia. 'The entire case against me is false', he said. 'I really was a true friend to the Muslims.... I know of no one in the Serb leadership who wanted to harm Muslims or Croats.'<sup>4</sup> Such denials are profoundly frustrating for victims seeking confession and repentance. Legal judgements may also fail to convict known offenders. In 2012 and 2013 senior figures in the Croatian and Serbian forces were acquitted at the same tribunal after it was found that there was insufficient evidence to convict them of giving 'specific directions' to carry out war crimes.<sup>5</sup>

These cases highlight a central problem of justice processes: they can leave those involved with the sense that justice has not been done; indeed, that in its failure to produce the desired outcome justice has actually produced new injustice. This is a particularly acute problem in post-conflict situations because the context has encouraged people to adopt 'zero-sum' positions,<sup>6</sup> i.e., rigid understandings of what is right and an inability to consider an alternative or accept a compromise.

The perception that justice processes have produced unjust results is a serious issue because it leaves participants disenchanting with and disengaged from the very activities which aim to facilitate a path away from conflict.<sup>7</sup> The consequence is a deepening of divisions between the groups the justice process originally aimed to reconcile. When this happens, states are left vulnerable to the possibility of renewed violence.

In the rest of this article I consider two theological insights relevant to this issue, one found in Nicholas Wolterstorff's essay 'Is there Justice in the Trinity?' and the other, on eschatology, in Miroslav Volf's book *Work in*

*the Spirit*. I suggest that these resources point to a distinctively Christian vision of justice that might shape the pursuit of post-conflict justice in positive ways.

### **Nicholas Wolterstorff and Justice within the Trinity**

The idea of justice existing within the Trinity is an unusual one. Wolterstorff writes: 'Most Christians, ancient, medieval and modern... would regard thinking and writing about it as appalling. How dare one even think of justice in the Trinity?' In recent decades the renaissance of trinitarian theology has generated several efforts to reflect on practices of human justice in relation to the life of the Trinity.<sup>8</sup> I suggest that Wolterstorff offers a much clearer expression of the rooting of justice within the triune relations.

Wolterstorff's central argument proceeds thus: commonly, justice is conceived either as being 'meted out' to wrongdoers, or as 'rendering judgement'. In both cases there is a presumption that wrongdoing precedes justice. If these conceptions of justice encompass the whole of justice then there can be no justice within the Trinity, since there is no wrongdoing within God. But Wolterstorff argues that, in the very act of judgement – of identifying injustices done – there is the implication that an alternative scenario was possible. Instead of committing an injustice the perpetrator could have acted justly towards his victim: 'there was a way of treating the victim that would have been just'.<sup>9</sup>

Wolterstorff's move offers a compelling logic to the idea of justice existing without assuming any prior injustice (although it has not gone uncontested).<sup>10</sup> He terms this 'primary justice': a just state of affairs existing in the absence of injustice. The justice with which we are more familiar – justice which responds to injustice – Wolterstorff calls 'secondary justice'. If we accept Wolterstorff's proposal then it follows that since there is no injustice between the persons of the Trinity, their relations must constitute a just state of affairs. Therefore there must be primary justice within the Trinity.

In defining primary justice Wolterstorff writes that 'justice, at bottom, consists of members of the social whole (and the social whole itself) enjoying those goods to which they have rights'.<sup>11</sup> But he (wisely) avoids extending that language of rights to the Trinity and instead restates his understanding of primary justice in new language. He holds that the type of justice found in the Trinity is constituted by 'treating the other with due respect for their worth'.<sup>12</sup> One may wonder what Wolterstorff's specific understanding of the content of justice within the Trinity is, but the logic of his wider argument (that justice exists within the Trinity) is in fact not dependent on the content of justice. Within certain parameters (and excluding the idea of justice as judgement), there is still room to debate what 'a just state of affairs' entails and what sort of human actions might stand in secondary relationship to it.

Wolterstorff's central premise, however, is that justice is more than 'action in response to injustice'. It can also be a state of affairs existing when injustice is absent. This may appear to move us further away from a consideration of how we might best deal with the injustices of conflict, for, some might reply, surely in a fallen world we will still need to focus on secondary justice, i.e., respond to violent injustices with justice? This is true, but Wolterstorff's view offers a valuable shift in perspective by suggesting that present actions of justice are not best understood as imperfect and impermanent approximations of the justice which God metes out to us but rather as actions which point towards the just life of God.

### **Miroslav Volf and Eschatological Action**

In *Work in the Spirit*, where he reflects on the role of work in relation to God, Volf proposes a relationship between present action and the future kingdom of God that could also apply to other ethical questions.<sup>13</sup> His aim is to move from a consideration of work as being good for human beings in temporary or functional ways – such as by combatting idleness (Aquinas) or sustaining life (Barth) – towards an understanding of human work as having an ultimate role to play in God's new creation.<sup>14</sup> Volf believes that human actions can be 'purified' and 'transformed' so that they can become an integrated part of God's own work which will finally transform the heavens and the earth. This understanding of eschatology and the role of human activity leads Volf to affirm a strong sense of continuity between present action and future reality.

Volf employs the language of the 'ethical minimum' and the 'ethical maximum' to develop the idea. An ethical minimum is a normative human practice, while the new creation constitutes the ethical maximum. The ethical minimum is 'the *criterion* for structuring the world of work', while the ethical maximum is 'the necessary *regulative ideal*'.<sup>15</sup> Current practices, actions and structures can only be understood properly if they are related to an

overarching eschatological vision of those practices or actions once transformed and perfected. Current practices, then, should aim to 'facilitate transformation... toward ever-greater correspondence with the coming new creation'.<sup>16</sup>

This way of understanding the link between present and future action is helpful, but it presumes considerable knowledge of what the new creation will look like. Elsewhere, Volf suggests that new creation is in fact creation swept up into the life of the Trinity,<sup>17</sup> and perhaps knowledge of the Trinity (which is revealed) may provide a surer footing for forming a vision of new creation that can inform our present action. We are brought back to Wolterstorff's insight that present justice can be seen as founded in the just life of the Trinity. We begin to discern in Volf, by a different route, a similar sense of the relationship between human action and divine life as that found in Wolterstorff.

Perhaps Volf's most useful insight is that human actions (such as practices of justice) should be construed from the point of view of their ultimate eschatological end, and thus as destined to be transformed in the kingdom of God, which for Volf is analogous to life in the Trinity. Such a view establishes a clear sense of continuity between present human action and the coming kingdom. A vision of the new creation/life in the Trinity points to an ethical maximum which should be used to 'optimize structures...[taking] into account what is practicably realizable'.<sup>18</sup> The justice in the Trinity, identified by Wolterstorff, can thus serve to regulate or optimise our current practices of justice.

### **Reshaping Post-conflict Justice**

How, then, might these theological proposals shape our practices of post-conflict justice? Earlier I noted that a key problem for such practices is that victims (and perpetrators) are often deeply disappointed in the outcomes of processes of justice, doubting that their outcomes are in fact just. Victims are often wounded again by efforts to pursue justice, undermining the ability of post-conflict states or regions to achieve a stable peace. How might the insights of Wolterstorff and Volf address this problem? I frame my answer in terms of three characteristics of justice that we might use to reshape post-conflict practices of justice.

The first characteristic is *mutuality*. Wolterstorff's argument that justice exists within the Trinity suggests that justice is not primarily something enacted upon another but a state of affairs existing between two (or more) persons. The end of justice is a mutual indwelling of a condition of justice in which all parties have given justice to, and received it from, the other: justice cannot be achieved for one party alone, nor can it be distributed by one person to others. Promoting this sense of justice as a mutual endeavour may combat the tendency in post-conflict contexts for each side to demand special treatment, only then to disengage when their claim to innocence is not upheld or when they see the other side receiving sentences they feel are unfairly lenient. In practice this might involve reshaping adversarial judicial processes along the lines of restorative justice, such as by introducing victim input to sentencing and offering opportunities for victims to offer their perspective to perpetrators and to receive apologies.<sup>19</sup> It might also involve an increased role for truth-telling and dialogue projects which encourage the nurturing of personal relationships alongside formal court proceedings.

The second characteristic is *provisionality*. Both Wolterstorff and Volf suggest that current human practices of justice can only ever be an incomplete, partial reflection of triune justice and the justice of God's new creation: any efforts to pursue justice in the present will necessarily be only a limited image (and pale reflection) of the justice of God in which human beings will eventually participate. The implication is that participants in post-conflict justice must be encouraged to adjust their expectations of what can be achieved through processes of justice. Currently there is typically an overemphasis on criminal trials as the means by which justice is achieved. But if participants can begin to understand that such processes can only ever offer them a limited measure of justice, and also that they are part of a wider pursuit of a just state of affairs – including 'practices of justice' such as reconciliation projects, policy changes to meet the needs of victims, or laws which end segregation or other inequalities – then false expectations may be reduced.

Following on from this, the third characteristic is *justice as process*. Both Volf and Wolterstorff offer a vision of justice perfected in the Trinity or in new creation. Such justice is understood as the goal or end of human justice. In this light we might be able to understand present efforts to do justice less as 'achievement' and more as efforts 'in pursuit of' God's justice. This would suggest that post-conflict justice processes should have goals beyond their own immediate existence: facilitating relationships, promoting ongoing dialogue, or enabling the wider community

to pursue patterns of just behaviour. Such a perspective lends support to, for example, theories of 'relational justice' which argue that keeping criminal trials local and accountable to those whose cases are heard can help pursue longer-term peace and reconciliation.

## Conclusion

We have encountered valuable resources both for extending the horizon of justice (Wolterstorff) and for reframing the relationship of present justice to future justice (Volf). Justice, these thinkers disclose, can be seen as rooted in God and in hope for the future. Such ideas can offer not only personal solace but also wider motivation to reshape public practices, as participants are inspired by a sense of deep continuity between present and future justice.

Bishop Nick Baines has recently written on the need for a robust vision of future justice in the face of conflicts such as that in Iraq.<sup>20</sup> Efforts to enact justice in conflict and post-conflict situations can appear very thin and fragile in the face of the weighty injustices they have to deal with. A vision of future justice can hold together our limited and disparate efforts to enact justice, granting space for the inevitable failures of individual efforts without allowing the pursuit of justice itself to crumble. Such a vision of justice takes the pressure off individual actions or institutional processes to secure entirely just outcomes themselves. Setting our eyes on the justice of God might be a very practical response to the seemingly intractable problems of justice after conflict.

## For further reading

Nigel Biggar, ed., *Burying the Past: Making Peace and Doing Justice After Civil Conflict* (Georgetown University Press, 2003).  
Daniel Philpott, *The Politics of Past Evil: Religion, Reconciliation, and the Dilemmas of Transitional Justice* (University of Notre Dame Press, 2006).

Bethan Willis completed her PhD in Theology at the University of Exeter in 2013. Her thesis focused on the theology of Miroslav Volf and post-conflict justice. She is a researcher for the charity Christian Concern for One World and also works for the Oxford Pastorate.

<sup>1</sup> See Mary Kaldor, *New and Old Wars: Organized Violence in a Global Era* (Polity Press, 2006).

<sup>2</sup> See Daniel Philpott, 'Religion, Reconciliation and Transitional Justice: The State of the Field', *Social Science Research Council Working Papers*:

<http://kroc.nd.edu/sites/default/files/workingpaperphilpott.pdf><http://kroc.nd.edu/sites/default/files/workingpaperphilpott.pdf>, 06/11/2014.

<sup>3</sup> See Michael Battle, *Practicing Reconciliation in a Violent World* (Morehouse Publishing, 2005), 44.

<sup>4</sup> Julian Borger, 'Radovan Karadžić tells war crimes trial there was no ethnic cleansing in Bosnia', *The Guardian*, <http://www.theguardian.com/world/2014/oct/01/radovan-karadzic-war-crimes-trial-no-ethnic-cleansing-bosnia>, 01/10/2014.

<sup>5</sup> Ed Vulliamy, 'Radovan Karadžić awaits his verdict, but this is two-tier international justice', *The Guardian*, <http://www.theguardian.com/commentisfree/2014/sep/30/radovan-karadzic-verdict-international-justice>, 30/09/2014.

<sup>6</sup> Donna Hick, 'Identity Reconstruction in Reconciliation', ed. Raymond G. Helmick, S. J. and Rodney L. Petersen, *Forgiveness and Reconciliation: Religion, Public Policy and Conflict Transformation* (Templeton Foundation Press, 2001), 141.

<sup>7</sup> In the International Criminal Tribunal for the former Yugoslavia (ICTY) an original aim of the process was to promote reconciliation, but the war crimes trials are widely believed to have failed to achieve this aim, a point reflected in fact that the ICTY dropped this aim in its summary of achievements.

<sup>8</sup> See David Power and Michael Downey, *Living the Justice of the Triune God* (Liturgical Press, 2012) and Miroslav Volf, *Exclusion and Embrace* (Abingdon Press, 1996).

<sup>9</sup> Nicholas Wolterstorff, 'Is there Justice in the Trinity?', in *God's Life in Trinity* (Augsburg Fortress, 2006), edited by Miroslav Volf and Michael Welker, 179.

<sup>10</sup> See Oliver O'Donovan, *The Desire of Nations: Rediscovering the Roots of Political Theology* (Cambridge University Press, 1996).

<sup>11</sup> Wolterstorff, 'Is there Justice in the Trinity?', 183.

<sup>12</sup> Wolterstorff, 'Is there Justice in the Trinity?', 185.

<sup>13</sup> Miroslav Volf, *Work in the Spirit* (Wipf and Stock, 2001). See also Miroslav Volf, *After Our Likeness* (Eerdmans, 1998).

<sup>14</sup> Volf, *Work in the Spirit*, 92.

<sup>15</sup> Volf, *Work in the Spirit*, 92.

<sup>16</sup> Volf, *Work in the Spirit*, 83.

<sup>17</sup> Primarily Volf, *Exclusion and Embrace* but see also Volf, *After Our Likeness*.

<sup>18</sup> Volf, *Work in the Spirit*, 83.

<sup>19</sup> See the work of John Braithwaite, *Crime, Shame and Reintegration* (Cambridge University Press, 1989).

<sup>20</sup> Nick Baines, 'Any Dream Won't Do', <http://nickbaines.wordpress.com/2014/08/08/any-dream-wont-do/>, 09/11/2014.