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The United Nations refugee agency (UNHCR) reported in 2011 that there were around 42.5 million forcibly displaced people worldwide and of these 15.2 million were classified as refugees. The disparity between the two figures reveals immediately the terminological and legal complexities that beset the human misery of displacement. 876,100 people submitted applications for asylum in 2011, which is to say that they applied for official refugee status. 76,000 of these applications were received in the USA, reflecting the tip of the iceberg of the population regarded as illegally resident or "undocumented" in that country. But it is developing nations that host four-fifths of all displaced persons, with Pakistan, Iran and Syria struggling with by far the greatest numbers, followed by Germany, Jordan, Kenya and Chad.[1] The scale of the problem seems overwhelming, although in countries like Australia, the political charge attached to these issues is out of all proportion to the international statistical comparisons. The raw numbers of people seeking asylum in Australia, especially when considered in relation to national wealth, barely rate a mention in international analyses. National elections in Australia have been known to turn on "border protection" policies, and yet the debates around these issues rarely reach the depth that is required if we are to claim that democratic processes have dealt adequately with the problems.

What, then, can biblical theology and ethics hope to contribute to these debates? The question is a pressing one for faith communities, and it is not without relevance for democratic contexts where a large proportion of citizens identify as Christian. In this article I will argue that scriptural sanctions for the provision of asylum can be drawn from a range of traditions and genres, but on closer inspection of the complex issues at stake, the sanctions derived from covenantal law have less public relevance than the ones

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1   *UNHCR Global Trends 2011*, available at http://www.unhcr.org/4fd6f87f9.html (accessed August 8, 2013), provides the relevant details. By the end of 2012, Syria dropped to fifth place as a host country, while 647,000 fled that country in the space of a single year, according to *UNHCR Global Trends 2012*, available at http://www.unhcr.org/51bacb0f9.html (accessed August 8, 2013).

derived from the creation theologies of Genesis and Job. It is not that citations from Genesis and Job may therefore be effective in public debate, but rather, that creation theology provides a more compelling framework for faith communities to engage in public policy debates, bearing in mind that other traditions of ethical reasoning will bring quite different perspectives to the issues.[2]

One approach to the politics of asylum has been to emphasize the overriding obligations to the stranger that appear throughout the scriptures, such as in Exod 22:21; Lev 19:10, 34; Deut 14:29, 23:7; Isa 61:5; Jer 7:6; Matt 5:18; and Luke 10:25–37.[3] M. Daniel Carroll's book *Christians at the Border* has been influential in this regard, especially in the USA, although some scholars with a commitment to biblical norms have countered his arguments by discriminating between different classes of strangers in the Hebrew Bible. James Hoffmeier, for example, has argued that the biblical obligation is precisely to the "stranger" (the *ger* in Hebrew) who might be understood by analogy as a "properly processed alien," as opposed to an undocumented "foreigner" who can claim no protection from the state. This semantic correlation is then linked to a sanctification of state authorities, notably with reference to Rom 13, and an argument that Christians are therefore called to submit to the laws of the state, including immigration laws.[4] (We will return to Hoffmeier's approach below, but here I will simply note in passing how anomalous the surface meaning of Rom 13 is when considered against the wider background of the Bible's relentlessly reiterated critique of unjust Israelite monarchies and foreign empires, including the Roman empire of Paul's own day.)[5]

Directly opposed to the acknowledgment of state authority, Christian "cosmopolitan" arguments for hospitality to strangers fundamentally reject the relevance of nation state jurisdictions and take up more philosophical

2   Cf. Erin K. Wilson, "Be Welcome: Religion, Hospitality and Statelessness in International Politics," in *Hospitality and World Politics*, ed. Gideon Baker (Basingstoke: Palgrave Macmillan, 2013), 145-70..

3   See, e.g., M. Daniel Carroll, *Christians at the Border: Immigration, the Church, and the Bible* (Grand Rapids: Baker, 2008).

4   James K. Hoffmeier, *The Immigration Crisis: Immigrants, Aliens and the Bible* (Wheaton: Crossway, 2009).

5   See, among many studies, Tom Wright, "Paul and Caesar: A New Reading of Romans," in *A Royal Priesthood? A Dialogue with Oliver O'Donovan*, ed. Craig Bartholomew *et al* (Grand Rapids: Zondervan, 2002), 173–93; Richard Horsley (ed.), *Paul and Empire: Religion and Power in Roman Imperial Society* (Harrisburg: Trinity Press International, 1997); Christopher D. Stanley (ed.), *The Colonized Apostle: Paul through Postcolonial Eyes* (Minneapolis: Fortress, 2011).

approaches to the issues.[6] Neither the philosophical nor the biblical approaches to hospitality seem to pay much attention to the complexity of biblical literature on the theme of borders and how this literature might contribute to a contemporary political theology. Even Esther Reed, who does provide some valuable theological reflection on borders, tends to agree that "a Christian theology of the political should be far more occupied with secular authority, government, power, office and civil polity than with land, territory, borders and sovereignty."[7] In the long run this may well be justifiable, but the making of state sovereignties in colonial history was deeply indebted to the assumptions of Christendom, and addressing the secularized legacies of colonial history is a matter that deserves detailed theological work. A relative indifference to land, borders and indigenous sovereignty is part of the historic problem, and in this respect a globalized cosmopolitanism resurrects a colonial logic even as it rails against the arbitrariness of national borders that seal off the majority of the world's fragile populations from life-giving resources.

Reed emphasizes that there is theological value in retracing the steps by which divine sovereignty was secularized firstly in the making of modern European states, and secondly in the fabrication of colonial sovereignties.[8] Such retrospective analysis helps to underline the constructed nature of modern nation states, but once established, they are far from being merely discursive products that can be undone by cleverly told histories or subtle philosophical paradoxes. Reed argues that in beginning to consider borders as at least relatively meaningful in theological terms, there is value in reconsidering the following list of biblical texts:[9]

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6   Notably Luke Bretherton, "The Duty of Care to Refugees, Christian Cosmopolitanism, and the Hallowing of Bare Life," *Studies in Christian Ethics* 19 (2006): 39–61; cf. Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life* (Stanford: Stanford University Press, 1998); also his, *State of Exception* (Chicago: University of Chicago Press, 2005); cf. Jacques Derrida, *On Cosmopolitanism and Forgiveness* (New York: Routledge, 2001) and the lucid overview in Andy Lamey, *Frontier Justice: The Global Refugee Crisis and What to Do about It* (St Lucia: University of Queensland Press, 2011), 177–218.

7   Esther D. Reed, "Refugee Rights and State Sovereignty: Theological Perspectives on the Ethics of Territorial Borders," *Journal of the Society of Christian Ethics* 30 (2010): 59–78, at 61.

8   See especially Lisa Ford, *Settler Sovereignty: Jurisdiction and Indigenous People in America and Australia, 1788–1836* (Cambridge, MA: Harvard University Press, 2010). Perhaps Australian legislators could be mindful that our nation's ancestors were "Irregular Maritime Arrivals," to use the current bureaucratic discourse.

9   Reed, "Refugee Rights and State Sovereignty," 63.

You have set all the borders of the earth (Ps 74:17).

When the Most High apportioned the nations, when he divided humankind, he fixed the boundaries of the peoples according to the number of the gods; Yhwh's own portion was his people, Jacob his allotted share (Deut 32:8–9).[10]

These are the borders by which you shall divide the land as an inheritance among the twelve tribes of Israel (Ezek 47:13).

He has made from one blood every nation to dwell on all the face of the earth, and has determined their preappointed times and the boundaries of their dwellings (Acts 17:26).

Given the diversity of these texts, it would indeed be hazardous to suggest that we could find here biblical warrants for sanctifying the borders created in "postcolonial Africa, the disputed territories of the West Bank and Gaza Strip, Nagorno-Karabakh, the seabed of Antarctica, or the state of Jammu and Kashmir, and more."[11] Reed resiles from such a naïve hermeneutic, and from the reification of borders in general, but she goes on to argue nevertheless that there is a properly ethical status for borders within a conception of state sovereignty explicated as responsibility before God:

The ancient hope that God will judge the nations—retold in Matthew 25:31–35 as the Son of Man judging the nations based upon how they have responded to the requirements of the gospel for the treatment of the hungry, poorly clothed, imprisoned, and so on—invites an explication of the dynamic and norms of answerability.[12]

This appeal to the parable of the sheep and the goats in Matt 25 interestingly reveals a weakness in James Hoffmeier's hermeneutical dependence on the Hebrew terminology of the *ger*, since in Matt 25:38, 44 the hungry, thirsty, naked or imprisoned stranger is an undifferentiated *xenos* (rather than *paroikos*, as the customary Greek translation of *ger* might lead us to expect). And the unsettling suggestion in the parable that not even the "righteous" have discerned that the *xenos* is Christ can hardly lead hermeneutically to

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10   On the complexity of this and other texts in the Hebrew Bible that refer to borders, see Mark G. Brett, *Decolonizing God: The Bible in the Tides of Empire* (Sheffield: Sheffield Phoenix, 2008), 55–61, 102.

11   Reed, "Refugee Rights and State Sovereignty," 63.

12   Reed, "Refugee Rights and State Sovereignty," 72.

an unreserved confidence in immigration authorities. On the contrary, the parable points precisely to the theological danger of categorizing strangers.[13]

While Reed's argument focuses on an ethic of answerability, rather than one of hospitality, there is an inevitable conceptual linkage between affirming borders and affirming the idea of a homeland.[14] Home and migration are reciprocally defining. Equally, a concept of home is logically implied by what is now called "forced migration" in recent research, and increasingly, biblical studies of exile are being reframed in dialogue with modern studies of forced migration.[15] In exploring the contribution of the biblical literature to public debates about a state's obligations to provide asylum, we need to give consideration to the obligations of hospitality in the broader political sense.[16]

Reed rightly suggests that rights and responsibilities are reciprocally defining, but defining the scope of international responsibility raises complex issues. Any defence of refugee rights today assumes that states have obligations to provide refuge (e.g., under domestic legislation arising from the UN *Convention Relating to the Status of Refugees* 1951), but the presumption that all state parties have the same legal obligations, regardless of

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13 See Brett, *Decolonizing God*, 186, invoking Emmanuel Levinas, *Otherwise than Being, or, Beyond Essence,* trans. Alphonso Lingis (Dordrecht: Kluwer, 1991). On the theme of categorization, Bretherton, "The Duty of Care to Refugees," takes up Agamben's concept of "bare life"; Reed provides an exemplary discussion of the British legal case *R v. Immigration Officer at Prague Airport* to illustrate the current complexity of understanding national and racial borders under European human rights legislation. "Refugee Rights and State Sovereignty, 67-9. Cf. Alison Kesby, "The Shifting and Multiple Border and International Law," *Oxford Journal of Legal Studies* 21 (2007): 101–19.

14 A related point emerges in Luke Bretherton's discussion of refugees in *Christianity and Contemporary Politics* (Oxford: Wiley–Blackwell, 2010), 126–74. In this revision of his earlier essay on refugees, mentioned above in n.6, Bretherton here places more emphasis on hospitality and the provision of sanctuary, notably 140, 155–60, practices which require at least some affirmation of "the moral licitness of borders" (158).

15 See especially John Ahn, *Exile as Forced Migration: A Sociological, Literary, and Theological Approach on the Displacement and Resettlement of the Southern Kingdom of Judah* (BZAW 417; Berlin: de Gruyter, 2011); Brad E. Kell, Frank R. Ames and Jacob L. Wright (eds), *Interpreting Exile: Displacement and Deportation in Biblical and Modern Contexts* (SBLAIL 10; Atlanta: SBL, 2011).

16 We are not primarily concerned here with domestic practices of hospitality in the sense of providing short-term accommodation for travelers. On this narrower topic, see T. Raymond Hobbs, "Hospitality in the First Testament and the 'Teleological Fallacy,'" *Journal for the Study of the Old Testament* 95 (2001): 3–30. Hobbs draws a sharp distinction between domestic and political hospitality and can find no analogy between the two. In his semantic analysis, a refugee or immigrant (*ger*) is never offered hospitality, a finding that borders on being a tautology.

their capacity and resources, actually raises questions about the ideological functions of state sovereignties in *resisting* international accountability.[17] Thus, for example, Australian political discussion tends to be focused on the hundreds of asylum seekers arriving in small boats instead of the millions of displaced people living in countries that lack adequate resources to care for them. "Answerability," in this respect, is not just about the legal accountability of individual nations taken one at a time.

When considering the secular developments of international law after 1948, it is evident that signatories to United Nations' Declarations, Covenants and Conventions are primarily state parties who are formalizing their answerability before the international community. Following the horrors of World War II, the overwhelming consensus was that an international instrument was needed that could uphold the rights of individuals against the powers of a state, in particular a state like Nazi Germany. When considering the long prehistory of human rights, however, it is also clear that their foundations were laid in conceptions of answerability to a divine Creator, particularly in contexts where the wellbeing of fragile persons was at risk. The story of the Christian churches' involvement in drafting the documents behind the 1948 Universal Declaration of Human Rights is perhaps less well known than it should be.[18]

Accordingly, I will at this point briefly review some of the history of human rights thinking, before turning to theological consideration of the specific obligations arising under the UN *Convention Relating to the Status of Refugees* (1951) and subsequent legal initiatives.

Rewinding the History of Human Rights

There is no organic development from ancient biblical texts to modern human rights, but a number of compelling arguments have shown that the Hebrew Bible does indeed contain a conception of divinely conferred rights—often termed *mishpat*—that belong to marginalized persons and

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17 See Lamey, *Frontier Justice*, 348, on the necessity for "burden sharing."
18 John Nurser, *For All Peoples and All Nations: Christian Churches and Human Rights* (Washington: Georgetown University Press, 2005).

that can be asserted over against more powerful bodies, including states.[19] I will investigate below some of the key texts that support this view, but it is worth noting at this point that examples can be found in all the major genres of ethics in the Hebrew Bible—law, prophecy and wisdom. Rather than simply being isolated examples that are easily overwhelmed by the dominant paradigm of justice as a "right order" mediated by monarchs (another use of *mishpat*), this triangulation across genres provides a substantial foundation for modern understandings of rights.

Some theologians have argued that all modern talk of human rights is inherently individualistic and incompatible with the Bible's communitarian logic, but this rejection of the Bible's relevance does not do justice to the variety of ways in which the biblical traditions have influenced the recognition of human rights. These rights were not born into secular liberalism; they were adapted within that environment in the context of new conceptions of human flourishing. A simplistic historical account of seventeenth century Europe might suggest that in this modern period the divine right of kings gave way to a new secular model of sovereignty within which the inherent rights of the people finally prevailed over medieval theological hierarchies. But a closer examination of history clearly reveals that secularity was initially forged in *theological* debates,[20] and some philosophical and legal commentators even doubt whether the discourse of human rights can be successfully maintained without its religious moorings.[21]

Certainly, the modern discourse of human rights plays a key role in the philosophical construction of liberal democracies, which themselves depart

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19 This is acknowledged by Oliver O'Donovan, *The Desire of the Nations: Rediscovering the Roots of Political Theology* (Cambridge, UK: Cambridge University Press, 1996), 248, even though he strenuously criticizes modern theories of rights. See the important works of James Barr, "Ancient Biblical Laws and Modern Human Rights," in *Justice and the Holy*, ed. Douglas A. Knight and Peter J. Paris (Atlanta: Scholars, 1989), 21–33; Eckart Otto, "Human Rights: The Influence of the Hebrew Bible," *Journal of Northwest Semitic Languages* 25 (1999): 1–14.

20 See the magisterial work of Charles Taylor, *A Secular Age* (Cambridge, MA: Belknap Press, 2007).

21 See, e.g., Michael J. Perry, "Is the Idea of Human Rights Ineliminably Religious?," in Perry, *The Idea of Human Rights: Four Inquiries* (Oxford: Oxford University Press, 1998), 11–41; Nicholas Wolterstorff, *Justice: Rights and Wrongs* (Princeton: Princeton University Press, 2008); cf. Hans Küng and Jürgen Moltmann (eds), *The Ethics of World Religions and Human Rights* (London: SCM, 1990); Joseph Runzo, Nancy M. Martin, and Arvind Sharma, *Human Rights and Responsibilities in the World Religions* (Oxford: Oneworld, 2003).

substantially from the older conceptions of natural law.[22] In this liberal tradition, citizens are often seen as participants in a virtual social contract—rather than a divinely constituted covenant[23]—within which individuals are willing to relinquish some aspects of their autonomy to the state in exchange for security of life and property. Essentially the role of the state is to protect the "life, liberty and property" of its citizens, or perhaps even the "pursuit of happiness," as the American Declaration of Independence has it in 1776. This political tradition is linked closely to the life of modern nation states, and accordingly it entails an inevitable tension between the flourishing of the individual state over against the common good of humanity as such.[24]

Conceptions of natural rights were discussed by Catholic lawyers already in the twelfth century, and Brian Tierney has shown how these antecedents work their way through the centuries to the complex secular theology of Hugo Grotius.[25] In the thirteenth century, for example, St. Bonaventure argued in his *Defence of the Mendicants* that although love among Christians might give rise to the practice of sharing goods in common, there was a more basic community of goods from which people could draw in sustaining their natural existence, on the basis of "the right that naturally belongs to man as God's image and noblest creature." The right to these goods held in common could be exercised by virtue of "natural necessity" and could not be renounced.[26] It would take some centuries before the idea of "inalienable" rights would take revolutionary shape, but when Oliver Cromwell assaulted

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22   David Harvey, *A Brief History of Neoliberalism* (Oxford: Oxford University Press, 2005), 175–82; O'Donovan, *Desire of Nations*, 240–41.

23   See however David Novak's argument that a social contract is actually strengthened by agreements between a number of covenantal communities, in "Oliver O'Donovan's Critique of Autonomy," *Poltical Theology* 9 (2008): 327–38, and Novak, *Covenantal Rights* (Princeton: Princeton University Press, 2000).

24   Notably, Hannah Arendt, *The Origins of Totalitarianism* (London: George Allen and Unwin, 1967), 293. Lamey's *Frontier Justice* represents an extended response to Arendt, arguing that her skepticism could be legally overcome if the rights of asylum seekers were entrenched in national constitutions, conceived as "portable," and supported by rights to legal representation and review. Should such provisions for procedural justice be adopted, as undoubtedly they should be, they would not in themselves provide positive and richly textured patterns of hospitality within a national culture.

25   Brian Tierney, *The Idea of Natural Rights* (Atlanta: Scholars Press, 1997); cf. Oliver O'Donovan, "The Justice of Assignment and Subjective Rights in Grotius," in Oliver O'Donovan and Joan Lockwood O'Donovan, *Bonds of Imperfection: Christian Politics Past and Present* (Grand Rapids: Eerdmans, 2004), 167–203.

26   See the translation in Oliver O'Donovan and Joan Lockwood O'Donovan, *From Irenaeus to Grotius: A Sourcebook in Christian Political Thought* 100–1625 (Grand Rapids: Eerdmans, 1999), 317.

the monarchy in the seventeenth century, and asserted the rights of the people against the Crown, it was still on the basis of a biblical covenant theology within which "the people" relate directly to God, making kings and priests largely unnecessary.[27] Later forms of nationalism moved between ethnic and civic extremes, excising monarchs and religion to greater and lesser degrees depending on the local permutations.

Protestant revolutionaries in Europe did not invent their ideas out of nothing; they were re-reading the Bible with renewed political interest. What they found, especially in the prophetic books, was a relentless critique of kings and priests. We now know that this ancient tradition of prophetic critique was very unusual within the surrounding cultures of Mesopotamia, Egypt and Assyria.[28] Kings were more likely to be considered divine or semi-divine, and given this exalted status, they were the ones who made the law. In Israel this was pointedly not so: kings were not originally part of the divine plan for government, and when they did arrive on the scene it was a matter of divine regret and accommodation to human desire, at least as 1 Sam 8 suggests. Kings exercised *mishpat* in the sense of "judgment" (usually very badly, according to the Deuteronomists), but they did not make the foundational statutes handed down in Mosaic tradition. In the course of time, the accommodation of monarchs in Israelite religion took on different forms, ranging from the strong affirmations in Zion–Jerusalem theology[29] to the constraint of kings under divine law in Deuteronomistic theology,[30] and to a qualified indifference to monarchs in priestly tradition.[31]

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27 Liah Greenfeld, *Nationalism: Five Roads to Modernity* (Cambridge, MA: Harvard University Press, 1992); Mark G. Brett, "Nationalism and the Hebrew Bible," in *The Bible in Ethics*, ed. John W. Rogerson, Margaret Davies, Mark Daniel Carroll R. (Sheffield: JSOT Press, 1995), 136–63.

28 See especially Otto, "Human Rights."

29 This is the tradition that seems to have captivated Oliver O'Donovan in his use of the Hebrew Bible in *The Desire of the Nations.* See the detailed response to O'Donovan's proposals in J. Gordon McConville, *God and Earthly Power: An Old Testament Political Theology* (London: T & T Clark, 2006).

30 Bernard Levinson, "The First Constitution: Rethinking the Origins of Rule of Law and Separation of Powers in Light of Deuteronomy," *Cardozo Law Review* 27 (2006): 1853–88.

31 For detailed discussion of priestly political theology, see especially Konrad Schmid, "Judean Identity and Ecumenicity: The Political Theology of the Priestly Document," in *Judah and the Judeans in the Achaemendi Period: Negotiating Identity in an International Context*, ed. Oded Lipschits, Gary N. Knoppers and Manfred Oeming (Winona Lake: Eisenbrauns, 2011), 3–26; Mark G. Brett, "Permutations of Sovereignty in the Priestly Tradition," *Vetus Testamentum* 63 (2013): 383–92.

According to the biblical story that describes the introduction of kingship into Israel's polity, Samuel warns the people that the king's "justice" (*mishpat*) would turn out to be an oppressive regime of accumulation. The Crown's view of social order would not just require taxation, but also the acquisition of sons, daughters and land: "he will take the best of your fields, vineyards, and olive groves and give them to his underlings" (1 Sam 8:11,14). James Barr's otherwise admirable discussion of rights in the Hebrew Bible lacks some subtlety at this juncture, since he suggests that "the *mishpat* of the king" in 1 Sam 8:9, 11 (usually watered down in translation as the "ways" or "practices" of the king) should be distinguished semantically from the *misphat* of "the poor, the orphan, the *ger* or dependent foreigner."[32] There are indeed two different notions of justice at issue here: the king's "right order" on the one hand, and the rights of the marginalized on the other. In 1 Sam 8, the force of Samuel's speech is clearly that of a warning: he presumes that the social order imposed by a king is a bad thing and to be avoided, and therefore the use of *mishpat* in 8:9, 11 is better seen as ironic—if this is justice, who would want it?

Ironically, as in social contract theory, Israel seems willing in the Samuel narrative to engage in a trade-off, accepting the social benefits along with the impositions that the new polity entails. Set against this trade-off, Samuel's warning against kingship in 1 Sam 8 fits with the later prophetic denunciations of the wealthy, including of wealthy kings, where the prophets assert that they did not become rich because God had blessed them in accord with their righteousness, but rather, they are wealthy as a result of their exploitative behaviour.[33] In this respect at least, the prophets join with Job in rejecting an ideology of right order. In the case of Samuel, he eventually finds a middle position in 1 Sam 10:25 by imposing legal constraints on the Crown: "Samuel told the people the rights and duties (*mishpat*) of the kingship, and he wrote them in a book and laid it up before Yhwh."

While we do not find the specifically modern vocabulary of "inherent" or "human" rights in biblical law, analogous concepts can be found there nonetheless. The *mishpat* may not always be universalizable, as illustrated by the "right (*mishpat*) of the firstborn" (Deut 21:17) or the "right of redemption" (Jer 32:7–8). Nevertheless, as Barr rightly emphasized, unlike such instances of "special rights" arising from family position or institutional function, the

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32   Barr, "Ancient Biblical Laws," 26.
33   See the overview in Walter Houston, *Contending for Justice: Ideologies and Theologies of Social Justice in the Old Testament* (2nd ed.; London: T&T Clark, 2008).

rights of the widow, orphan and alien belong naturally to persons as such: "any child could become an orphan, any woman a widow," and the inclusion of the *ger* only strengthens the case, Barr suggests, since if they were foreigners, then their right was not generated by specifically Israelite citizenship.[34] Even Deuteronomy's national perspective on answerability to God seems to provide for these non-Israelite rights:

> You shall not oppress a hired person who is poor and needy, whether your brother Israelite or your stranger (*ger*) residing in your land or in your gates. You must pay him his wages on the same day, before the sun sets, for he is needy and depends on them to sustain his life. Otherwise, he may appeal above you to Yhwh, and you will be guilty of sin … You shall not deprive a resident alien or an orphan of their right (*mishpat*) (Deut 24:14–15,17).

If one considers the probability, however, that the Deuteronomic *gerim* laws arose in the seventh century BCE particularly in response to forced migration from the northern kingdom of Israel to the southern kingdom of Judah, then Barr's argument is potentially weakened. A *ger* need not be a non-Israelite but simply an Israelite from another tribe, as can be illustrated from a number of narratives in the Deuteronomistic History. In order to found his argument for a conception of "natural right," Barr would have been better served perhaps by attending to the example of Job, who founds his protection of the marginalized widow, orphan and alien explicitly on the basis of a universal creation theology rather than with reference to Deuteronomic or even Levitical divine commands:

> Did not he who made me in the belly make them,
> and form me in the one womb? (Job 31:15).

Barr does however identify a key issue here, which is that the underlying logic of divine commands made to Israel lies precisely in the fact that they are only binding on Israel. Indeed, in the case of the Holiness Code in Leviticus, the holiness of Israel turns on these laws being different from the laws of other nations, even when Israel's social borders are pointedly open to strangers. While there are some differences of interpretation even within the priestly tradition itself, there is a consensus that holiness is constituted by difference; as in many cultures, the sacred is set off from the profane. The Holiness School established a graded hospitality that provides

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34   Barr, "Ancient Biblical Laws," 26.

for some cultic inclusion (with circumcision marking the boundary) at the same time as establishing a different set of social expectations for those who are born outside of Israel's kinship system. In short, Barr's argument for the natural or universal rights of *gerim* can be established on broader canonical foundations, which situate the particularity of Israelite law with a universal horizon of answerability to God.[35]

This canonical breadth was forged over time through inner-biblical conversations, and it is worth noting here that the eighth century prophets expressed their concern for the marginalized by focusing on widows, orphans and the poor, without mentioning *gerim*—the key term which can be variously translated as stranger, alien, sojourner, refugee or immigrant. While the first chapter of the book of Isaiah may well have been subject to editing in later centuries, the narrower scope of marginalized persons is preserved in Isa 1:17, where the prophet exhorts his audience to defend the widow and orphan:[36]

> Seek justice (*mishpat*),
> rescue the oppressed,
> defend the orphan,
> plead for the widow.

The Hebrew verbs in this verse all have a legal connotation, e.g., "plead" for the widow can be accurately translated as "plead the case of the widow." While the prophet may have had in mind here the customary law practised in the city gate, rather than written statutes associated with the authority of Moses, it is the inherent rights of the vulnerable that are at issue. This is also evident in Isa 10:1–2, where matters of due legal process are again placed in the foreground and contrasted with a true justice that may or may not be delivered legally:

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35 Mark G. Brett, "Natives and Immigrants in the Social Imagination of the Holiness School," in *Imagining the Other and Constructing Israelite Identity in the Early Second Temple Period*, ed. Ehud Ben Zvi and Diana Edelman (London: T & T Clark, forthcoming); James Barr, *Biblical Faith and Natural Theology* (Oxford: Clarendon, 1993); Jon D. Levenson, "The Universal Horizon of Biblical Particularism," in *Ethnicity and the Bible*, ed. Mark G. Brett (Leiden: Brill, 1996), 143–69; David Novak, *Natural Law in Judaism* (Cambridge, UK: Cambridge University Press, 1998).

36 This detail is overlooked by Nicholas Wolterstorff is his discussion of the "archaeology of rights," where he includes Isa 1:17 in his discussion of the "quartet of the vulnerable"— widows, orphans, the poor and resident aliens. Wolterstorff, *Justice: Rights and Wrongs* (Princeton: Princeton University Press, 2008), 75–76.

> Woe to those who make iniquitous decrees,
> who write oppressive statutes,
> to turn aside the needy from fair judgment
> and to rob the poor of my people of their justice (*misphat*),
> that widows may be your spoil,
> and that you may make the orphans your prey! (Isa 10:1–2).

The *mishpat* of the poor is here an inherent right that "belongs" to the vulnerable,[37] yet it has to be defended by strenuous human effort—even when legal systems and the Crown do not actually deliver justice. Yet before the seventh century BCE, these rights of the vulnerable are not extended to the *gerim* with any consistency.

By the time we reach Deuteronomy and the later prophets, Jeremiah and Ezekiel, a concern for *gerim* has become a standard test of moral concern, along with the rights of the widow, orphan and the poor (e.g., Jer 7:6; Ezek 14:7). While there are a number of competing explanations for this, it seems to me that the best way to understand the standardized inclusion of *gerim* is to see it reflecting a new level of awareness that arose in the seventh century. After the fall of the northern kingdom, there was a flood of refugees who headed south into Judah, leaving evidence in the archaeological record of dramatic rises in population.[38]

Theologically, an analogy was discovered between the experience of Assyrian imperial aggression and the older experience of living under the imperial power of Egypt. What appears to be the older law in Exod 22:21, "you shall not wrong or oppress the refugee," is reinterpreted in a way that mimics the Assyrian treaty discourse of love: "Love the refugee (*ger*), because you were refugees in Egypt" (Deut 10:19). The irony in this shift of terminology towards an Assyrian model is that it may well have been

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37   Barr "Ancient Biblical Laws," 25 cites Liedke, in *Theologisches Wörterbuch zum Alten Testament*, ed. G. J. Botterweck and H. Ringgren (Stuttgart, 1970–), 2:1005: "das, was den Armen usw. ʿgehörtʾ."

38   Frank Crüsemann, *The Torah: Theology and Social History of Old Testament Law* (Edinburgh: T. & T. Clark, 1996), 182–85; cf. Israel Finkelstein, "The Settlement History of Jerusalem in the Eighth and Seventh Centuries BC," *Revue Biblique* 115 (2008): 499–515; Aaron A. Burke, "An Anthropological Model for the Investigation of the Archaeology of Refugees in Iron Age Judah and Its Environs," in Kelle, Ames and Wright (eds), *Interpreting Exile*, 41–56.

focusing attention on the victims of Assyrian aggression.[39] This is however the sort of ironic mimicry that has been illuminated in postcolonial studies.

The prophetic traditions also contain several significant visions of an international law (*torah* or *mishpat*) that offers peace and justice beyond Israel. The late wisdom traditions find no tension between the universal torah of creation and the particular torah of Israel, but the book of Isaiah is arguably still in the process of brokering this settlement. Jerusalem is seen as the centre of redemption, even if the offer of salvation goes to the ends of the earth. Isaiah 42:1 envisages a justice "for the nations," as does Isa 2:3–4, where the nations converge in pilgrimage on Jerusalem. This is a torah given at Zion, not at Sinai, and the change of geographical symbolism may well indicate a shift from the particularities of a national theology to an imperial imagination.[40] But however these changes are construed, we encounter in Isa 2:3–4 the symbolism of an international law that brings peace between nations:

> They shall beat their swords into ploughshares,
> and their spears into pruning-hooks;
> nation shall not lift up sword against nation,
> neither shall they learn war any more.

In much later centuries, Judaism and Christianity have each conceived their own versions of internationalism, and both have developed universal

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39   See, e.g., Simo Parpolo, "Assyria's Expansion in the 8th and 7th Centuries and its Long-term Repercussions in the West," in S*ymbiosis, Symbolism and the Power of the Past*, ed. William G. Dever and Seymour Gitin (Winona Lake: Eisenbrauns, 2003), 99–111; Brett, *Decolonizing God*, 79–93; William Morrow, "'To Set the Name' in the Deuteronomic Centralization Formula: A Case of Cultural Hybridity," *Journal of Semitic Studies* 55 (2010): 365–83.

40   J. J. M. Roberts, "The End of War in the Zion Tradition: The Imperialistic Background of an Old Testament Vision of Worldwide Peace," in *Character Ethics and the Old Testament*, ed. M. Daniel Carroll R. and Jacqueline E. Lapsley (London: Westminster John Knox, 2007), 119–28; cf. Baruch J. Schwartz, "Torah from Zion: Isaiah's Temple Vision (Isaiah 2.1–4)," in *Sanctity of Time and Space in Tradition and Modernity*, ed. Alberdina Houtman, Marcel Poorthuis and Joshua J. Schwartz (Leiden: Brill, 1998), 12–26; Irmtraud Fischer, "World Peace and Holy War—Two Sides of the Same Theological Concept: YHWH as Sole Divine Power (A Canonical-Intertextual Reading of Isaiah 2:1–5, Joel 4:9–21 and Micah 4:1–5)," in *Isaiah's Vision of Peace in Biblical and Modern International Relations*, ed. Raymond Cohen and Raymond Westbrook (New York: Palgrave Macmillan, 2008), 151–65; Mark G. Brett, "Unequal Terms: A Postcolonial Approach to Isaiah 61," in *Biblical Interpretation and Method: Essays in Honour of Professor John Barton*, ed. Katharine J. Dell and Paul M. Joyce (Oxford: Oxford University Press, 2013), 243–56.

conceptions of natural rights that necessarily extend beyond any narrow definition of covenant community.[41]

There have also been a number of attempts to ground human rights christologically, which are more problematic unless perhaps they are understood in terms of a cosmic Christology that establishes the kinship of all of God's creatures. The biblical starting point that is perhaps best suited to this kind of project ironically arises from a dialogue with ancient Hellenistic cosmology.[42] A Christian embrace of the entire created order opens up an environmental hospitality that builds on the covenant with all creatures in Gen 9, or more generally, on the priestly theology in the Hebrew Bible.[43] Turning from anthropocentrism to an ecotheology in which human rights take their place *within* "the gift of continuing creation," we also take up responsibilities for the rights of other creatures.[44] These responsibilities have already been linked to our main topic in so far as the number of ecological refugees is likely to increase dramatically with the rise of sea levels, notably in the Pacific region.

Conclusion

For the atheist defenders of human rights, the historical complexity of the Hebrew Bible's legacy is sufficient to demonstrate that such ancient scriptures are irrelevant to modern ethical and legal debates. But for those of us whose identities are still marked by this tradition, another conclusion is possible: a living tradition is always constituted by internal debates about the meaning and values that constitute that tradition. As it has done for centuries, the Bible still inspires religious motivations to support the common good, including the protection of inherent rights that are secured by a universal theology of creation. This is not the only approach to human

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41 See the notable discussions in Jonathan Sacks, *The Dignity of Difference: How to Avoid the Clash of Civilizations* (2nd ed.; London: Continuum, 2003); Albino Barrera, *Economic Compulsion and Christian Ethics* (Cambridge, UK: Cambridge University Press, 2005).

42 See especially Vicky S. Balabanski, "Hellenistic Cosmology and the Letter to the Colossians: Towards an Ecological Hermeneutic," in *Ecological Hermeneutics: Biblical, Historical and Theological Perspectives*, ed. David G. Horrell *et al* (London: T & T Clark, 2010), 94–107.

43 The classic argument for deriving human rights from the "image of God" in Gen 1 is dependant on the inclusive monotheism of the priestly tradition. See Schmid, "Political Theology of the Priestly Document"; Jeremy Waldron, "The Image of God: Rights, Reason and Order," in *Christianity and Human Rights: An Introduction*, ed. John Witte Jnr and Frank S. Alexander (Cambridge, UK: Cambridge University Press, 2010), 216–35.

44 Cf. Whitney Bauman, *Theology, Creation, and Environmental Ethics: From* creatio ex nihilo *to* terra nullius (New York: Routledge, 2009), 166.

rights, and we need to seek clarity in public discourse as to alternative approaches, but in recent Australian debates, the Christian commitment to human rights has been much thinner than it ought to have been.

While the inflation in the sheer number of rights may be problematic, not to mention the associated complexities of legislation, jurisprudence and parliamentary freedoms, there can be no doubt that Christian practice should err on the side of hospitality to asylum seekers, whatever the status of their documentation. To be sure, the lessons drawn from colonial history should cause us to draw back from the cosmopolitan utopia that acknowledges no homelands to which particular groups are attached, since it is precisely a homeland's jurisdiction that gives rise to special accountabilities. We can expect some tensions and incommensurability in the way that rights and responsibilities are exercised, and beyond the narrowly legal imperative not to oppress a stranger, ecclesial communities have a positive charge to love the stranger as themselves, in practices of hospitality exercised beyond the constraints of national interest.

Forced displacement (also forced migration/immigration) is the involuntary or coerced movement of a person or people away from their home or home region, resulting from a variety of external causes including natural disasters, violence, and persecution. Specific examples may include droughts, civil wars, and population transfer, forcing populations to relocate or flee to another country. A person or people experiencing forced displacement may be referred to, among other terms, as: "forced immigrant According to IOM, forced migration is "a migratory movement which, although the drivers can be diverse, involves force, compulsion, or coercion." The definition includes a note which clarifies that, "While not an international legal concept, this term has been used to describe the movements of refugees, displaced persons (including those displaced by disasters or development projects), and, in some instances, victims of trafficking. According to UNHCR, asylum-seekers are "individuals who have sought international protection and whose claims for refugee status have not yet been determined" (2017, 56). Learn more about Asylum Seeker. Forced Migration and Health. Pascale Allotey, Sharuna Verghis, in International Encyclopedia of Public Health (Second Edition), 2017. Asylum Seekers. In the UK, asylum seekers have been consistently constructed by the right-wing and tabloid press as out of place: as unwelcome immigrants whose claims to refugee status are untested or unproven, and who are 'scrounging from the state'. A health and human rights approach to policy development concerning health systems requires that state authorities refrain from enacting discriminatory policies and provide information, education, training, and support to their staff toward eliminating discrimination in public health practice and within the workforce.