

11. Workshop Ethik
21-23 März 2012
Recht und Moral – eine produktive Spannung

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(Ich bin bereit, meines Referat auf Deutsch zu halten. Tut mir Leid, das die Kurzfassung auf English ist.)

Theology in Dialogue with the Law

Discerning the Good in the Right

There is always a danger that the church accepts the underlying social structures of society, and does not remain critical, challenging and confronting society when necessary. Taking seriously our humanness, the essential communal nature of our lives and our emotional responses means that we cannot accept that all things which are legally right are morally good. While the law can offer protection, it can also deny the essential nature of our personhood.

Complex issues arise with regards to many issues – abortion, stem-cell research and euthanasia are just a few examples where the complexity of the arguments demands careful, coherent moral assessment. This paper first examines the role of the Christian theologian to the state, establishing the necessity of a theological voice in the legal arena and second it looks at how acting responsibly is essential to the legal challenges which face us.

The Role of the Christian Theologian to the State

The popular philosophical position holds that there is no relationship between theology and the law, a position which can find much substantiation in a painful history. But Wolfgang Huber contends that it is the task of theology to ensure that religious freedom is maintained in society while the religious neutrality of the state is preserved as well as to relate Christianity to the coexistence of people in society.¹ The Christian perspective, the perspective which springs from the unconditional love of God, remains essential to the relationship between state and church. God is not separated from the state and from the law, but theology has the twofold task of ensuring the religious freedom as well as the religious neutrality of the state.

Particular examples and communal instructions teach us how to act morally. For Christians, God's command is our highest good. Because it is the source of our joy and delight, it fulfils our deepest aspirations. However, this presents problems for how it relates in contexts which are not specifically Christian. Theological ethics will always be interested in philosophical and political ethics. The challenge is how to remain uniquely theological while at the same time not becoming irrelevant to the non-Christian communities.

Here it is important to recognise the work of God outside of the Christian community. Specifically for Christians though, it is the recognition of Christ's grace in the world that calls us to action, as we

¹ Huber, Wolfgang. 1996. *Gerechtigkeit und Recht. Grundlinien christlicher Rechtsethik*. Chr. Kaiser Gütersloher Verlagshaus: Gütersloh. P.30ff.

have seen in the prophetic theology of Niebuhr. The church needs to maintain its distinctiveness in the world while at the same time not ignoring the world; the difficult paradox of living in the world yet not being a part of it. Specific Christian ideas about moral life, based on the righteousness and justice of God as revealed in Scripture, can provide a thick theory of morality in the public arena.

Acting Responsibly

Responsibility for the Christian community is not about creating a Christian government. Rather, it is about responding to political, economic and social matters in a Christian manner based upon a Christian ethic. A prophetic Christian ethic would be more of a general demand than a specific programme; that is, said Niebuhr, it cannot make specific demands of the political and the impossible ideal should have no place in the discussion.² A prophetic Christian ethic stands outside of history, while at the same time accommodating the needs of a specific generation. Niebuhr writes about the Christian ethic, or attitude, which does not seek to play God in society, but still makes responsible choices which can influence political theory in a positive manner

We have to make responsible choices and behave in a responsible way; we need a prophetic faith, which calls us to meaningful action which is realistic. This is a faith which is not a private religion, but is critically engaged within society. It is the task of the church to direct people towards that which is most precious in their lives: namely reconciliation with God and mutual recognition of love.

Responsible action, stemming from a prophetic faith, engages with society in what Heinrich Bedford-Strohm describes a “public theology model” which is a bilingual model; “on the one hand, [the church] gives account of its biblical and theological roots using biblical text and metaphors, and on the other hand it shows why its proposals and affirmation are plausible and make sense for all people of good will, using the language of secular discourse”.³

Dirkie Smit describes the task of theology as seeking “to engage with existing theoretical frameworks by drawing on its own sources and resources”.⁴ In this way, theology attempts to contribute broad ideas concerning morality which can help formulate, evaluate and implement law. It does not attempt to Christianise politics but rather to engage critically with society, introducing a different perspective.

² Niebuhr, Reinhold. 1935. *An Interpretation of Christian Ethics*. NY & London: Harper & Brothers Publishers. P. 156.

³ Bedford-Strohm, Heinrich. 2005. Poverty and Public Theology: Advocacy of the Church in Pluralistic Society. *International Journal of Public Theology* 2, 144-162. P. 151.

⁴ Smit, Dirk. 2005. On Social and Economic Justice in South Africa Today: A Theological perspective on Theoretical Paradigms. In: Van der Walt, AJ. *Theories of Social and Economic Justice*. Sun Press: Stellenbosch, 225-238. P. 228.