

While primarily aimed at Christians, according to the publisher's blurb, this is a book for readers of all religious persuasions. But to suggest the target audience is restricted to the 'religious' is, I think, unfortunate. This is a book that *should* be of interest to thoughtful scientists, philosophers, secular thinkers, and, indeed, the much celebrated, educated general reader. Or rather, it would be, publisher's hype notwithstanding, were it not for the rampant, reductive scientism of our culture, and the misconstrual by so many of what religion, at best, entails, and which may well keep them away. More's the pity, as a wider dissemination of the lessons in *Being Human* is long overdue.

PETER HAMPSON
Blackfriars, Oxford

A CHRISTIAN APPROACH TO CORPORATE RELIGIOUS LIBERTY by Edward A. David, Palgrave Macmillan, Cham, Switzerland, 2020, pp. xxiii + 264, £79.99, hbk

Does a corporation have a right to religious liberty? In the 2014 case of *Burwell v. Hobby Lobby*, the U.S. Supreme Court decided that closely held, for-profit corporations were 'persons' entitled to exemption from laws which substantially burdened their exercise of religion. The court's decision was based not on the U.S. Constitution, but on a federal statute, the Religious Freedom Restoration Act (RFRA). In many ways, the case raised as many questions as it answered. Most fundamentally, how are we to understand the 'religious freedom' of a corporation? Edward David has made a substantial contribution to answering this question in his recent book, *A Christian Approach to Corporate Religious Liberty*.

The central goal of David's book is to present a philosophically coherent account of corporate personhood that can serve to bear the weight of a notion of religious liberty. In doing so, he seeks to navigate between two extremes. On the one hand, he wants to avoid an 'eliminationist' account of corporations that would vest religious rights solely in individual, physical persons, making any 'corporate' rights merely the aggregation of the voluntary actions of individuals. On the other hand, he also wants to avoid a so-called 'strong group realism', an approach to corporate personhood that would see a real ontological reality to that legal personality, even wholly apart from the individual members.

Before discussing David's theory, one cautionary note should be raised regarding David's rejection of strong group realism. In the current *Code of Canon Law*, the Catholic Church makes a fundamental distinction between types of corporate persons, namely 'juridic persons' and 'moral persons'. Within the Church, most corporate persons—dioceses, religious orders,

confraternities, etc.—are ‘juridic persons’. Separate from these are two (and only two) moral persons: the Catholic Church itself and the Apostolic See. In these two, the Church understands a corporate personhood that transcends law, and therefore transcends human society. These two moral persons are *necessary* moral persons, who have a divine authorship. In these there is a much stronger argument for a concept of strong group realism. While David addresses this somewhat in Chapter 6, the insight allowed by the differing canonical terms would have helped complete his discussion.

David’s central thesis, the middle-way he sketches out in Chapter 4, is what he calls ‘modest group realism’, his own term to shorthand for the more cumbersome ‘social-action group-ontological thought’, an account he largely attributes to the Angelic Doctor. While St. Thomas never prepared a treaty on corporate rights, David teases out a theory based largely on Aquinas’s discussion of the praiseworthiness of human actions in Question 21 of the *Prima Secundae*, as well as a few other texts. Wisely, David avoids the folly of concluding that Aquinas would be a clear vote with the majority opinion in *Hobby Lobby*. Rather, Aquinas affirms the reality of the actions of a community (*a toto collegio*) as distinct from the actions of any individual member or even all of the individual members. At the same time, Aquinas’s metaphysics would reject even an analogical understanding of a corporate body as a ‘person’, as seen in his rejection, in the *Prima Pars*, of the Averroistic notion of a shared soul. In other words, Aquinas rejects both the eliminationist and strong group realism approaches to corporate personhood. Aided by John Finnis’s interpretation, David sees in groups a double-action of natural persons acting on behalf of a group that permit coordinated action in the moral order. It is precisely this focus on the agency of coordinated group action that permits the recognition of corporate ‘persons’ and therefore may serve as the basis for a theory of corporate religious freedom.

It would be a mistake to see David’s theory of modest group realism as simply a way to justify corporate religious liberty. Quite the contrary, in fact. Rather, David understands that the exercise of religious freedom requires in some way a recognition of group agency. The danger of the politically liberal ‘eliminationist’ account, which posits the voluntary actions of the individual as the only possible locus for rights, is that it makes any stable group action impossible by giving it no place. If we take the need to respect religious liberty as a necessary premise to a free society, as all modern Western governments do, it must entail the recognition of the ongoing coordinated action of the members of that group, particularly in a church or denomination. As David explains in Chapter 5, the free, voluntary actions of the members of a religious body expect that the body will continue to exist over time, that the actions of the group will persevere precisely as a group. Therefore, the decision on the part of secular government to respect individual religious liberty must logically extend

to the coordinated group activity of the members working together as a corporate body, acting through time.

Where the theory of corporate religious liberty becomes more controversial is its extension to entities that are not explicitly churches or the like, such as for-profit businesses. The strength of David's theory is that it distinguishes between the two precisely in its focus on the coordinated group action. We understand a church precisely as an entity that exists to facilitate the coordinated religious actions of its members. In this, there must be a greater respect by secular authority for these actions, and in granting exemptions from even generally applicable laws that limit these actions. Businesses are not primarily vehicles for coordinated religious actions but may nonetheless from time to time involve what David calls 'religiously motivated religious actions'. Thus, David would argue for a broad respect of the rights of secular authorities to regulate secular activities. However, even secular organizations should be permitted to engage in religiously motivated activity, which entails the recognition of some exemptions from secular laws to facilitate those actions. David does not provide a system for determining when those exemptions should be created, as they will depend very much on the particular circumstances. The importance of David's approach is rather that not even the for-profit status of an entity should serve as an automatic bar to the recognition of its ability to act religiously. At the same time, he recognizes that not every claim of religious motivated action will *ipso facto* earn a judicially cognizable exemption from laws.

Although not raised by David, his approach would be a helpful solution to an issue raised in another recent Supreme Court case, *Archdiocese of San Juan v. Feliciano*. The issue in that case arose from a problem created by the modern secular approach to corporate persons, namely the tendency of modern governments to grant themselves monopoly power regarding the creation, and hence recognition, of corporate entities. The issue raised in that case was whether the government of Puerto Rico was required to recognize the separate corporate personhood of the four dioceses of Puerto Rico, even though only the original diocese of Puerto Rico was registered as a secular corporation in secular law, a carry-over from its status under the Kingdom of Spain. That is, if secular government must recognize some degree of corporate religious rights if it claims to protect religious liberty, to what extent must it recognize that body's own various corporate divisions? Although the Supreme Court decided the case on largely technical grounds, skirting this question, the issue raised is an important one and one for which David's approach might be useful in fashioning an answer. A worthy follow-up to David's book would be to apply his approach to that question. However his approach might resolve the question, his approach makes clear that the answer would avoid an approach that both rejected entirely the religious body's own divisions of corporate personhood or that merely recognized all corporate divisions in secular law, especially as to third parties who are not members of the religious body.

A commitment to religious freedom entails a corollary commitment to protecting the coordinated religious actions of citizens, whether coordinated in a church or in a business. Edward David offers not only a worthy justification of the recognition of these corporate rights, but a philosophical approach that can aid policy-makers in navigating the sometimes difficult task of when and how to so recognize exemptions from secular law to protect this religious activity.

PIUS PIETRZYK OP

Pontifical Faculty of the Immaculate Conception, Washington, DC, USA

MORALITY: RESTORING THE COMMON GOOD IN DIVIDED TIMES by Jonathan Sacks, Hodder & Stoughton, London, 2020, pp.384, £20.00, hbk

There comes a point at which claims of universality for the principle of the common good are put to the test. Is the common good communicable or convincing without a shared understanding of morality? For the common good to live up to its name and become truly common as an endeavour, and ultimately as a lived reality, it must reach beyond the religious, intellectual, and cultural traditions in which ownership of the term is articulated.

Drawing on twenty-two years as Chief Rabbi in the United Kingdom (1991-2013), the now late Jonathan Sacks's recent volume is, as the title indicates, a restorative project that details a paradise (almost) lost, determined by a rejection of common morality through what he terms a 'cultural climate change' in the 'move from 'We' to 'I'' (p.12). Sacks's concern is not merely grammatical in describing a seismic shift towards the first person singular pronoun for his central thesis recognises three basic societal institutions of the economy, state, and morality. Within 'the fields of economics and politics' in these *Divided Times* the first person pronoun is rarely pluralised because these institutions are 'arenas of competition' (p.18). Paradise is to be regained, though, through cultures of cooperation and covenant which are proper to his comprehension of morality. In this way, Sacks carefully avoids the pitfalls of other texts that project the common good as a necessary pursuit since he is neither nostalgic, for a common good that may or may not have previously existed, nor despairing, declaring instead that '[t]his is not a work of cultural pessimism' (p.19).

Developing research for a BBC Radio series, *Morality in the 21st Century* (2018), Sacks returns to the theme of an ethics of responsibility explored in his earlier works, *The Great Partnership* (2012), *To Heal a Fractured World* (2006), and *Dignity of Difference* (2002). By 2020, his tone is different. Seemingly shook by the blazing trail of Brexit division in the United Kingdom and the aftermath of 2016's (and in preparation for 2020's) presidential election in the USA, Sacks regards politics as