

edited by
Frederick M. Shepherd

Christianity and Human Rights

Christians and the Struggle
for Global Justice



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Contents

| | |
|---|-----|
| Acknowledgments | vii |
| Introduction: The Political and Theological Evolution of Christianity and Human Rights <i>Frederick M. Shepherd</i> | ix |
| PART I PAST SINS, FUTURE PROMISE: OVERVIEWS OF CHRISTIANITY AND HUMAN RIGHTS | |
| 1 Deliver Us from Evil: Genocide and the Christian World <i>James E. Waller</i> | 3 |
| 2 A Dickensian Era of Religious Rights <i>John Witte, Jr.</i> | 21 |
| PART II RELIGIOUS FREEDOM AND HUMAN RIGHTS | |
| 3 Religious Freedom: A Challenge for the Church <i>Johannes A. van der Ven</i> | 47 |
| 4 The Enduring Alliance of Religious Freedom and Democracy <i>Joseph Loconte</i> | 65 |
| 5 Religious Freedom and International Law <i>Robert F. Drinan</i> | 77 |
| 6 Democracy and Human Dignity <i>Jean Bethke Elshtain</i> | 87 |

PART III THEOLOGICAL AND PHILOSOPHICAL FOUNDATIONS FOR HUMAN RIGHTS

| | | |
|-----------|--|-----|
| 7 | Universal Rights or Personal Relations? <i>Patrick H. Byrne</i> | 99 |
| 8 | Human Rights, the Common Good, and Our Supernatural Destiny <i>Dana L. Dillon</i> | 119 |
| 9 | Božena Komárková: Toward an Existential Christian Philosophy of Human Rights <i>Joyce J. Michael</i> | 133 |
| 10 | Catholic Social Teaching, Economic Rights, and Globalization <i>John Sniegocki</i> | 149 |
| 11 | Rights, Capabilities, and Human Flourishing <i>Jonathan Warner</i> | 163 |

PART IV CASE STUDIES

| | | |
|-----------|--|-----|
| 12 | The Rights of the Poor: Christian Theology and Human Rights Practices in Latin America's Andean Region <i>Thomas Bamat</i> | 179 |
| 13 | Christianity and Human Rights in Vietnam: The Case of the Ethnic Minorities, 1975–2007 <i>James F. Lewis</i> | 195 |
| 14 | From Human Rights to Human Wrongs: The Dramatic Turn-About of the South African Pentecostal Movement <i>Nico Horn</i> | 213 |
| | Concluding Remarks on Christianity and Human Rights <i>Frederick M. Shepherd</i> | 229 |
| | Bibliography | 243 |
| | Index | 257 |
| | About the Editor and Contributors | 265 |

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This book focuses on the ways in which Christianity has both lived up to and fallen short of its ideals. It is dedicated to Father Drinan, a man who lived up to these ideals, and who was an inspiration to those who fought for human rights.

Introduction

The Political and Theological Evolution of Christianity and Human Rights

Frederick M. Shepherd

For many centuries, Christian scholars crafted seminal ideas about human beings and their inherent rights as members of the human community. More recently, Christian scholars and activists have played a central, and underappreciated, role in the burgeoning movement for human rights. They have helped to push human rights from out of the margins of both theology and international politics. The concept of human rights precedes the rise of Christianity and has a diverse intellectual heritage that reaches well beyond Christianity. Yet Christians have had a tremendous impact on both the theory and practice of human rights. The essays in this volume will explore this process, assessing the activism and innovations of those inspired by a Christian conception of human rights. Such analysis will also demonstrate that the story is not one of inevitable progress; indeed, consistent and widespread failure to preserve human rights—taking the form of both acts of omission and bloody acts of commission¹—is an undeniable part of the Christian human rights record. This volume will assess the topic in all its complexity, pointing to both Christian failure and Christian success in understanding and protecting human rights.²

I would like to begin my introduction to this volume with two moments from the Holocaust, the single greatest failure of the global and Christian communities. Subsequent parts of this introductory chapter will provide details from earlier human rights campaigns in which Christians played central roles. And much of the body of the book, including my concluding chapter, will come to terms with crucial events occurring in the immediate wake of World War II. Critics note, correctly, that most Christian institutions either did little to counter aggressive and genocidal German nationalism—most notably the Catholic Church—or actively took part in the genocide—most notably the

Protestant groups which took an explicitly and rabidly pro-Nazi stance. These moments came at a turning point of sorts for Christianity and human rights, and they bring out in stark relief the complexities, the simultaneous perils and promise, of Christian engagement on the issue of human rights.

The first moment is a brief encounter between the courageous Polish figure Jan Karski and U.S. Supreme Court Justice Felix Frankfurter. Karski, a Catholic diplomat, was in the United States in 1943 after having amassed overwhelming evidence concerning the early stages of the Nazi project of exterminating Europe's Jews. When presented with the evidence, Frankfurter responded "I don't believe you." Karski replied that the evidence he provided was not a matter of dispute. Frankfurter's subsequent response was "I do not mean that you are lying. I simply said I cannot believe you."³ Frankfurter's denial of Karski was part of a larger failure to understand the dimensions of the greatest violation of human rights in the twentieth century.

The second moment concerns the heroic efforts of the citizens of Le Chambon, a village in occupied southwestern France. Under the leadership of Protestant pastor André Trocmé the roughly 3,000 citizens of this village (many who were direct descendants of Huguenots) saved the lives of over 2,500 Jews, mostly children, taking them in and either concealing them or serving as way stations as they escaped to neutral countries. There was not a single instance of betraying or reporting a refugee, a testament to the prevailing religious culture of Le Chambon. Just as important was Trocmé's leadership and the numerous outside contacts he had established with Quakers, Catholics, and the World Council of Churches.⁴

The heroism of Jan Karski and the citizens of Le Chambon took place in an inferno of injustice and death. Ultimately, these people have come to symbolize at once the small successes and the tremendous obstacles that can exist for those attempting to preserve the rights of threatened neighbors, citizens, and human beings. Any discussion of Christianity and human rights must begin both with an acknowledgment of the obstacles to a more robust and effective human rights-oriented Christianity, and with an awareness of how far the effort, often but not always led by Christians, for human rights has come. Indeed, the movement has made great strides and been transformed since World War II. In this regard, Le Chambon and the experience of Jan Karski remain instructive: at great risk to themselves, individuals were spurred to protect human rights by their deeply held Christian beliefs; yet these efforts were accompanied by significant obstacles and opportunities. These two examples came during a time of tremendous soul-searching in parts of the religious community. On the one hand, Christian groups had in the past led principled and extremely effective campaigns for human rights. On the other hand, many powerful Christian institutions had either passively stood by as

systematic atrocities occurred, and others had actively taken part in what can only be described as genocidal campaigns.

Events related to World War II and the attempted extermination of Europe's Jews at once obliterated many activists' hopes for human rights, and led to redoubled efforts at forging a human rights movement. These efforts were in turn bolstered by the political and legal institutions through which to defend human rights—most notably, of course, the Nuremberg Trials and the creation of the United Nations and its soon-to-follow Universal Declaration of Human Rights.

Most accounts of human rights have focused on the era emerging out of World War II and the Holocaust. For the most part, this book will do the same. But this Introduction will also provide a brief account of what came before this seminal event, and assess the continuities as well as the dramatic transformation in recent human rights thought and practice.

This volume will focus on a variety of cases, theologians, and issues. It comes out of the 2004 Lilly Fellows National Research Conference, held at Samford University, and is made up of a selected and revised group of papers from a fraction of original conference participants. The volume will draw on the diverse backgrounds of fifteen contributors. The vast topic of Christianity and human rights will benefit from insights crafted by psychologists, philosophers, political scientists, economists, theologians, and legal scholars; as well as by activists and practitioners from a wide variety of regions and religious traditions. These perspectives will certainly not coalesce into a single conclusion about Christianity and human rights. Yet is it hoped that the heterogeneity of this volume will push forward the scholarly discussion of the issue.

DEFINITIONAL ISSUES

What exactly is meant by human rights? A thorough definition of human rights will no doubt provide important clarity for the rest of this Introduction and the following essays. But discussion of these definitional issues is marked by significant debate and scholarly disagreement.⁵ This volume will remain, as it were, agnostic in this regard. Nevertheless, a brief definition follows. Human rights are universal: they are the rights granted to a human being upon his or her birth. Their existence does not depend on inclusion in a particular geographical, ethnic, economic, or gender group. Human rights can be distinguished from political rights, which are linked to citizenship in a specific system. And they can be distinguished from rights granted by a religious tradition. They are based on an understanding that each and every human being

is part of a universal community of mankind. One of the central issues for this study is the extent to which Christians have moved beyond religion in determining who will be included in their universe of moral concern: how genuinely universal is the work of Christians as they pursue human rights?

Virtually all scholars and activists maintain that there is a core of considerations that should be included in any discussion of human rights. These are often discussed as “negative” rights associated with freedom *from* certain dangers: freedom from death, torture, violence, and oppression, and from excessive control by governments or other actors. Some in the human rights community argue for a far more ambitious set of “positive” rights: access to a minimal standard of living, employment, education, and social security (broadly defined), and even leisure, among others.⁶ To demonstrate the complexities of what exactly should be included, the United Nations decided, as it was crafting its Universal Declaration of Human Rights in the late 1940s, to take an ambitious approach by providing a lengthy list of both positive and negative rights.⁷ The Declaration came nowhere close to settling this debate, among scholars and policymakers. On the policy level, it effectively allowed member nations to ignore human rights pressure on the pretext of sovereignty within national borders. It thus left difficult issues of enforcement to future agreements and external political pressure.⁸

On the scholarly level, vigorous debate continues as well. The work of contributors to this volume provides a rich sampling of this debate. Jean Bethke Elshtain focuses on “human dignity” in her chapter on democracy and human rights. Patrick Byrne puts forth a Christian-centered “personalism” as he explores the work of Bernard Lonergan and others in his contribution. John Sniegocki’s chapter takes to task those scholars and activists who exclude concerns of economic and social justice in his robust defense of Catholic Social Teaching. And Jonathan Warner emphasizes the need to come to terms with the centrality of “human flourishing” (a concept drawn from the work of Martha Nussbaum and Amartya Sen) to a distinctly Christian understanding of human rights.

One of the many goals of this volume, then, is to bring together the many rich and promising ideas from both secular and Christian human rights traditions. There is little chance of any final synthesis; the topic is simply too vast and ever-changing. Yet it is hoped that the analysis and descriptions provided in these pages will clarify several important debates taking place in scholarly and political circles. In his chapter, for example, John Witte raises the criticism leveled by scholars such as Alasdair MacIntyre, who maintain that the entire human rights project is founded on a false, Enlightenment-based concept which actually stands in the way of greater global justice and human fulfillment.⁹ Witte handles this issue deftly; I would also argue that both the rich

analysis and the moving accounts of human rights campaigns contained throughout this volume effectively counter this argument.

Any study of Christianity and human rights must confront the issue of religious freedom. Freedom of religion is generally included in most groupings of basic human rights. But it is important to distinguish between religious rights and human rights. Occasionally, the two can come into conflict. For example, one person's right to proselytize or convert can be seen by some as an infringement on another person's more basic rights to freedom.¹⁰ If there is a significant power imbalance between converter and potential convert, it adds an additional complexity to the issue. This discussion is far more than an academic exercise, given the brutal or more subtle forms of religious imposition practiced by European colonizers and missionaries. There is, at the same time, a far more honorable tradition of Christian activism on behalf of human rights. Many of the chapters in this volume will explore this complex issue.

HUMAN RIGHTS AND THEOLOGY

This volume will look inward at the evolution of Christian thinking concerning human rights and the issue of how a variegated doctrine with multiple traditions is applied or adapted to current conditions. These traditions have been further diversified by the often productive collaboration among religious and secular theorists and activists. Indeed, John Locke was deeply influenced by his Christianity as he formulated ideas which were to become foundational to human rights discourse.¹¹ More recently, strong religious convictions were central to Peter Benenson's decision to engage in human rights activism and, ultimately, to found Amnesty International. What will become evident with each chapter is that, even within Christian traditions, different thinkers come to markedly different conclusions based on conditions which they face or choose to emphasize. And they also reflect the contrasting role of Christianity in different regions and eras. Our current era provides almost endless alternatives for Christians attempting to defend and nurture human rights.¹²

Adding to this heterogeneity is the sprawling and diverse nature of Christian theology. As a topic, "Christianity and Human Rights" draws on multiple Christian theological traditions, leading to rich and sometimes contentious theoretical debates. These debates can reflect the divisions of Catholic, Protestant, and Orthodox Christian traditions (among others). But they can also transcend these divisions. For Catholics, the relatively recent theological transformations brought on by the Second Vatican Council and by the words and deeds of Pope John Paul II have led to increased debate and confrontation within Catholicism. Can anyone doubt that the late Pope and Vatican II

(laudable, on the whole, as they were) have divided and perplexed many Catholics and made attainment of a single, distinctly Catholic approach to human rights even less likely?

Similar divisions have also marked Protestant approaches to human rights. The theology of Reinhold Niebuhr, arguably the most influential Protestant theologian of the twentieth century, emphasizes, in general, the sinful nature of man and, more specifically, the “realist” negative lessons of appeasement during World War II.¹³ As such, it flies in the face of much recent, more universalistic Protestant thinking about human rights and global justice. The political debate among progressive, mainline denominations and the rapidly growing conservative offshoots over human rights issues—such as capital punishment in the United States—has grown increasingly heated and divisive in recent years. I will return, in the Conclusion to this volume, to an issue which has split much of the Christian community, and which I regard as a genuine test of the Christian commitment to human rights: the treatment of accused terrorists in U.S. custody in places like Guantanamo Bay, Cuba.

The sprawling nature of Christian theology, of the Christian community, and of human rights as a concept, has resulted in tremendous heterodoxy in the Christian approach to human rights. The authors of this volume will explore small parts of these issues in an attempt to better understand this diversity. They will show tremendous variation in how human rights is related to fundamental questions such as an individual’s relationship to his or her God, the duties of Christians in confronting injustice, the role of scripture in prodding action, and the duties of Christians in regard to religious and civil authority.

CHRISTIANITY AND THE DEVELOPMENT OF A HUMAN RIGHTS TRADITION

The essays in the volume will also look outward at the growing ability of Christians (and non-Christians) to influence political decisions affecting human rights. We live now in an era in which the most relevant model is of increasingly powerful transnational organizations, often tied to religion, chipping away at the power of the nation-state. Yet many of the foundational ideas of Christianity as we know it emerged well before the rise of nation-states in Europe and around the globe. Christ, Augustine, and Aquinas preceded nation-states and our international system. Furthermore, the power of religious organizations—most notably the Catholic Church—often eclipsed that of nation-states in Europe and elsewhere. This political reality, of course, affected early struggles among political authorities and Christians who would defend hu-

man rights. It also profoundly influenced those attempting to craft theological arguments about human rights. In this regard, then, the theology of human rights has been deeply affected by material conditions.

Christian thinking about human rights began with Christ, and even the most heartfelt and sophisticated modern language on human rights is hard-pressed to match the eloquence of the Beatitudes.¹⁴ But as Christianity institutionalized and spread, it often fell short of Jesus' teachings. Indeed, from the start, the kind of interaction with non-Christians that would test a commitment to human rights brought out contradictory impulses among Christians. Nowhere was this contradiction more evident than in the early treatment of Jews—a formal call for “preservation” of those who shared important religious traditions, but failure to take any action against widespread anti-Jewish actions in Christendom. This approach set the stage for Martin Luther's ultimate frustration with the Jewish community, expressed in near-genocidal language at the end of his life. And a concern with genuine human rights was nowhere to be found in early relations with the Islamic world, as material and spiritual pressure drove Western Christianity not toward inclusion and respect, but to the debauchery and conquest that was the Crusades. Western Christianity was even more sorely tested as conquistadores from the recently “reconquered” Iberian Peninsula set up colonial outposts in the Americas. Again, as with the Crusades, political and, in this case especially, economic, considerations trumped concerns for human rights.

Yet, even as genocidal policies were being carried out in the Americas, some humane voices were engaging in one of the first genuine human rights campaigns. Most notable in this regard was Father Bartolomé de las Casas, whose tireless advocacy on behalf of indigenous Americans served as forerunner and inspiration for many Christians in subsequent human rights campaigns. The theology of Las Casas' approach is elegantly and succinctly expressed in a debate with Juan Ginés de Sepúlveda, a scholar representing mainstream Catholic thinking at the time. Las Casas' persistence actually succeeded in gaining, in 1550, a temporary ban (which was widely ignored on the ground) on conquest and expropriation in the Americas. Several centuries later, Christians played a crucial role—according to one study, “the backbone”—in the international British and American anti-slavery campaign. The humane messages of Christianity were central to the anti-slavery ideology. And religious participation ensured the participation of a wide network of established institutions in the movement, and just as importantly, made it into a “mass movement” marked by the participation of hundreds of thousands if not millions of people.¹⁵ These individuals ran into opposition from many church leaders who quoted biblical passages to justify slavery as God's will. Roughly a half century later, the Congo Reform Association (CRA) confronted Belgium's King

Leopold over his widespread abuse of the Congolese people. The movement's leader, Edmund Morel, had strong secular inclinations, and was masterful in his efforts to lobby U.S. and British governments. But religious actors—whether wealthy Quakers, Baptist missionaries just returned from Africa, or well-placed members of the Church of England—were absolutely crucial to the successes of the CRA. Again, the Christian record in regard to this human rights campaign was mixed: King Leopold was similarly effective in convincing Christians (most notably Catholics in the United States) to rally to his cause.¹⁶

This quick history is intended to make a pair of related points: that human rights campaigns (with Christian participation) are nothing new, and that the nature of the Christian role in these efforts is significant, but decidedly mixed. One might be able to detect some historical trends in the above brief account, leading to questions concerning how current campaigns relate to this history. I would suggest two trends in more recent campaigns, both of which have their roots in developments described above. First, Christian leaders are less able to remain aloof from events, with greater pressure than ever before to apply theory and theology to reality. Second, the theoretical concern with genuine human rights (as opposed to the rights of particular political, ethnic, or religious groups) is being matched by an increasing Christian awareness of, and contact with, human beings around the globe.

Human rights, and the movements and institutions that would bolster them, were transformed by the nearly simultaneous Nuremberg Trials and Universal Declaration of Human Rights (under the aegis of the newly created United Nations). In order to assess the role of Christianity in understanding and pushing for human rights, it is necessary to acknowledge these events as watersheds, while at the same time acknowledging the long history of Christian work in this area and the continuity that this implies. To be sure, Christianity continues to be confounded by some behavior that amounts to little more than ethnocentric attempts to convert heathens. But power relations have changed and Christian cosmopolitanism has grown to the extent that an increasing proportion of Christians are deeply engaged in a genuine struggle for human rights. These Christians are often the most likely to collaborate with those outside of their faith tradition. This collaboration creates conditions in which Christians are compelled to shed a narrow focus and instead work for genuine and universal human rights. The reader can consider these two ideas as working hypotheses of a sort. The body of this book will address these (among other) issues, and my concluding chapter will attempt to synthesize them.

This analysis will also be based on the continuing reality of religion being used to divide and create hostility among people. James Waller, in his contribution to this volume and in other recent work, views this trend as part of larger psychological impulses in individuals and groups. And there is plenty

of recent evidence to demonstrate that Christianity, and religion more generally, can inspire individuals to actions not of inclusion and humaneness, but actions of hatred and division. Not only did Christian institutions fail to do enough to stop the genocides in Rwanda and Bosnia in the 1990s, but also elements of the institutional church were notable for their enthusiastic participation in genocide and ethnic cleansing. And as economic insecurity and political instability continue to plague much of the world, it is just as likely that exclusionary versions of Christianity will lead Christians to target “the other,” as it is that humane versions will lead Christians to promote human rights. I will return to this topic in the Conclusion, as I explore the U.S. government’s treatment of alleged terrorists.

This volume will contain a tremendous diversity of Christian perspectives, reflecting the diversity of Christian doctrine and practice. “Christianity and Human Rights” as a topic draws on Christian experience around the globe, in settings in which Christians have been perpetrators and victims, and in which people of many different faiths are either threatened or bolstered by the concept of human rights. An activist using Sudan as a basic reference point would have a different perspective from someone working in Latin America; perspectives formed in the former Soviet Bloc would differ dramatically from those formed in southern Africa.

These thoughts bring us back to Jan Karski and Le Chambon. Individuals with markedly different Christian perspectives faced distinct challenges, with widely divergent outcomes. Both attempted to use the powers at their disposal to preserve human rights: not just the rights of Christians, but of people who enjoyed those rights simply by virtue of their birth. These two “moments” are potent reminders of a particularly dark period, and the perils and promises of pushing for human rights. They vividly depict not only heroism, but also the institutional vacuum that left these isolated individuals and communities with little support from organized religion as they attempted to live up to their Christian faith. Much would be done in international courts and legislatures immediately after the war to enshrine the concept of human rights. But these two “moments” show the halting progress that was being made by actors—partly inspired by their religious beliefs—in far less formal settings. Despite tremendous progress, the limitations and opportunities shown by these two examples continue to define the struggle for human rights.

STRUCTURE AND SUBSTANCE OF CONTRIBUTIONS

This volume begins with two overviews of Christianity and human rights. In chapter 1, social psychologist and genocide scholar James Waller provides a

distinctive account of Christianity's response to, and participation in, genocide around the globe, drawing on the cases of the Holocaust, Bosnia, and Rwanda, as well as several models from the field of psychology. His chapter focuses specifically on three stages of institutional Christian response to genocide. Pre-genocidal responses include the fusion of religious belief systems with ethnic and national identities that provide theological justifications for "us-them" thinking by constricting our universe of moral obligation. Genocidal responses include sins of omission (silence and compliance as well as resignation of personal and institutional agency) as well as sins of commission (active participation in killings). Finally, post-genocidal responses include the accentuation of the church's persecution and resistance (marked by the appropriation of the victim groups' suffering as well as the glorification of individual heroes and martyrs) and official declarations of contrition. The chapter concludes by examining the capacity of Christian institutions to redeem themselves—and the world—by being involved in post-genocidal reconciliation.

In chapter 2, legal scholar John Witte takes a similarly broad focus, assessing the long history of Christian work for human rights. He points to many of the same failures which animate Waller's work, but also asserts the centrality of Christianity both to the theory of human rights and to the campaign to bolster them. Witte maintains that religion and human rights need to be brought into a closer symbiosis. On the one hand, human rights norms need religious narratives to ground them. There is, of course, some value in simply declaring human rights norms of "liberty, equality, and fraternity" or "life, liberty, and property"—if for no other reason than to pose an ideal against which a person or community might measure itself, to preserve a normative totem for later generations to make real. It is here, Witte argues, that religion must play a vital role. Religions invariably provide many of the sources and "scales of values" by which many persons and communities govern themselves. Religions inevitably help to define the meanings and measures of shame and regret, restraint and respect, responsibility and restitution that a human rights regime presupposes. Religions must thus be seen as indispensable allies in the modern struggle for human rights. Conversely, according to Witte, religious narratives need human rights norms both to protect them and to challenge them. There is, of course, some value in religions simply accepting the current protections of a human rights regime—the guarantees of liberty of conscience, free exercise, religious group autonomy, and the like. Witte maintains that religious communities must reclaim their own voices within the secular human rights dialogue, and reclaim the human rights voices within their own internal religious dialogues.

The following four chapters provide variations on the three themes of democracy, religious freedom, and human rights, from distinctly different religious and political perspectives. In chapter 3, Johannes van der Ven notes that current conditions in Western nations necessitate increased vigilance in ensuring separation of church and state: it is absolutely essential for dealing with “the crisis of multiculturalism.” While noting that governments have a mixed record on the issue, he maintains that religious organizations have not fully incorporated this separation into their interactions with civil society and, just as importantly, with one another. This failure is also, according to van der Ven, a larger failure: until religious organizations adopt policies of equality and reciprocity with their counterparts, they fail in their efforts to unambiguously support human rights. The crisis of multiculturalism in Western countries can only be resolved if the majority and the minorities respect one another. The separation of church and state is a precondition for this mutual respect, which is based on the Kantian concepts of human dignity and autonomy. Van der Ven claims that the church is only halfway on the road from permissive tolerance to religious freedom (including not only freedom, but also equality and reciprocity), to recognizing the separation of church and state.

Joseph Loconte’s argument in chapter 4 points to the importance of religious liberty. He argues that it is foundational to democratic institutions and a central part of human rights discourse. He further points to more mundane concerns: religious freedom helps democracies sustain themselves both as democracies and as effective actors in the global system. Religiously tolerant political and cultural systems enhance a nation’s democracy and national security.

In chapter 5, the late Father Robert Drinan takes the most global approach by assessing the struggles to harmonize international law and the exercise of religious freedom. He points to the mostly successful European efforts in this regard. But he also emphasizes corresponding difficulties in the Middle Eastern nations—problems that have emerged as undemocratic systems have been challenged by rising Islamic extremism, Russia, and China. Jean Bethke Elshtain adopts a more secular focus in chapter 6. She focuses on “human dignity” and how it relates to both democracy and human rights. Elshtain assesses these issues in relation to the successes of the movement the Mothers of the Disappeared in Argentina and the current struggle for democracy and human rights in the Middle East. Elshtain’s more general conclusion points to a strong, positive relationship between democracy and human rights.

Philosopher Patrick Byrne argues in chapter 7 that the impersonalism that underlies the currently prevailing theoretical groundings of human dignity is ultimately incompatible with Christianity. It is important for Christians themselves

to develop an understanding of human dignity and universal human rights that makes Christian personalism central. Byrne maintains that by personally entering into human history and human affairs, God constitutes and bestows upon each and every human being a dignity and worth that surpasses human understanding and capacity. Further, the standard enumeration of human rights—freedom of religion, speech, and assembly, freedom from want, freedom from fear, etc.—all derive from and are imperatives following from this Divinely bestowed personal worth. In this way Christianity witnesses to a universality of human dignity and human rights that is quite the opposite of impersonalism; it is profoundly and intensely personal as God is personal. Byrne draws upon the theoretical work of theologian Bernard Lonergan, as well as the life of Martin Luther King, Jr., in his treatment of the divine missions of the Word and the Holy Spirit.

Dana Dillon has similar concerns in chapter 8. She argues that rights-language only does justice to the dignity of the human person and the right ordering of the human community when rights are rooted in a Catholic concept of the human person. Contrary to the highly individual human person as described in modern political theory, the Catholic tradition, particularly as expressed in the Second Vatican Council and in the work of Henri de Lubac, holds that the human person is fundamentally communal and is ordained to a supernatural end. For this reason, according to Dillon, any conversation about rights that does not attend to the communal nature of the person and the interrelation of personal and communal good will fail to do justice to human rights. In this regard, Dillon maintains that attention to the interrelationship between the good of the person and the common good pushes us beyond the minimal concept of rights into a fuller understanding of right relationship with one another.

While all of the above chapters rely heavily on the work and lives of particular individuals, Joyce Michael, in chapter 9, focuses almost exclusively on Božena Komárková, a Czech theologian whose contributions to understanding human rights are just now receiving the attention they deserve. Michael attempts to draw a synthesis between Komárková's theoretical work, which emphasizes human rights as "transcendent," with her experience of suffering under both the Nazis and communist Czech authorities. Much of Komárková's work was heavily indebted to secular thinkers such as Immanuel Kant and John Stuart Mill. But one of Michael's central points is that, as demonstrated by the Nazis and Communists, human constructs designed to protect rights can be fleeting. In this regard, religious bases for human rights are determinant, according to Komárková. But both Michael and Komárková (echoing Witte's points in chapter 2) also maintain that secular and Christian understandings of human rights can enrich one another.

John Sniegocki and Jonathan Warner have a more specific focus in their respective chapters, as both attempt to assess how Christian approaches to human rights can incorporate material concerns. In chapter 10, Sniegocki argues that Catholic Social Teaching has much to contribute to ongoing debates concerning globalization, and explores the understandings of economic rights and of economic democracy developed in the Catholic social tradition. Sniegocki's analysis devotes specific attention to critics of economic rights and economic democracy, such as Michael Novak. Novak argues that an affirmation of economic rights would grant excessive power to the state and thus undermine liberty. Sniegocki argues in contrast that it is the absence of economic rights that is currently the fundamental threat to liberty, leading to both concentrated economic power and concentrated control of the political process by moneyed interests. He emphasizes the deep connection between economic democracy and political democracy in Catholic Social Teaching.

Jonathan Warner, in chapter 11, attempts to clarify and expand a Christian understanding of human rights by means of the concepts of "human flourishing" and "capabilities." These concepts are part of an attempt to move beyond negative human rights to a more comprehensive discourse of positive human rights. The chapter focuses on the work of Amartya Sen and Martha Nussbaum, who combine, in Warner's analysis, to inject into the human rights debate the idea that human beings should possess the efficacy—or "capabilities"—to make basic decisions that would allow a distinctly human "flourishing." In this way, Warner proposes a synthesis between the work of these more secular thinkers and Christian theology as it is applied to human rights.

Three case studies of human rights activism around the globe make up the final section of the book. Each chapter demonstrates the diverse concerns that motivate and confront those who work to preserve human rights. In chapter 12, Thomas Bamat describes a radicalized Christian political movement in Peru, Ecuador, and Colombia. He focuses on three specific organizations, and explores their interactions with governments, secular nongovernmental organizations, and transnational human rights groups. Some of his most notable conclusions concern the wide variety of issues—including socioeconomic concerns and indigenous rights—which these organizations confront as they attempt to address the human rights concerns of their members. This study shows the enduring influence of Liberation Theology as a point of reference for human rights organizations in Latin America.

James Lewis presents, in chapter 13, a more focused account of evangelical ethnic minorities in Vietnam. Given the ideological approach of the communist government and the legacy of the war, immediate repression could have been predicted. Lewis's analysis also includes government liberalization

policies in 1987; he maintains that, unlike some other religious and cultural groups, evangelical ethnic minorities continued to suffer severe repression because of both their ethnicity and the kind of evangelical Christianity they practiced. Ethnicity and religion combined, in this case, to bring out the worst in a repressive Vietnamese government. In chapter 14, Nico Horn focuses on a particular denomination, South African Pentecostals, and the evolution of its approach to human rights in South Africa. Horn first describes South African Pentecostals' dramatic turn from radical, egalitarian, and antisegregationist early in the twentieth century to an accommodationist approach to South Africa's apartheid system. Then he describes how they quickly adjusted to democratization in the 1990s, once again accommodating political change. Horn attributes the denomination's history to its narrow focus on conversion and evangelism at the expense of any dedication to a larger tradition of human rights.

Like many of the other chapters in this volume, these final case studies bring out the great complexity facing those who attempt to understand the relationship between Christianity and human rights and then act on this knowledge. These chapters raise a host of interesting issues concerning Christianity and human rights. I will synthesize these points in a concluding chapter.

NOTES

1. This is a central theme in James Waller's work, and is summarized in chapter 1 of this volume.

2. The complex and complementary nature of relations between Christians and the broad global movement to defend human rights is a topic confronted, in all its variety, in much of John Witte's work, including chapter 2 in this volume.

3. Quoted in Samantha Power, *"A Problem from Hell": America and the Age of Genocide* (New York: Harper Perennial, 2007), 33–34.

4. Phillip Hallie, *Lest Innocent Blood Be Shed: The Story of the Village of Chamon and How Goodness Happened There* (New York: Harper Perennial, 1979/1994). See also Victoria Barnett, *Bystanders: Conscience and Complicity During the Holocaust* (Westport, CT: Praeger, 2000).

5. For basic accounts of definitional issues and debates concerning human rights see Louis Henkin et al., *Human Rights* (New York: Foundation Press, 1999), Henry Steiner and Philip Alston, editors, *International Human Rights in Context* (Oxford: Clarendon Press, 1996), and Robert Drinan, *The Mobilization of Shame: A World View of Human Rights* (New Haven: Yale University Press, 2002). For a focused debate over the origins and significance of human rights, see Serena Parekh, "Resisting 'Dull and Torpid' Assent: Returning to the Debate over the Foundations of Human Rights," *Human Rights Quarterly* 29 (2007), and consecutive chapters by Jack Donnelly, "The Social Construction of International Human Rights," and Chris Brown, "Universal

Human Rights: A Critique” in *Human Rights in Global Politics*, ed. Tim Dunne and Nicholas J. Wheeler (New York: Cambridge University Press, 1999).

6. This issue is confronted in a specific way, in regard to economic rights, by John Sniegocki in chapter 10, and in a more general way by Jonathan Warner in chapter 11, of this volume.

7. For an account of the influence of Christians on the Declaration, see John S. Nurser, *For All Peoples and All Nations: The Ecumenical Church and Human Rights* (Washington, DC: Georgetown University Press, 2005).

8. Brown, “Universal Human Rights: A Critique,” note 3, 115; Richard Falk, *Human Rights Horizons: The Pursuit of Justice in a Globalizing World* (New York: Routledge, 2000), 54–56.

9. Alasdair MacIntyre, *After Virtue* (South Bend, IN: Notre Dame University Press, 1984). See also the works of Stanley Hauerwas.

10. This issue is dealt with most thoroughly by John Witte and his collaborators. See John Witte, Jr., and Richard Martin, eds., *Sharing the Book: Religious Perspectives on the Rights and Wrongs of Proselytism* (Maryknoll, NY: Orbis Books, 1999).

11. Michael Freeman, “The Problems of Secularism in Human Rights Theory,” *Human Rights Quarterly* 26 (2004): 387.

12. See Alf Tergel, *Human Rights in Cultural and Religious Traditions* (Uppsala: Acta Universitatis Upsaliensis, 1998), and Johan van der Vyver and John Witte, Jr., eds., *Religious Human Rights in Global Perspective: Legal Perspectives* (Boston: Martinus Nijhoff Publishers, 1999).

13. *Moral Man and Immoral Society: A Study of Ethics and Politics* (New York: Charles Scribner’s Sons, 1932), and *The Irony of American History*, (New York: Charles Scribner’s Sons, 1952).

14. For an analysis of even earlier Judeo-Christian influences on the human rights tradition, see Walter Harrelson, *The Ten Commandments and Human Rights* (Philadelphia: Fortress Press, 1980).

15. Margaret Keck and Kathryn Sikkink, *Activists Beyond Borders: Advocacy Networks in International Politics* (Ithaca, NY: Cornell University Press, 1998), 41–51.

16. Adam Hochschild, *King Leopold’s Ghost: A Tale of Greed, Terror, and Heroism in Colonial Africa* (New York: Houghton Mifflin, 1998), 214, passim.

Part One

**PAST SINS, FUTURE PROMISE:
OVERVIEWS OF CHRISTIANITY
AND HUMAN RIGHTS**

Chapter One

Deliver Us from Evil

Genocide and the Christian World

James E. Waller

The twentieth century saw an unmatched scale of systematic and intentional mass murder coupled with an unprecedented efficiency in the mechanisms and techniques of state-sponsored terrorism, or genocide. All told, it is estimated that 60 million men, women, and children were victims of genocide in the last century alone, and the dawn of the twenty-first century brings little light to that darkness. In Darfur, since the violence started in early 2003, more than 2.5 million people have been forced from their homes, many of whom have become prisoners in transit camps and towns due to repeated attacks, looting, and arson by Arab militias, allegedly armed by the Sudanese government. According to recent estimates, at least 500,000 people have died in Darfur since the genocide began. The ongoing, conflict-related mortality rate is expected to be between 10,000–15,000 deaths per month. Though—if the security situation continues to deteriorate and humanitarian aid continues to decline—the mortality rate could rise to as high as 100,000 per month.

There have been notable cases where religious institutions stood and resisted the power of such state-sponsored terrorism. These have been the scattered exceptions, though, to the more general rule of recent history in which religious institutions have been notoriously silent, or even complicit, in the face of genocidal violence. This chapter specifically focuses on the role of indigenous Christian institutions in the context of genocidal violence. In this analysis, I am looking at the church from an institutional, rather than theological, framework. I am approaching Christian institutions as real, formal organizations, worldly (as opposed to divine) social structures that govern the behavior of individuals within them. As institutions, Christian churches have a mission and purpose; they shape individual human lives and intentions just as they are, in turn, shaped by human lives and intentions. Institutions are

birthed by individuals, and it is inappropriate to separate the two. I do not regard institutions, Christian or otherwise, as an instance of emergence in which they arise beyond, or transcendent of, the conscious intentions of the individuals involved. Rather, I regard institutions, Christian and otherwise, as social constructions whose combined effect, in a synergistic relationship, is greater than the sum of their individual effects.

In such an analysis, we cannot, of course, artificially separate Christian institutions from their underlying theological frameworks, and, in fact, those frameworks play a significant role in institutional direction and decision-making. Neither can we disentangle Christian institutions from the culture in which they have been shaped, and which they have, in turn, shaped. The overarching interest of this chapter, though, is in the church as an institution, with institutional actors, and how it shapes a culture in which genocidal violence may occur, and how it responds to such a culture both during and after the genocidal violence. This interest leads to several compelling questions: Why do Christian institutions that should exemplify the human face of God in a suffering world fail to live out their founder's highest ideals? Why do those who should recognize the human face of God in their persecuted brothers and sisters fail to do so? What are the historical and ethical implications of Christian institutions' response to genocide—particularly in respect to fostering future periods of tolerance?

CASE STUDIES

This chapter summarizes preliminary research from genocidal case studies of the Holocaust (1939–1945), Rwanda (1994), and Bosnia (1992–1995).¹ In each of these genocides, Christian institutions, Protestant and Catholic, were present—in large numbers and steeped in history with considerable influence—as the seeds for destruction were sown, the killings unfolded, and the societies began to reconstruct themselves after the slaughter had ended. The moral exclusions that led to mass murder in these three case studies were grounded in cultures dominated, not simply in a nominal sense, by Christianity. Many of those perpetrating the killings did so with the blessing and support, even the active participation, of church leaders. After the killings ended, churches have been at the forefront of reconciliation efforts—though most often without any direct acknowledgment of their complicity in the process of the previous destruction.

When Adolf Hitler rose to power in 1933, it was with the aim of incorporating the Germanic peoples into one nation-state. To do so meant the employment of an aggressive foreign policy to expand German “living space” as

well as the development of domestic social and racial policies that defined those who were to be included in the superior Aryan race and those who were to be excluded. Among those to be excluded (including the Roma population, homosexuals, the “hereditary asocial,” those with mental or physical handicaps), one group—the Jews—was specifically targeted for extermination. Between 1939 and 1945, nearly 6 million Jews (two out of every three of Europe’s Jews) were victims of the Nazi process of destruction. The Holocaust occurred throughout a Europe in which well over 90 percent of Europeans identified themselves as Christians. In Germany particularly, Christianity was pervasive, and religious concerns were prominent. More than 95 percent of Germans were baptized members of an established Christian church. It is no exaggeration to say that Germany was one of the most Christian nations in the world, if judged by the usual indices of church membership, church presses, theology students, and so on.

In Rwanda, beginning in April 1994, Hutu extremists murdered over 800,000 people in a period of one hundred days. Of these, the vast majority belonged to the Tutsi minority (indeed, it is almost impossible to find a Tutsi family who did not lose a member to the genocide), but more than 50,000 moderate Hutus, who identified with opposition parties, also were slaughtered. At the time of the 1994 genocide, Rwanda was the most Christianized country in Africa, where at least 65 percent of the population was Roman Catholic, and 15 percent was Protestant. Catholic and Protestant churches were multiethnic (including both Hutu and Tutsis). Moreover, much of this Christianity was of a strong evangelical, even charismatic, persuasion, fed by the East African Revival of the 1930s and a spontaneous “movement of the Holy Spirit” throughout many Roman Catholic churches in the 1970s.

In 1992, to achieve his ideal of an ethnically homogenous state, Serbian President Slobodan Milosevic turned to ethnic cleansing to remove any trace of the other ethnic communities who had previously cohabited with Serbs in the coveted territories. Serbs created conditions of comprehensive oppression; systematically raped, tortured, and murdered civilians; appropriated and pillaged civilian property; used detainees as human shields on front lines and in minefields; and threw Muslims into concentration camps. In 1993, emboldened by Milosevic’s campaign of terror against the Muslims and his support for a Greater Croatia, the Croats entered the war against their former Muslim allies, using many of the same methods of ethnic cleansing as the Serbs. War in the region would not end until November 1995, with more than 102,000 killed (about 70 percent of those being Muslim) and as many as 1.8 million displaced.² Religion is a central component of identity in Bosnian culture, and there is a strong correlation between the ethnic identities of Croats, Serbs, and Bosniaks with corresponding religious identities.³ Most Bosnian

Croats (making up about 15 percent of Bosnia's current population) are associated with the Roman Catholic Church; most Bosnian Serbs (31 percent of the population) with the Serbian Orthodox Church; and most Bosniaks would identify themselves as Muslim and today constitute about 40 percent of the population.

Stages of Institutional Christian Response to Genocide

As a social psychologist, my disciplinary bias is to look for patterns of thoughts, feelings, and behaviors in human interactions. In that spirit, this chapter focuses specifically on a descriptive analysis of patterns of institutional Christian response to genocide. While certainly subject to occasional exceptions, my preliminary research suggests that there are three stages of institutional Christian response to genocide. *Pre-genocidal responses* include the fusion of religious belief systems with ethnic, national, and political identities that provide theological justifications for "us-them" thinking by constricting the churches' universe of moral obligation. *Genocidal responses* include sins of omission (silence and denial) as well as sins of commission (active participation in killings). Finally, *post-genocidal responses* include the accentuation of the church's persecution and resistance (marked by the appropriation of the victim groups' suffering as well as the glorification of individual heroes and martyrs) and official declarations of contrition that avoid direct acknowledgment of institutional guilt. The chapter concludes with suggestions for future research and an examination of the capacity for Christian institutions to redeem themselves—and the world—by being involved in post-genocidal reconciliation.

Pre-Genocidal Responses

Christian institutions often lay the groundwork for intergroup tensions by fusing religious belief systems with ethnic, national, and political identities. Most often, this fusion is not a joining of equals; generally, the ethnic, national, or political identities co-opt religion and, eventually, neutralize it. The church loses its critical role as a prophetic voice of the voiceless and becomes, instead, married to other social identities that privilege it among power holders and mobilize the church to preserve, rather than challenge, the status quo. It is, as Miroslav Wolf describes, an "idolatrous shift of loyalty" in which faith is "employed" as a weapon in an ethnic, national, or political struggle.⁴

A consequence of this fusion is the churches' role in providing a theological justification for "us-them" thinking. The roots of "us-them" thinking run deep in our human psyche. Human minds are compelled to define the limits

of the tribe. Kinship, however defined, remains an important organizing principle for most societies in the world. Knowing who is kin, knowing who is in our social group, has a deep importance to species like ours. We construct this knowledge by categorizing others as “us” or “them,” a tendency that many scholars have called one of the few true human universals. Once these boundaries are established, we tend to be partial toward “us” and label “them”—those with whom “we” share the fewest genes and least culture—as enemies. We have an evolved capacity to see our group as superior to all others and even to be reluctant to recognize members of other groups as deserving of equal respect.

In Christian institutions, “us-them” thinking constricts the churches’ universe of moral obligation and leaves the church unwilling to curb the ethnic and national ethnocentrism, or political divisions, to which it has become fused. In this way, Christian institutions help build the scaffolding for moral sanctions, or exclusions, that heighten intergroup tensions and may, ultimately, “excommunicate” the victims of genocidal violence from the perpetrators’ moral community. The danger, and historical reality, of such exclusions makes Sigmund Freud’s famous dictum seem more true than exaggerated: “Cruelty and intolerance to those who do not belong to it are natural to every religion.”⁵

During the Holocaust, the institutional identities of the Catholic Church and Protestant churches were compromised by their decision, motivated by self-interest, to retain their prominent place in society, and to maintain some degree of independence by entering into various “agreements” with the Nazi regime. While it could be argued that such arrangements ensured institutional independence from Nazi control, it is equally clear that there was a fusion of identity that neutralized the churches’ voice and negated most forms of public, institutional criticism of Nazi policies and practices.⁶

Moreover, the groundwork for the moral exclusion of Jewish victims was laid in the centuries preceding the Holocaust when Jews were regarded as aliens who were on the remote fringes of Christian Europe’s universe of moral obligation. The historical stigmatization and exclusion of the Jews meant that the traditions, habits, images, and vocabularies for extreme dehumanization were already well established. The centuries-old image of the vile and diabolical Jew was woven into the fabric of German, and European, culture. The deluge of racist and anti-Semitic propaganda ribboning throughout German society during the rise of Nazism was thus profoundly effective in placing, and keeping, the Jews entirely outside the realm of moral obligation for perpetrators.

In Rwanda, the churches, especially the Roman Catholic Church, had historically reinforced “us-them” thinking and behavior both in public life and

in the church itself.⁷ As early as 1957, the Catholic Church in Rwanda had supported the creation of a Hutu identity and nationalism.⁸ As radical Hutus gained power after the social revolution of 1959–1962, the Catholic Church found itself with well-placed connections at all levels of government and with unimpeded access to the centers of power. Similarly, many within the hierarchy of the Protestant churches in Rwanda had also developed intimate ties with the Hutu regime over the years. While several Rwandan bishops made statements urging unity, justice, peace, and harmony between 1990 and the start of the genocide in 1994, such admonitions came too late to reverse decades of religion-entrenched “us-them” thinking in Rwandan society.

So, in 1994, as Hutu extremists began to dominate the government and plan the genocide, it was easy for the church—both Catholic and Protestant—to fuse its identity, and interests, with the ethnic, national, and political identities, and interests, of the genocidal regime. As Gary Scheer writes of the church in Rwanda: “Staying on the good side of the local mayor became as important as staying on the good side of God (sometimes more so).”⁹ As early as August 1994, within weeks after the end of the genocide, a World Council of Churches team that had visited Rwanda concluded that both Catholic and Protestant churches alike had “betrayed their beliefs by aligning themselves far too closely with the former Hutu-dominated regime and its tribal politics.”¹⁰ Clearly, the blood of tribal, ethnic ties ran deeper than the waters of baptism in Rwanda.

Similarly, Michael Sells explores the role of Christian mythology in the fusion of religion and ethnicity in Bosnia that makes the two identities virtually indistinguishable—one “ethnoreligious” identity.¹¹ Central to the ethnoreligious identity of Bosnian Christians was the historical construction of Bosnian Muslims as “the other.” Sells traces centuries of religious-based Serb ideology in which Muslims are portrayed as Christ killers, heretics, perverts, and sadists. He labels the ideology as “Christoslavism,” meaning the notion that Slavs are Christian by nature and conversion to another religion is ethnic or racial betrayal. Sells argues that such Serbian mythology provided the ideological fuel to motivate and justify the genocide of the Bosnian Muslims in pursuit of an ethnoreligiously pure state.

In this vein, the Serbian Orthodox Church has been particularly criticized for its role in the Bosnian genocide. The church’s episcopate is dominated by hard-line nationalists with visions of a traditional, patriarchal society. As Sells points out, there was a close relationship of Serb bishops to war criminals, massive Serb funeral processions of war criminals, and repeated church attacks on the International Criminal Tribunal for the Former Yugoslavia (ICTY) as an anti-Serb plot.¹² In 1995, Konrad Raiser, general secretary of the World Council of Churches, said he personally believed that “much of

what we are seeing in the Serbian Orthodox Church” could be criticized in terms similar to those in which the ecumenical movement criticized pro-Hitler Christians in Germany.¹³

While Bosnian Serb extremists were responsible for about 90 percent of the war crimes committed during the conflict, Bosnian Croats also were impacted by a similar religious-based ideology that fostered anti-Muslim stereotypes and depicted them as enemies of Christianity. While the role of Catholicism in the Bosnian genocide has been less acknowledged, and the crimes of Bosnian Croat extremists were fewer, they were no less in intensity. Sells has chronicled, for instance, the activities of Bishop Ratko Peric and Franciscan friars in the Mostar region of Bosnia in supporting Catholic militias’ involvements in mass killings, expulsions, annihilation of the sacral heritage of other traditions (“triumphal shrines of exclusion”), and imprisonment of Muslims in concentration camps where prisoners were starved and tortured regularly.¹⁴ A 1992 article in a popular Catholic magazine rejoiced that the cross of Christ stood next to the Croatian flag, a Croatian bishop next to the Croatian minister of state, and that “guardsmen wore rosaries around their necks.”¹⁵

Ultimately, the product of such mythologies and ideologies that define “us” and “them” is an “excommunication” of victims from the perpetrators’ moral universe. In Sells’ words: “Religions in their ideological manifestations have traditionally been strong at promoting an interior identity in opposition to the religious other than in affirming identity in affirmation of the other.”¹⁶ This is a moral exclusion, with theological backing, that can have disastrous consequences. As Helen Fein writes: “A church holding out the possibility of conversion to all must assume a common humanity, and therefore may not sanction unlimited violence. But a doctrine that assumes people do not belong to a common species knows no limits inhibiting the magnitude of permissible crime.”¹⁷

Genocidal Responses

During the genocide itself, churches are often guilty of both sins of omission (silence and denial) as well as sins of commission (active participation in killings). In the former, there is a resignation of institutional agency in the face of mass murder and, in the latter, a functional involvement in the process of destruction.

Sins of Omission

While genocide is taking place, institutional responses most often center on silence. In the Holocaust, as previously pointed out, church hierarchies followed

their own narrowly defined best interests, particularly that of protecting their own institutional autonomy within a totalitarian state. Such interests were best advanced by silence, rather than by protest or heroism. In Rwanda, church hierarchies also remained mostly silent. When churches spoke, their words were seldom direct calls for institutional action, but were most often public displays of “theologically correct” hand-wringing. In May 1994, for instance, in the midst of the Rwandan genocide, Catholic and Protestant leaders issued a joint letter calling for an end to the killing, yet failing to condemn the atrocities or to describe the mass murder as genocide. Likewise, Pope John Paul II called for a general end to the violence, but made no specific, overt plea to Rwandan Catholic Church leaders to use their authority to do so. Similarly, the Pope’s numerous pronouncements to end the violence in Bosnia unfailingly called for international intervention, but seldom for institutional leadership from the Catholic churches in the region.

While it borders even more on a sin of commission, we also often see silence take the form of active denial as an institutional response during genocide. For instance, even after the revelation of Serb-initiated atrocities at the beginning of the Bosnian genocide, the Holy Episcopal Synod of the Serbian Orthodox church distributed a document in response to the “false accusations against the Serbian people” in which they denied the existence of such atrocities. “In the name of God’s truth,” the document read, “and on the testimony from our brother bishops from Bosnia-Herzegovina and from other trustworthy witnesses, we declare, taking full moral responsibility, that such camps [concentration and killing camps] neither have existed nor exist in the Serbian Republic of Bosnia-Herzegovina.”¹⁸ Unfortunately, at the time this document was composed in May 1992, thousands of non-Serbs were being raped, driven from their homes, and killed—all before the eyes of local Serbian Orthodox priests and bishops.

Sins of Commission

Perhaps most chilling are the sins of commission in which individual actors, laity and clergy of Christian institutions, actively participate in—even organize—the killings. While present in the Holocaust (clergy members were even found in the membership of the Einsatzgruppen killing units) and Bosnian genocide, these sins of commission are most extensively documented in Rwanda.¹⁹ It was in Rwanda that many of the worst massacres occurred in churches and mission compounds where Tutsis had sought refuge. It is very likely that more people were killed in church buildings than anywhere else in Rwanda.²⁰ From the beginning of the genocide, human rights groups charged that some church leaders from various denominations used their au-

thority to encourage the massacres and join in the killing. Ian Linden also contends that there “is absolutely no doubt that significant numbers of prominent Christians were involved in the killings, sometimes slaughtering their own church leaders.”²¹

Unfortunately, the reality of such charges is now undisputed as we have a sad litany of well-documented cases. For example, in June 2001, a Belgian court convicted two Benedictine nuns, Sisters Gertrude Mukangango and Julienne Kisito, who were found guilty of having participated in the massacre of more than 7,600 people at the Sovu convent in Butare. Despite the convictions, the Vatican has taken no steps toward excommunicating the nuns and, indeed, a Vatican spokesperson could not understand why the court singled out the two nuns “seeing the grave responsibility of so many [other] people and groups involved.”²²

Rwanda also saw the head of its Roman Catholic Church, Archbishop Thaddee Ntihinyurwa, accused of abetting the murder of Tutsis by ordering at least 600 people out of the Nyamasheke Cathedral, in which they sought to seek refuge, and into a local stadium, where they were killed. Other Catholic priests presently under indictment or facing trial include Athanase Seroma, Hormisdas Nsengimana, Emmanuel Rukundo, and Guy Theunis (Belgian).

An Anglican Bishop, Samuel Musabyimana, was indicted by the International Criminal Tribunal for Rwanda (ICTR) for the crime of genocide, specifically “for killing or causing serious bodily or mental harm to members of the Tutsi population with intent to destroy, in whole or in part, a racial or ethnic group.”²³ The indictment claims that, while Musabyimana publicly stated that he did not oppose the killing of Tutsis, he did not want killings at the Diocese, and that the Tutsis should be taken to Kabgayi to be killed. The indictment further alleges that Musabyimana participated in, or facilitated, the killings by specifically instructing subordinates to assist soldiers and militias, and by directly or indirectly providing firearms to civilians, under circumstances where he knew, or should have known, that Tutsi civilians would be killed.

Accusations against clergy of the Free Methodist, Presbyterian, Baptist, and Seventh-Day Adventist Churches are equally well-documented. According to an August 2001 report by Afrol News, Bishop Aaron Ruhumuliza, head of the Free Methodist Church in Gikondo, Kigali, helped the militia carry out a massacre in his own church on April 9, 1994. Michel Twagirayesu, the President of the Presbyterian Church in Rwanda and a former vice-president of the World Council of Churches, is alleged to have betrayed parishioners and fellow-clergy alike in Kirinda, Kibuye.²⁴ Seventh-Day Adventist pastor Elizaphan Ntakirutimana was the first church leader to be brought to trial at the ICTR. In February 2003, the ICTR found it proven beyond reasonable doubt

that Ntakirutimana had transported armed Hutu killers to a church and hospital in the Kibuye region of western Rwanda, where they killed hundreds of Tutsi refugees who had been encouraged by Ntakirutimana to seek refuge there. At his trial, a British prosecutor stated: “Dressed in his customary suit and tie, Pastor Ktakirutimana watched as people were shot and beaten to death, encouraging the killers to ensure no one survived.”²⁵

Post-Genocidal Responses

Christian institutions should be credited with decisive humanitarian efforts that provide physical, emotional, and spiritual sustenance following genocidal violence. Just as decisive, though, is a pattern of Christian institutional, post-genocidal responses to accentuate the churches’ persecution and resistance and make official declarations of contrition that avoid direct acknowledgment of institutional guilt.

Accentuation of Churches’ Persecution and Resistance

The accentuation of the churches’ persecution and resistance is done by appropriating the victim group’s suffering and inordinately, and sometimes inaccurately, accentuating the exceptional individual actions of Christian heroes and martyrs in the face of mass destruction. Both of these responses allow the Christian church to reallocate its resources (cognitive, rational, and otherwise) away from self-critical analysis of their institutional response to genocide. The problem is not a cognitive simplification or ignorance, but—rather—a willful hemorrhaging off of attention elsewhere.

Following genocide, Christian institutions often will accentuate their own persecution by appropriating the victim group’s suffering. Such appropriation is a deliberate act of acquisition in which the victim group’s suffering is borrowed, or co-opted, by Christian institutions to accentuate their own persecution. In this way, Christian institutions, and their actors, distract attention from the victim groups’ suffering by reallocating that attention to their own suffering.

For example, what many Christians throughout the world know of the Holocaust is what they know through the story of Corrie ten Boom. As recounted in her bestselling book *Hiding Place*, ten Boom’s story is a moving testament to a family of devout Protestant Christians who offered their home as a refuge and hiding place for fugitives and those hunted by the Nazis.²⁶ The efforts of the ten Boom family are reported to have saved the lives of an estimated 800 Jews. Eventually betrayed, Corrie and her sister were sent to Ravensbruck camp, where Betsie (her sister) later died.

One cannot take issue with the heroic activities of Corrie ten Boom and her family. At issue, though, is the way in which Christian institutions have appropriated the victim group's suffering (specifically Jews) as their own through a widespread embrace of *Hiding Place* as their point of interface with the Holocaust. In this instance, what matters is the representation of an event, rather than the event itself. The representation of the Holocaust as an event of Christian suffering to generations of Christian readers is problematic—particularly to Jews, the targeted group of the Nazi extermination policies. (This partially explains why ten Boom's story is so little known among American Jews and has been virtually ignored by the U.S. Holocaust Memorial Museum.)

We see a similar appropriation of the Jews' suffering in the Catholic Church's response following the Holocaust. Rather than engage in self-critical analysis of their institutional response (which many have described as complicity) to the Nazi process of destruction, the Vatican's primary response was to appropriate the Jewish victims' suffering by taking quick steps to ensure that the Nuremberg Trials also included the persecution of the Christian church, particularly the Catholic Church in Germany and the Nazi-occupied territories. While choosing, on the grounds that the "universal religious mission of the Church would be compromised," not to cooperate with the Nuremberg Tribunal in preparing a list of war criminals (and even advocating that war criminals be given clemency), the Vatican readily supplied the tribunal with "an important collection of documents dealing with the persecution of the Church [Catholic] by the Nazi regime."²⁷

This appropriation of the victim group's suffering is complemented by a tendency to inordinately, and sometimes inaccurately, accentuate the exceptional individual actions of Christian heroes and martyrs in the face of mass destruction. Alongside the continued pursuit of the beatification of Pope Pius XII and the glorification of Christian martyrs such as Dietrich Bonhoeffer, Bernhard Lichtenberg, Kurt Gerstein, Martin Niemöller, or Corrie ten Boom, there is a misdirection of attention away from the complicity of the dominant social structure of an *institution* (the Church) and to the exceptional actions of *individuals*. At issue here is not necessarily the veracity of their lives and witness. Rather, at issue here is how the Christian church has used the lives and witness of exceptional individuals to deflect attention from a self-critical analysis of the churches' institutional response during genocide. Rather than focusing on the silence and neglect of the many and, particularly, the institution, there is a glorification of the individual actions of the few.

Most recently, this has been seen in Pope Benedict XVI's May 2006 visit to Auschwitz. Visiting Auschwitz as "a son of the German people," Benedict was silent on the collective guilt of the German people, the biblical and

Catholic roots of anti-Semitism, the role of the Catholic church under Pius' leadership during the Holocaust, and his own personal experiences during the war as a member (involuntarily conscripted) of the Hitler Youth. He was not silent, however, in continuing a Papal tradition of extolling the virtues of the exceptional Catholic individuals who stood up in the face of Nazi tyranny. Benedict's address at Auschwitz highlighted the lives of two Auschwitz victims—both now Catholic saints—who have become a source of tension between Catholics and Jewish groups: Maximilian Kolbe, a Polish priest accused of editing anti-Semitic tracts; and Edith Stein, a convert from Judaism who entered a convent in a failed bid to escape Nazi persecution. In this example, the accentuation of exceptional individual actions is coupled with a gross appropriation of the victim group's suffering. As Abraham Foxman, national director of the Anti-Defamation League, pointed out, Benedict did not make "one explicit acknowledgment of Jewish lives vanquished simply because they were Jews."²⁸

Official Declarations of Contrition

Following the Holocaust, the initial work on statements of contrition came from individual Christian theologians, not institutional leaders. Such individual statements of contrition, however admirable, avoided directly shining a spotlight on the dark recesses of Christian institutional actions before and during genocidal violence.

So, it was with much anticipation that the world received the post-Holocaust statement, *Nostra Aetate* (Latin for *In Our Time*), issued by the Catholic Church in 1965. While the Vatican heralded the document as a significant change in Jewish-Christian relations, critics assailed it for its brevity ("much too little and much too late") and its lack of acknowledgment of the Holocaust as a reference point. In response, this Conciliar declaration was followed in 1975 by the *Guidelines for Implementing Nostra Aetate* and in 1986 by the *Notes on the Correct Ways to Present Jews and Judaism in Preaching and Catechesis in the Roman Catholic Church*. Despite the Catholic Church's efforts, however, many still expressed dissatisfaction. So, in 1998, the church issued *We Remember: A Reflection on the Shoah* as yet another addition to the ongoing dialogue in Jewish-Christian relations. Like the declaration and implementing documents that preceded it, *We Remember* found its critics. Many took the document to task for the continuing failure of the Catholic church to acknowledge its complicity in the Holocaust; others expressed concern that the conciliatory tone in the document was weaker than many of Pope John Paul II's public statements; still others criticized the footnoted tributes to Pope Pius XII and the docu-

ment's attempt to defend the validity of a distinction between theological anti-Judaism and social anti-Semitism.

Over the next several decades, post-Holocaust declarations of contrition emerged from a wide range of Protestant denominations around the world. As Peggy Obrecht points out, most of these statements shared two important similarities.²⁹ First, they affirmed God's continuing covenantal relationship with, or election of, the Jewish people as the people of God. Such affirmations, often couched in dual covenantal or "partners in waiting" language, were meant to reverse centuries of theological supersessionism as Christian doctrine. Second, most of the statements affirmed the responsibility of the church to teach about Judaism from Judaism's own texts. In so doing, it was hoped that the misleading stereotypes that lay at the root of "us-them" thinking in Jewish-Christian relations would be ameliorated.

In Rwanda, reactions of contrition, although varying in degrees of accountability, came from many Christian churches. In May 1995, the archbishop of Canterbury, speaking for the Anglican Church, went to Rwanda himself and apologized. In December 1996, Protestant and Catholic Christians—laity and clergy, Rwandan and European—came together in Detmold, Germany, to "confess their own offense and to humbly ask forgiveness of their victims." That same month, the Presbyterian Church of Rwanda became the first denomination to confess the failure of its leaders to provide the moral and spiritual strength to denounce and oppose the genocide. Other Protestant congregations asked pardon for the atrocities committed by their members and even excommunicated members alleged to be organizers of the genocide.

An official denominational response from the Seventh-Day Adventists did not come until two years after the genocide and, even then, the response, given by General Conference President, Robert S. Folkenberg, during a sermon in Kigali, only addressed broad issues of Christians' responsibility for forgiveness and reconciliation with no clear mention of a need for accountability.³⁰ The Catholic response has been no more concrete. In May 1996, Pope John Paul II wrote in a letter to the Rwandan people: "The Church . . . cannot be held responsible for the guilt of its members that have acted against the evangelical law; they will be called to render account of their own actions. All Church members that have sinned during the genocide must have the courage to assume the consequences of their deeds they have done against God and fellow men."³¹

In Bosnia, stopping short of directly acknowledging institutional responsibility, Catholic bishops haltingly asked "for forgiveness from all those who feel in some way hit by the injustices of sons of the Catholic Church" in a February 1996 pastoral letter. In the same letter, they also were quick to pledge to "forgive all who have done injustice and evil to us."³² Responses

from the Serbian Orthodox Church have even more fully evaded responsibility and, instead, have stressed that all sides and religious factions in the region—including Catholic Croats and Bosniak Muslims—are guilty. In addition, the Serbian Orthodox Church expressed “deep concern” about the 1995 Dayton Peace Agreement between the Serbian, Croatian, and Bosnian governments.³³

What is missing from nearly all of the official declarations of contrition following each of these genocides is full acknowledgment of the guilt of the churches as institutions. At the institutional level, there has been little confrontation with their own sin, a gaping void, where there should be a call for sincere repentance. Where guilt has been confessed, it has been inevitably confessed at either the level of individuals or with a global abstractness that offers no concrete restructuring of doctrine, ecclesiology, or church hierarchy so as to ensure that such an event will not be repeated. This resonates with the work of Michael Emerson and Christian Smith who contend that, in terms of race relations, evangelical Christians most consistently call for changes in *persons* that leave the dominant social structures, institutions, and culture intact. To challenge the very foundations of a larger *system* has simply never been part of the evangelical worldview.³⁴

CONCLUSION

In his analysis of the role of Christian churches in the Holocaust and in Rwanda, David Gushee argues “that the presence of churches in a country guarantees nothing. The self-identification of people with the Christian faith guarantees nothing. All of the clerical garb and regalia, all of the structures of religious accountability, all of the Christian vocabulary and books, all of the schools and seminaries and parish houses and Bible studies, all of the religious titles and educational degrees—they guarantee nothing.”³⁵

This chapter has sought to understand how a force, religion, that has wielded such a tremendously civilizing effect on human society, can foster institutions that “guarantee nothing” in the context of genocidal violence. In describing the patterns of institutional Christian response to genocide, we are now poised to make prescriptive recommendations of how Christian institutions might function differently in a context of genocidal violence. To do so most effectively, continuing research in this area has at least three compelling questions to address.

First, we have to ask if the Christian churches’ response to genocide is any different from other institutional—political, social, educational, and so on—responses to genocide. Perhaps the recurring pattern of response described in

this chapter is less about the Christian church *specifically* and is more about the nature of institutions *generally* (e.g., institutions act in their own narrowly defined self-interests, are not self-critical, and so on).

Second, we should also learn from the challenge of the *exceptions* of Christian defiance and resistance in the face of mass murder. Rather than inaccurately holding up these men and women as typical of institutional responses, we should be asking how institutions can foster cultures that encourage such voices and protect the integrity of religious identity. For example, the identity of Hutu Muslims centered more on religion than ethnicity. For them, religion was not fused with or co-opted by ethnic or national identities. Rather, religion was the primary identity and other allegiances fell secondary to it. During the genocide, Hutu Muslims—living together in the Biryogo neighborhood of Kigali—stood up to the militias and most Muslim Tutsi were spared. The fact that mosques never became the killing sites that many Christian churches and compounds became helps explain why Islam is the fastest growing religion today in Rwanda—already claiming about 15 percent of the population.³⁶

Third, we must ask to what degree can Christian institutions redeem themselves—and the world—by being involved in post-genocidal reconciliation? As Wolf points out, too often the social agenda of the church is isolated from the message of reconciliation.³⁷ There are moral moments, however, when both Catholic and Protestant Churches are active in reconstructing their societies torn apart by genocidal conflict. Following the Holocaust, Jewish-Christian organizations, with significant Christian institutional leadership, are operating around the world to foster interfaith dialogue. In Rwanda, Christian clergy and laypeople have joined Paul Kagame’s “Government of National Unity” in preaching and fostering unity among the Rwandan people. In Bosnia, Sarajevo’s Cardinal Vinko Puljic has become one of the most prominent, and active, spokespersons for tolerance and multicultural coexistence.

To do reconciliation most effectively, however, we can no longer avoid asking tough questions of why the church was silent, or complicit, in the face of mass destruction. We can no longer avoid asking why, in the name of God, Christianity has been at the front of defining the “other” throughout human history. It is only in facing such questions that Christianity can begin to fulfill its promise and foster periods of tolerance.

NOTES

1. This chapter is based on a plenary address of the same name given at the Fourth Annual Lilly Fellows National Research Conference, titled “Christianity and Human

Rights,” held at Samford University (Birmingham, AL) on November 12, 2004. A more detailed, book-length manuscript of the same name is currently submitted for publication.

2. The figure of 102,000 deaths is based on recent research by Sarajevo’s Investigation and Documentation Center (IDC).

3. Bosnia is a shorthand reference to the modern-day sovereign state of Bosnia and Herzegovina in southeastern Europe. “Bozniak” is now replacing “Muslim” as an ethnic term to avoid confusion with Muslim as a religious term, meaning an adherent of Islam.

4. Miroslav Wolf, “The Social Meaning of Reconciliation,” *Interpretation* 54, no. 2 (2000): 158–73.

5. Sigmund Freud, *Group Psychology and the Analysis of the Ego* (1955, 1921), quoted in Scott Atran, *In Gods We Trust: The Evolutionary Landscape of Religion* (New York: Oxford University Press, 2002), 115.

6. See Victoria J. Barnett’s “The Role of the Churches: Compliance and Confrontation,” in *The Holocaust and the Christian World: Reflections on the Past, Challenges for the Future*, ed. Carol Rittner, Stephen D. Smith, and Irena Steinfeldt (London: Kuperard, 2000), 55–58.

7. This is consistent with much of African history in which the actions of missionaries, and colonizers, created the deep divisions that are at the root of most ethnic conflict on that continent. See Leroy Vail, “Introduction: Ethnicity in Southern African History,” in *The Creation of Tribalism in Southern Africa*, ed. Leroy Vail (Berkeley: University of California Press, 1989), 1–19.

8. An even more accurate analysis would go back to the introduction of Christianity during the colonization of Rwanda as helping to shape the “us-them” thinking that would be foundational to the 1994 genocide.

9. Gary Scheer, “Rwanda: Where Was the Church?” *Evangelical Missions Quarterly* 31, no. 3 (1995): 324–28; quote is taken from 326.

10. Anonymous, *Christian Century* (August 24–31, 1994), 778.

11. Michael A. Sells, *The Bridge Betrayed: Religion and Genocide in Bosnia* (Berkeley, CA: University of California Press, 1996/1998).

12. Michael Sells, “Crosses of Blood: Sacred Space, Religion, and Violence in Bosnia-Herzegovina,” *Sociology of Religion* 64, no. 3, (2003): 309–31.

13. Anonymous, *The Christian Century* (September 27, 1995), 881.

14. Michael Sell’s personal correspondence to Pope John Paul II, dated October 27, 2003.

15. Cited in Sells, *A Bridge Betrayed*, 103.

16. Sells, “Crosses of Blood,” 329.

17. Helen Fein, *Accounting for Genocide* (New York: Free Press, 1979), 30.

18. Sells, *The Bridge Betrayed*, 84.

19. See James E. Waller, *Becoming Evil: How Ordinary People Commit Genocide and Mass Killing* (New York: Oxford University Press, 2002), 67.

20. See Timothy Longman, “Christian Churches and Genocide in Rwanda,” paper presented at the Conference on Genocide, Religion, and Modernity at the U.S. Holocaust Memorial Museum, May 11–13, 1997.

21. Ian Linden, "The Church and Genocide: Lessons from the Rwanda Tragedy," in *The Reconciliation of Peoples: Challenge to the Churches*, ed. Gregory Baum and Harold Wells (Maryknoll, NY: Orbis Books, 1997), 43–55; quote is from 50.
22. Rainer Chr. Hennig, afrol News (August 8, 2001), www.afrol.com/features/10600.
23. A copy of the indictment can be found on the International Criminal Tribunal for Rwanda (ICTR) website, 69.94.11.53/ENGLISH/cases/Musabyimana/indictment/indictment.htm.
24. Hennig, www.afrol.com/features/10600.
25. Reuters news report, September 19, 2001, www.cnn.com.
26. Corrie ten Boom, *Hiding Place* (New York: Bantam Books, 1984).
27. First quoted material is from the papers of Edmund A. Walsh in the Georgetown University Archives (diary entry of May 22, 1945). Latter quoted material is from Rev. Louis J. Gallagher, S.J., *Edmund A Walsh, S.J.: A Biography* (New York: Benziger Brothers, 1962), 169.
28. Stacy Meichtry, "Pope Under Fire for Auschwitz Remarks, Urges End to 'Racial Hatred,'" *Associated Press*, May 31, 2006.
29. Peggy Obrecht, "After the Shoah: Christian Statements of Contrition," in *The Holocaust and the Christian World*, ed. Rittner, et al., 174–78.
30. See Tihomir Kukolja, "Political Challenges the Church Cannot Afford to Ignore," *Spectrum Magazine* 28, no. 4 (2000).
31. Hennig, www.afrol.com/features/10600.
32. Teresa Malcolm, "Bishops Ask Forgiveness," *National Catholic Reporter* 32, no. 17 (February 23, 1996): 8.
33. Anonymous, "Peace Terms Worry Serbian Orthodox," *The Christian Century* 113, no. 1 (January 3, 1996): 8.
34. Michael O. Emerson and Christian Smith, *Divided by Faith: Evangelical Religion and the Problem of Race in America* (New York: Oxford University Press, 2000).
35. David P. Gushee, "Remembering Rwanda: Church Failure," *Christian Century* (April 20, 2004): 28.
36. Marc Lacey, "Since '94 Horror, Rwandans Turn Toward Islam," *New York Times*, April 7, 2004.
37. Wolf, "The Social Meaning of Reconciliation."

Chapter Two

A Dickensian Era of Religious Rights

John Witte, Jr.

“It was the best of times, it was the worst of times, it was the age of wisdom, it was the age of foolishness, it was the epoch of belief, it was the epoch of incredulity, it was the season of Light, it was the season of Darkness, it was the spring of hope, it was the winter of despair.”¹ Charles Dickens penned these famous words to describe the paradoxes of the late-eighteenth-century French Revolution, fought for the sake of “the rights of man and citizen.”² These same words aptly describe the paradoxes of the late-twentieth-century world revolution, fought in the name of human rights and democratization for all.

The world has entered something of a “Dickensian era”³ in the past two decades. We have seen the best of human rights protections inscribed on the books, but some of the worst of human rights violations inflicted on the ground. We have celebrated the creation of more than thirty new constitutional democracies since 1980, but lamented the eruption of more than thirty new civil wars. We have witnessed the wisest of democratic statecraft and the most foolish of autocratic belligerence. For every South African spring of hope, there has been a Yugoslavian winter of despair, for every Ukrainian season of light, a Sudanese season of darkness.

These Dickensian paradoxes of the modern human rights revolution are particularly striking when viewed in their religious dimensions. On the one hand, the modern human rights revolution has helped to catalyze a great awakening of religion around the globe. In regions newly committed to democracy and human rights, ancient faiths once driven underground by autocratic oppressors have sprung forth with new vigor. In the former Soviet bloc, for example, numerous Buddhist, Christian, Hindu, Jewish, Muslim, and other faiths have been awakened, alongside a host of exotic goddess, naturalist, and personality cults. In post-colonial and post-revolutionary Africa, these

same mainline religious groups have come to flourish in numerous conventional and interculturated forms, alongside a bewildering array of traditional groups.⁴ In Latin America, the human rights revolution has not only transformed long-standing Catholic and mainline Protestant communities, but also triggered the explosion of numerous new Evangelical, Pentecostal, and traditional movements.⁵ Many parts of the world have seen the prodigious rise of a host of new or newly minted faiths—Adventists, Bahi’as, Hare Krishnas, Jehovah’s Witnesses, Mormons, Scientologists, Unification Church members, among many others—some wielding ample material, political, and media power. Religion today has become, in Susanne Rudolph’s apt phrase, the latest “transnational variable.”⁶

One cause and consequence of this great awakening of religion around the globe is that the ambit of religious rights has been substantially expanded. In the past two decades, more than 150 major new statutes and constitutional provisions on religious rights have been promulgated—many replete with generous protections for liberty of conscience and freedom of religious exercise, guarantees of religious pluralism, equality, and nondiscrimination, and several other special protections and entitlements for religious individuals and religious groups.⁷ These national guarantees have been matched with a growing body of regional and international norms, notably the 1981 UN Declaration on Religious Intolerance and Discrimination Based Upon Religion and Belief and the long catalogue of religious-group rights set out in the 1989 Vienna Concluding Document and its progeny.⁸

On the other hand, this very same world human rights revolution helped to catalyze new forms of religious and ethnic conflict, oppression, and belligerence that have reached tragic proportions. In some communities, such as the former Yugoslavia, local religious and ethnic rivals, previously kept at bay by a common oppressor, converted their new liberties into licenses to renew ancient hostilities, with catastrophic results.⁹ In other communities, such as Sudan and Rwanda, ethnic nationalism and religious extremism conspired to bring violent dislocation or death to hundreds of rival religious believers each year, and persecution, false imprisonment, forced starvation, and savage abuses to thousands of others.¹⁰ In other communities, most notably in North America and Western Europe, political secularism, laicization, and nationalism have combined to threaten a sort of civil denial and death to a number of believers, particularly “sects” and “cults” of high religious temperature or of low cultural conformity. In still other communities, from Asia to the Middle East, Christians, Jews, and Muslims, when in minority contexts, have faced sharply increased restrictions, repression, and sometimes even martyrdom.¹¹ And, in many parts of the world today, a new barbaric fringe of Islamicist terrorists have wrapped their cunning and cruel belligerence and terrorism

around a distorted and destructive theory of jihad against all manner of enemies real and imagined.

In parts of Russia, Eastern Europe, Africa, and Latin America, this human rights revolution has brought on something of a new war for souls between indigenous and foreign religious groups. This is the most recent, and the most ironic, chapter in the modern Dickensian drama. With the political transformations of these regions in the past two decades, foreign religious groups were granted rights to enter these regions for the first time in decades. Beginning in the early 1990s, they came in increasing numbers to preach their faiths, to offer their services, to convert new souls. Initially, local religious groups—Orthodox, Catholic, Protestant, Sunni, Shi'ite, and Traditional alike—welcomed these foreigners, particularly their foreign co-religionists with whom they had lost contact for many decades. Today, local religious groups have come to resent these foreign religions, particularly those from North America and Western Europe, who assume a democratic human rights ethic. Local religious groups resent the participation in the marketplace of religious ideas that democracy assumes. They resent the toxic waves of materialism and individualism that democracy inflicts. They resent the massive expansion of religious pluralism that democracy encourages. They resent the extravagant forms of religious speech, press, and assembly that democracy protects.¹²

These paradoxes of the modern human rights revolution underscore an elementary, but essential, point—that human rights norms need a human rights culture to be effective. “[D]eclarations are not deeds,” John Noonan reminds us. “A form of words by itself secures nothing. . . . [W]ords pregnant with meaning in one cultural context may be entirely barren in another.”¹³ Human rights norms have little salience in societies that lack constitutional processes that will give them meaning and measure. They have little value for parties who lack basic rights to security, succor, and sanctuary, or who are deprived of basic freedoms of speech, press, or association. They have little pertinence for victims who lack standing in courts and other basic procedural rights to pursue apt remedies. They have little cogency in communities that lack the ethos and ethic to render human rights violations a source of shame and regret, restraint and respect, confession and responsibility, reconciliation and restitution. As we have moved from the first generation of human rights declaration following World War II to the current generation of human rights implementation, this need for a human rights culture has become all the more pressing.

These paradoxes, when viewed in their religious dimensions, further suggest that religion and human rights need to be brought into a closer symbiosis.

On the one hand, human rights norms need religious narratives to ground them. There is, of course, some value in simply declaring human rights norms of “liberty, equality, and fraternity” or “life, liberty, and property”—if for no other reason than to pose an ideal against which a person or community might measure itself, to preserve a normative totem for later generations to make real. But, ultimately, these abstract human rights ideals of the good life and the good society depend on the visions and values of human communities and institutions to give them content and coherence—to provide what Jacques Maritain (1882–1973) once called “the scale of values governing [their] exercise and concrete manifestation.”¹⁴ It is here that religion must play a vital role. Religion is an ineradicable condition of human lives and human communities. Religions invariably provide many of the sources and “scales of values” by which many persons and communities govern themselves. Religions inevitably help to define the meanings and measures of shame and regret, restraint and respect, responsibility and restitution that a human rights regime presupposes. Religions must thus be seen as indispensable allies in the modern struggle for human rights. To exclude them from the struggle is impossible, indeed catastrophic. To include them, by enlisting their unique resources and protecting their unique rights, is vital to enhancing the regime of human rights and to easing some of the worst paradoxes that currently exist.

Conversely, religious narratives need human rights norms both to protect them and to challenge them. There is, of course, some value in religions simply accepting the current protections of a human rights regime—the guarantees of liberty of conscience, free exercise, religious group autonomy, and the like. But passive acquiescence in a secular scheme of human rights ultimately will not prove effective. Religious communities must reclaim their own voices within the secular human rights dialogue, and reclaim the human rights voices within their own internal religious dialogues. Contrary to conventional wisdom, the theory and law of human rights are neither new nor secular in origin. Human rights are, in no small part, the modern political fruits of ancient religious beliefs and practices—ancient Jewish constructions of covenant and *mitzvot*,¹⁵ original Qur’anic texts on peace and the common good,¹⁶ classic Christian concepts of *ius* and *libertas*, freedom and covenant.

Religious communities must be open to a new human rights hermeneutic—a fresh method of interpreting their sacred texts and traditions that will allow them to reclaim their essential roots and roles in the cultivation of human rights. Religious traditions cannot allow secular human rights norms to be imposed on them from without; they must rediscover them from within. It is only then that religious traditions can bring their full doctrinal rigor, liturgical healing, and moral suasion to bear on the problems and paradoxes of the modern human rights regime. Both these theses—about the place of religion

in human rights and about the place of human rights in religion—are highly controversial. In the following sections, I shall try to parse these controversies and press these theses a bit more concretely. The final section will wrestle with a few of the difficult theological and legal conundrums that are raised by a closer symbiosis between religion and human rights.

RELIGION AND HUMAN RIGHTS

My first response to our modern Dickensian paradoxes is that religion, in all of its denominational multiplicity, must play a more active role in the modern human rights revolution. Many would consider this thesis to be fundamentally misguided. Even the great Religions of the Book do not speak unequivocally about human rights, and none have amassed an exemplary human rights record over the centuries. Their sacred texts and canons say much more about commandments and obligations than about liberties and rights. Their theologians and jurists have resisted the importation of human rights as much as they have helped in their cultivation. Their internal policies and external advocacy have helped to perpetuate bigotry, chauvinism, and violence as much as they have served to propagate equality, liberty, and fraternity. The blood of thousands is at the doors of our churches, temples, and mosques. The bludgeons of pogroms, crusades, jihads, inquisitions, and ostracisms have been used to devastating effect within and among these faiths.

Moreover, the modern cultivation of human rights in the West began in the 1940s when both Christianity and the Enlightenment seemed incapable of delivering on their promises. In the middle of this century, there was no second coming of Christ promised by Christians, no heavenly city of reason promised by enlightened libertarians, no withering away of the state promised by enlightened socialists. Instead, there was world war, gulags, and the Holocaust—a vile and evil fascism and irrationalism to which Christianity and the Enlightenment seemed to have no cogent response or effective deterrent.

The modern human rights movement was thus born out of desperation in the aftermath of World War II. It was an earnest attempt to find a world faith to fill a spiritual void. It was an attempt to harvest from the traditions of Christianity and the Enlightenment the rudimentary elements of a new faith and a new law that would unite a badly broken world order. The proud claims of Article I of the 1948 Universal Declaration of Human Rights—“That all men are born free and equal in rights and dignity [and] are endowed with reason and conscience”¹⁷—expounded the primitive truths of Christianity and the Enlightenment with little basis in post-War world reality. Freedom and

equality were hard to find anywhere. Reason and conscience had just blatantly betrayed themselves in the gulags, battlefields, and death camps.

Though desperate in origin, the human rights movement grew precociously in the decades following World War II. The United Nations issued a number of landmark documents on human rights in the 1960s. Foremost among these were the two great international covenants promulgated by the United Nations in 1966—The International Covenant on Economic, Social, and Cultural Rights (1966) and The International Covenant on Civil and Political Rights (1966).¹⁸ Other international and domestic instruments issued in the later 1960s took particular aim at racial, religious, and gender discrimination in education, employment, social welfare programs, and other forms and forums of public life. Various nations pressed their own human rights movements. In America, the rights revolution yielded a powerful grassroots Civil Rights Movement and a welter of landmark cases and statutes implementing the Bill of Rights and Fourteenth Amendment. In Africa and Latin America, it produced agitation, and eventually revolt, against colonial and autocratic rule. Academics throughout the world produced a prodigious new literature urging constant reform and expansion of the human rights regime. Within a generation, human rights had become the “new civic faith” of the post-War world order.

Christian and Jewish communities participated actively as midwives in the birth of this modern rights revolution, and special religious rights protections were at first actively pursued. Individual religious groups issued bold confessional statements and manifestoes on human rights shortly after World War II. Several denominations and budding ecumenical bodies joined Jewish non-governmental organizations (NGOs) in cultivating of human rights at the international level.¹⁹ The Free Church tradition played a critical role in the Civil Rights Movement in America and beyond, as did the Social Gospel and Christian Democratic Party movements in Europe and Latin America.²⁰

After expressing some initial interest, however, leaders of the rights revolution consigned religious groups and their particular religious rights to a low priority. Freedom of speech and press, parity of race and gender, provision of work and welfare captured most of the energy and emoluments of the rights revolution. After the 1960s, academic inquiries and activist interventions into religious rights and their abuses became increasingly intermittent and isolated, inspired as much by parochial self-interest as by universal golden rules. The rights revolution seemed to be passing religion by.

This deprecation of the special roles and rights of religions from the later 1960s onward introduced several distortions into the theory and law of human rights in vogue today.

First, without religion, many rights are cut from their roots. The right to religion, Georg Jellinek (1851–1911) once wrote, is “the mother of many other rights.”²¹ For the religious individual, the right to believe leads ineluctably to the rights to assemble, speak, worship, proselytize, educate, parent, travel, or to abstain from the same on the basis of one’s beliefs. For the religious association, the right to exist invariably involves rights to corporate property, collective worship, organized charity, parochial education, freedom of press, and autonomy of governance. To ignore religious rights is to overlook the conceptual, if not historical, source of many other individual and associational rights.

Second, without religion, the regime of human rights becomes infinitely expandable. The classic Religions of the Book adopt and advocate human rights in order to protect religious duties. A religious individual or association has rights to exist and act not in the abstract but in order to discharge discrete religious duties.²² Religious rights provide the best example of the organic linkage between rights and duties. Without them, rights become abstract, with no obvious limit on their exercise or their expansion.

Third, without religion, human rights become too captive to Western libertarian ideals. Many religious traditions—whether of Buddhist, Confucian, Hindu, Islamic, Orthodox, or Traditional stock—cannot conceive of, nor accept, a system of rights that excludes, deprecates, or privatizes religion. Religion is for these traditions inextricably integrated into every facet of life. Religious rights are, for them, an inherent part of rights of speech, press, assembly, and other individual rights as well as ethnic, cultural, linguistic, and similar associational rights. No system of rights that ignores or deprecates this cardinal place of religion can be respected or adopted.

Fourth, without religion, the state is given an exaggerated role to play as the guarantor of human rights. The simple state versus individual dialectic of many modern human rights theories leaves it to the state to protect and provide rights of all sorts. In reality, the state is not, and cannot be, so omniscient. Numerous “mediating structures” stand between the state and the individual, religious institutions prominently among them.²³ Religious institutions, among others, play a vital role in the cultivation and realization of rights. They can create the conditions (sometimes the prototypes) for the realization of first generation civil and political rights. They can provide a critical (sometimes the principal) means to meet second generation rights of education, health care, child care, labor organizations, employment, artistic opportunities, among others. They can offer some of the deepest insights into norms of creation, stewardship, and servanthood that lie at the heart of third generation rights.

The challenge of the next century will be to transform religious communities from midwives to mothers of human rights—from agents that assist in the birth of rights norms conceived elsewhere, to associations that give birth to and nurture their own unique contributions to human rights norms and practices.

The ancient teachings and practices of Judaism, Christianity, and Islam have much to commend themselves to the human rights regime. Each of these traditions is a religion of revelation, founded on the eternal command to love one God, oneself, and all neighbors. Each tradition recognizes a canonical text as its highest authority—the Torah, the Bible, and the Qur'an, respectively. Each tradition designates a class of officials to preserve and propagate its faith, and embraces an expanding body of authoritative interpretations and applications of its canons. Each tradition has a refined legal structure—the Halacha, the canon law, and the Shari'a—that has translated its enduring principles of faith into evolving precepts of works. Each tradition has sought to imbue its religious, ethical, and legal norms into the daily lives of individuals and communities. Each tradition has produced a number of the basic building blocks of a comprehensive theory and law of religious rights—conscience, dignity, reason, liberty, equality, tolerance, love, openness, responsibility, justice, mercy, righteousness, accountability, covenant, and community, among other cardinal concepts. Each tradition has developed its own internal system of legal procedures and structures for the protection of rights, which historically have and still can serve as both prototypes and complements for secular legal systems. Each tradition has its own advocates and prophets, ancient and modern, who have worked to achieve a closer approximation of human rights ideals.

HUMAN RIGHTS AND RELIGION

This leads to my second response to the Dickensian paradoxes of our modern human rights revolution: human rights must have a more prominent place in the theological discourse of modern religions. Many would consider this second thesis to be as misguided as the first. It is one thing for religious bodies to accept the freedom and autonomy that a human rights regime allows. This at least gives them unencumbered space to pursue their divine callings. It is quite another thing for religious bodies to import human rights within their own polities and theologies. This exposes them to all manner of unseemly challenges.

Human rights norms, religious skeptics argue, challenge the structure of religious bodies. While human rights norms teach liberty and equality, most re-

ligious bodies teach authority and hierarchy. While human rights norms encourage pluralism and diversity, many religious bodies require orthodoxy and uniformity. While human rights norms teach freedoms of speech and petition, several religions teach duties of silence and submission. To draw human rights norms into the structures of religion would only seem to embolden members to demand greater access to religious governance, greater freedom from religious discipline, greater latitude in the definition of religious doctrine and liturgy. So why import them?

Moreover, human rights norms challenge the spirit of religious bodies. Human rights norms, religious skeptics argue, are the creed of a secular faith born of Enlightenment liberalism, humanism, and rationalism. Human rights advocates regularly describe these norms as our new “civic faith,” “our new world religion,” “our new global moral language.”²⁴ The influential French jurist Karel Vasak has pressed these sentiments into a full confession of the secular spirit of the modern human rights movement:

The Universal Declaration of Human Rights [of 1948], like the French Declaration of the Rights of Man and Citizen in 1789, has had an immense impact throughout the world. It has been called a modern edition of the New Testament, and the Magna Carta of humanity, and has become a constant source of inspiration for governments, for judges, and for national and international legislators. . . . [B]y recognizing the Universal Declaration as a living document . . . one can proclaim one’s faith in the future of mankind.²⁵

In demonstration of this new faith, Vasak converted the “old trinity” of “liberté, égalité, et fraternité” taught by the French Revolution into a “new trinity” of “three generations of rights” for all humanity.²⁶ The first generation of civil and political rights elaborates the meaning of liberty. The second generation of social, cultural, and economic rights elaborates the meaning of equality. The third generation of solidarity rights to development, peace, health, the environment, and open communication elaborates the meaning of fraternity. Such language has become not only the lingua franca but also something of the lingua sacra of the modern human rights movement. In the face of such an overt confession of secular liberalism, religious skeptics conclude, a religious body would do well to resist the ideas and institutions of human rights.

Both these skeptical arguments, however, presuppose that human rights norms constitute a static belief system born of Enlightenment liberalism. But the human rights regime is not static. It is fluid, elastic, and open to challenge and change. The human rights regime is not a fundamental belief system. It is a relative system of ideas and ideals that presupposes the existence of fundamental beliefs and values that will constantly shape and reshape it. The human rights regime is not the child of Enlightenment liberalism, nor a

ward under its exclusive guardianship. It is the *ius gentium* of our times, the common law of nations, which a variety of Hebrew, Greek, Roman, Christian, and Enlightenment movements have historically nurtured in the West and which today still needs the constant nurture of multiple communities, in the West and well beyond. It is beyond doubt that many current formulations of human rights are suffused with fundamental libertarian beliefs and values, some of which run counter to the cardinal beliefs of various religious traditions. But libertarianism does not and should not have a monopoly on the nurture of human rights; indeed, a human rights regime cannot long survive under its exclusive patronage.

I use the antique term *ius gentium* advisedly—to signal the place of human rights as “middle axioms” in our moral and political discourse.²⁷ Historically, Western writers spoke of a hierarchy of laws—from natural law (*ius naturale*), to common law (*ius gentium*), to civil law (*ius civile*). The natural law was the set of immutable principles of reason and conscience, which are supreme in authority and divinity and must always prevail in instances of dispute. The civil law was the set of enacted laws and procedures of local political communities, reflecting their immediate policies and procedures. Between these two sets of norms was the *ius gentium*, the set of principles and customs common to several communities and often the basis for treaties and other diplomatic conventions. The contents of the *ius gentium* did gradually change over time and across cultures as new interpretations of the natural law were offered, and as new formulations of the positive law became increasingly conventional. But the *ius gentium* was a relatively consistent body of principles by which a person and a people could govern themselves.

This antique typology helps us to understand the intermediate place of human rights in our hierarchy of legal and cultural norms today. Human rights are the *ius gentium* of our time, the middle axioms of our discourse. They are derived from and dependent upon the transcendent principles that religious traditions (more than any other group) continue to cultivate. They also inform, and are informed by, shifts in the customs and conventions of sundry state law systems. These human rights norms do gradually change over time: just compare the international human rights instruments of 1948 with those of today. But human rights norms are a relatively stable set of ideals by which a person and community might be guided and judged.

This antique typology also helps us to understand the place of human rights within religion. My argument that human rights must have a more prominent place within religions today is not an attempt to import libertarian ideals into their theologies and polities. It is not an attempt to herd Trojan horses into churches, synagogues, mosques, and temples to assail secretly their spirit and

structure. My argument is, rather, that religious bodies must again assume their traditional patronage and protection of human rights, bringing to this regime their full doctrinal vigor, liturgical healing, and moral suasion. Using our antique typology, religious bodies must again nurture and challenge the middle axioms of the *ius gentium* using the transcendent principles of the *ius naturale*. This must not be an effort to monopolize the discourse, nor to establish by positive law a particular religious construction of human rights. Such an effort must be part of a collective discourse of competing understandings of the *ius naturale*—of competing theological views of the divine and the human, of good and evil, of individuality and community—that will serve constantly to inform and reform, to develop and deepen, the human rights ideals now in place.²⁸

AN EMERGING HUMAN RIGHTS HERMENEUTIC

A number of religious traditions of late have begun the process of reengaging the regime of human rights, of returning to their traditional roots and routes of nurturing and challenging the human rights regime. This process has been incremental, clumsy, controversial, and at times even fatal for its proponents. But the process of religious engagement of human rights is now under way in Christian, Islamic, Judaic, Buddhist, Hindu, and traditional communities alike. Something of a new “human rights hermeneutic” is slowly beginning to emerge among modern religions.²⁹

This is, in part, a “hermeneutic of confession.” Given their checkered human rights records over the centuries, religious bodies have begun to acknowledge their departures from the cardinal teachings of peace and love that are the heart of their sacred texts and traditions. Christian churches have taken the lead in this process—from the Second Vatican Council’s confession of prior complicity in authoritarianism, to the contemporary church’s repeated confessions of prior support for apartheid, communism, racism, sexism, fascism, and anti-Semitism.³⁰ Other communities have also begun this process—from recent Muslim academics’ condemnations of the politicization of “jihad” to the Dalai Lama’s recent lamentations over the “sometimes sorry human rights record” of both his own and rival traditions.³¹

This is, in part, a “hermeneutic of suspicion,” in Paul Ricoeur’s famous phrase. Given the pronounced libertarian tone of many recent human rights formulations, it is imperative that we not idolize or idealize these formulations. We need not be bound by current taxonomies of “three generations of rights” rooted in liberty, equality, and fraternity. Common law formulations of “life, liberty, or property,” canon law formulations of “natural, ecclesiastical, and

civil rights,” or Protestant formulations of “civil, theological, and pedagogical uses” of rights might well be more apt classification schemes. We need not accept the seemingly infinite expansion of human rights discourse and demands. Rights bound by moral duties, by natural capacities, or by covenantal relationships might well provide better boundaries to the legitimate expression and extension of rights. We also need not be bound only to a centralized legal methodology of articulating and enforcing rights. We might also consider a more pluralistic model of interpretation that respects “the right of the [local] community to be the living frame of interpretation for [its] own religion and its normative regime.”³²

This is in part, a “hermeneutic of history.” While acknowledging the fundamental contributions of Enlightenment liberalism to the modern rights regime, we must also see the deeper genesis and genius of many modern rights norms in religious texts and traditions that antedate the Enlightenment by centuries, even by millennia. We must return to our religious sources. In part, this is a return to ancient sacred texts freed from the casuistic accretions of generations of jurists and freed from the cultural trappings of the communities in which these traditions were born. In part, this is a return to slender streams of theological jurisprudence that have not been part of the mainstream of the religious traditions, or have become diluted by too great a commingling with it. In part, this is a return to prophetic voices of dissent, long purged from traditional religious canons, but, in retrospect, prescient of some of the rights roles that the tradition might play today.

THE PROBLEMS OF INTERNATIONAL RELIGIOUS RIGHTS TODAY

Thus far, I have pressed the twin theses that religion must have a greater role in the cultivation of human rights and that human rights must have a larger place in the calculations of religious bodies. This greater interaction between religion and human rights, I submit, will ultimately strengthen both the regime of human rights and the protection of religious bodies. But this greater interaction with religion will also challenge and complicate some of the current formulations of international human rights.³³ I touched on some of these complications in the opening of this chapter. I return to them here.

Defining Religious Rights

The most difficult, and most ironic, problem of all is that the more religion is included in the regime of human rights, the more important it will be to set

limits to the regime of religious rights. If religion is to be assigned a special place in the human rights pantheon—if religion is in need of special protections and privileges not afforded by other rights provisions—some means of distinguishing religious rights claims from all others must be offered. Fairness commands as broad a definition as possible, so that no legitimate religious claim is excluded. Prudence counsels a narrower definition, so that not every claim becomes religious, and thus no claim becomes deserving of special religious rights protection. To define “religion” too closely is to place too much trust in the capacity of the lexicon or the legislature. To leave the term undefined is to place too much faith in the self-declarations of the claimant or the discernment of local judges and administrators.

These are not idle academic exercises in religious taxonomy. The answer to the threshold legal question of “What is religion?” determines whether a particular claim or claimant, person or group, is entitled to a range of special rights and liberties that are reserved for religion alone. It is a question of particular importance to newly arrived religious minorities (such as Santerians or Scientologists), to growing breakaway faiths (such as the Bah’ais, the Ahmadis, or the Mormons), or to the many traditional religions and new sects that are emerging throughout the world.

Religion is special: it has been, and must continue to be, accorded special protection in a human rights regime. Religion is more than simply another form of speech and assembly, privacy, and autonomy. It requires more than simply the freedoms of speech and assembly, equality and nondiscrimination to be effectively protected. Religion is a unique source of individual and personal identity and activity, involving “duties that we owe to our Creator, and the manner of discharging them,” as James Madison (1751–1836) once put it.³⁴ Religion is also a unique form of public and social identity, involving a vast plurality of sanctuaries, schools, charities, missions, and other forms and forums of faith. Both individual and corporate, private and public entities and exercises of religion—in all their self-defined varieties—deserve the protection of a human rights regime. Generic human rights guarantees are not protective enough. Even generously defined, freedom of speech cannot protect many forms of individual and corporate religious exercise—from the silent meditations of the sages to the noisy pilgrimages of the saints, from the corporate consecration of the sanctuary, to the ecclesiastical discipline of the clergy. Even expansively interpreted, guarantees of equality and nondiscrimination cannot protect the special needs of religious individuals and religious groups to be exempted from certain state prescriptions or proscriptions that run afoul of the core claims of conscience or the central commandments of the faith. Hence the necessity for a special category and concept called religious rights.

The Problem of Conversion

A second international human rights problem to be exacerbated by the greater attention to religion concerns the right to change one's religion.³⁵ How does one craft a legal rule that at once respects and protects the sharply competing understandings of conversion among the Religions of the Book? Most Western Christians have easy conversion into and out of the faith. Most Jews have difficult conversion into and out of the faith. Most Muslims have easy conversion into the faith, but allow for no conversion out of it.³⁶ Whose rites get rights? Moreover, how does one craft a legal rule that respects Orthodox, Hindu, Jewish, or Traditional groups that tie religious identity not to voluntary choice, but to birth and caste, blood and soil, language and ethnicity, sites and sights of divinity?³⁷

International human rights instruments initially masked over these conflicts, despite the objections of some Muslim delegations. The 1948 Universal Declaration included an unequivocal guarantee: "Everyone has the right to freedom of thought, conscience, and religion; this right includes the right to change his religion or belief."³⁸ The 1966 Covenant, whose preparation was more highly contested on this issue, became more tentative: "This right shall include to have or adopt a religion or belief of his choice."³⁹ The 1981 Declaration repeated this same more tentative language. The dispute over the right to conversion, however, contributed greatly to the long delay in the production of this instrument, and to the number of dissenters to it.⁴⁰ The 1989 Vienna Concluding Document did not touch the issue at all, but simply confirmed "the freedom of the individual to profess and practice religion or belief" before turning to a robust rendition of religious group rights.⁴¹ Today, the issue has become more divisive than ever as various soul wars have broken out between and within Christian and Muslim communities around the globe.

There are numerous conflicts—generally with lower stakes—between the religious rights claims of a group and its individual members. These will become more acute as religion and human rights become more entangled. Particularly volatile will be tensions over discrimination against women and children within religious groups; enforcement of traditional religious laws of marriage, family, and sexuality in defiance of state domestic laws; maintenance of religious property, contract, and inheritance norms that defy state private laws. On such issues, the current categorical formulations of both religious group rights and religious individual rights simply restate the problems, rather than resolve them. It will take new arguments from history and experience and new appeals to internal religious principles and practices, along the lines just illustrated, to blunt, if not resolve, these tensions.

The Problem of Proselytism

The corollary to the modern problem of conversion is the modern problem of proselytism—of the efforts taken by individuals or group to seek the conversion of another. How does the state balance one person's or community's right to exercise and expand its faith versus another person's or community's right to be left alone to its own traditions? How does the state protect the juxtaposed rights claims of majority and minority religions, or of foreign and indigenous religions? These are not new questions. They confronted the drafters of the international bill of rights from the very beginning. On this issue, the international human rights instruments provide somewhat more nuanced direction.⁴²

Article 18 of the 1966 International Covenant on Civil and Political Rights protects a person's "freedom, individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice, and teaching."⁴³ But the same article allows such manifestation of religion to be subject to limitations that "are prescribed by law and are necessary to protect public safety, order, health, or morals, or the fundamental rights and freedoms of others."⁴⁴ It prohibits outright any "coercion" that would impair another's right "to have or adopt a religion or belief of [his or her] choice."⁴⁵ It also requires state parties and individuals to have "respect for the liberty of parents . . . to ensure the religious and moral education of their children in conformity with [the parents'] convictions"—a provision underscored and amplified in more recent instruments and cases on the rights of parents and children.⁴⁶

Similarly, Article 19 of the same 1966 Covenant protects the "freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, or in print, in the form of art, or through any other media of his choice."⁴⁷ But Article 19, too, allows legal restrictions that are necessary for "respect of the rights and reputation of others; for the protection of national security or of public order (*ordre public*) or of public health or morals."⁴⁸ As a further limitation on the rights of religion and (religious) expression guaranteed in Articles 18 and 19, Article 26 of the 1966 Covenant prohibits any discrimination on grounds of religion. And Article 27 guarantees to religious minorities "the right to enjoy their own culture" and "to profess and practice their own religion."⁴⁹

The literal language of the mandatory 1966 Covenant (and its amplification in more recent instruments and cases) certainly protects the general right to proselytize—understood as the right to "manifest," "teach," "express," and "impart" religious ideas for the sake, among other things, of seeking the conversion of another. The Covenant provides no protection for coercive proselytism; at minimum this bars physical or material manipulation of the would-be

convert, and in some contexts even more subtle forms of deception, enticement, and inducement to convert. The Covenant also casts serious suspicion on any proselytism among children or among adherents to minority religions. But, outside of these contexts, the religious expression inherent in proselytism is no more suspect than political, economic, artistic, or other forms of expression, and should have at minimum the same rights.

Such rights to religion and religious expression, of course, are not absolute. The 1966 Covenant and its progeny allow for legal protections of “public safety, order, health, or morals,” “national security,” and “the rights and reputation of others,” particularly minors and minorities. But all such legal restrictions on religious expression must always be imposed without discrimination against any religion, and with due regard for the general mandates of “necessity and proportionality”—the rough international analogues to the “compelling state interest” and “least restrictive alternative” prongs of the strict scrutiny test of American constitutional law.⁵⁰ General “time, place, and manner” restrictions on all proselytizers, applied without discrimination against any religion, might thus well be apt. But categorical criminal bans on proselytism, or patently discriminatory licensing or registration provisions, are *prima facie* a violation of the religious rights of the proselytizer—as has been clear in the United States since *Cantwell v. Connecticut* (1940)⁵¹ and in the European community since *Kokkinakis v. Greece* (1993).⁵²

To my mind, the preferred solution to the modern problem of proselytism is not so much further state restriction as further self-restraint on the part of both local and foreign religious groups. Again, the 1966 Covenant on Civil and Political Rights provides some useful cues.

Article 27 of the Covenant reminds us of the special right of local religious groups, particularly minorities, “to enjoy their own culture, and to profess and practice their own religion.”⁵³ Such language might well empower and encourage vulnerable minority traditions to seek protection from aggressive and insensitive proselytism by missionary mavericks and “drive-by” crusaders who have emerged with alacrity in the past two decades. It might even have supported a moratorium on proselytism for a few years in places like post-Communist Russia so that local religions, even the majority Russian Orthodox Church, had some time to recover from nearly a century of harsh oppression that destroyed most of its clergy, seminaries, monasteries, literature, and icons. But Article 27 cannot permanently insulate local religious groups from interaction with other religions. No religious and cultural tradition can remain frozen. For local traditions to seek blanket protections against foreign proselytism, even while inevitably interacting with other dimensions of foreign cultures, is ultimately a self-defeating policy. It stands in sharp contrast to cardinal human rights principles of openness, development, and choice.

Even more, it belies the very meaning of being a religious tradition. As Jaroslav Pelikan reminds us: “Tradition is the living faith of the dead; traditionalism is the dead faith of the living.”⁵⁴

Article 19 of the Covenant reminds us further that the right to expression, including religious expression, carries with it “special duties and responsibilities.”⁵⁵ One such duty, it would seem, is to respect the religious dignity and autonomy of the other, and to expect the same respect for one’s own dignity and autonomy. This is the heart of the Golden Rule. It encourages all parties, especially foreign proselytizing groups, to negotiate and adopt voluntary codes of conduct, restraint, and respect of the other. This requires not only continued cultivation of interreligious dialogue and cooperation—the happy hallmarks of the modern ecumenical movement and of the growing emphasis on comparative religion and globalization in our seminaries—but also guidelines of prudence and restraint that every foreign mission board would do well to adopt and enforce: Proselytizers would do well to know and appreciate the history, culture, and language of the proselytizee; to avoid Westernization of the Gospel and First Amendmentization of politics; to deal honestly and respectfully with theological and liturgical differences; to respect and advocate the religious rights of all peoples; to be Good Samaritans as much as good preachers; to proclaim their Gospel both in word and in deed. Moratoria on proselytism might provide temporary relief, but moderation by proselytizers and proselytizees is the more enduring course.

Concluding Reflections

A number of distinguished commentators have recently encouraged the abandonment of the human rights paradigm altogether—as a tried and tired experiment that is no longer effective, even a fictional faith whose folly has now been fully exposed.⁵⁶ Others have bolstered this claim with cultural critiques—that human rights are instruments of neo-colonization which the West uses to impose its values on the rest, even toxic compounds that are exported abroad to breed cultural conflict, social instability, religious warfare, and thus dependence on the West.⁵⁷ Others have added philosophical critiques—that rights talk is the wrong talk for meaningful debate about deep questions of justice, peace, and the common good.⁵⁸ Still others have added theological critiques—that the secular beliefs in individualism, rationalism, and contractarianism inherent to the human rights paradigm cannot be squared with cardinal biblical beliefs in creation, redemption, and covenant.⁵⁹

Such criticisms properly soften the overly bright optimism of some human rights advocates. They properly curb the modern appetite for the limitless expansion and even monopolization of human rights in the quest for toleration,

peace, and security.⁶⁰ And they properly criticize the libertarian accents that still too often dominate our rights talk today. But such criticisms do not support the conclusion that we must abandon the human rights paradigm altogether—particularly when no viable alternative global forum and no viable alternative universal faith are yet at hand. Instead, these criticisms support the proposition that the religious sources and dimensions of human rights need to be more robustly engaged and extended. Human rights norms are not a transient libertarian invention, or an ornamental diplomatic convention. Human rights norms have grown out of millennium-long religious and cultural traditions. They have traditionally provided a forum and focus for subtle and sophisticated philosophical, theological, and political reflections on the common good and our common lives. And they have emerged today as part of the common law of the emerging world order. We should abandon these ancient principles and practices only with trepidation, only with explanation, only with articulation of viable alternatives. For modern academics to stand on their tenured liberties to deconstruct human rights without posing real global alternatives is to insult the genius and the sacrifice of their many creators. For now, the human rights paradigm must stand—if nothing else as the “null hypothesis.” It must be constantly challenged to improve. It should be discarded, however, only on cogent proof of a better global norm and practice.

A number of other distinguished commentators have argued that religion can have no place in a modern regime of human rights. Religions might well have been the mothers of human rights in earlier eras, perhaps even the midwives of the modern human rights revolution. Religion has now, however, outlived its utility. Indeed, the continued insistence of special roles and rights for religion is precisely what has introduced the Dickensian paradoxes that now befuddle us. Religion is, by its nature, too expansionistic and monopolistic, too patriarchal and hierarchical, too antithetical to the very ideals of pluralism, toleration, and equality inherent in a human rights regime. Purge religion entirely, this argument concludes, and the human rights paradigm will thrive.⁶¹

This argument proves too much to be practicable. In the course of the twentieth century, religion defied the wistful assumptions of the Western academy that the spread of Enlightenment reason and science would slowly eclipse the sense of the sacred and the sensibility of the superstitious. Religion defied the evil assumptions of Nazis, Fascists, and Communists alike that gulags and death camps, iconoclasm and book burnings, propaganda and mind controls would inevitably drive religion into extinction. Yet another great awakening of religion is upon us—now global in its sweep and frightening in its power.

It is undeniable that religion has been, and still is, a formidable force for both political good and political evil, that it has fostered both benevolence and belligerence, peace and pathos of untold dimensions. But the proper response to religious belligerence and pathos cannot be to deny that religion exists or to dismiss it to the private sphere and sanctuary. The proper response is to castigate the vices and to cultivate the virtues of religion, to confirm those religious teachings and practices that are most conducive to human rights, democracy, and rule of law.

Religion is an ineradicable condition of human lives and human communities. As Patriarch Bartholomew reminds, “faith is not a garment to be slipped on and off; it is a quality of the human spirit, from which it is inseparable.”⁶² Religion will invariably figure in legal and political life—however forcefully the community might seek to repress or deny its value or validity, however cogently the academy might logically bracket it from its political and legal calculus. Religion must be dealt with, because it exists—perennially, profoundly, pervasively—in every community. It must be drawn into a constructive alliance with a regime of law, democracy, and human rights.

The regime of law, democracy, and human rights needs religion to survive. For a democratic regime dedicated to human rights and rule of law is an inherently relative system of ideas and institutions. It presupposes the existence of a body of beliefs and values that will constantly shape and reshape it and that will constantly challenge it to improve. “Politicians at international forums may reiterate a thousand times that the basis of the new world order must be universal respect for human rights” and democracy, Czech President Václav Havel declared in 1994 after receiving the Liberty Medal in Philadelphia. “[B]ut it will mean nothing as long as this imperative does not derive from the respect of the miracle of being, the miracle of the universe, the miracle of nature, the miracle of our own existence. Only someone who submits in the authority of the universal order and of creation, who values the right to be a part of it, and a participant in it, can genuinely value himself and his neighbors, and thus honor their rights as well.”⁶³

NOTES

1. Charles Dickens, *A Tale of Two Cities* (Leipzig: Bernhard Tauchnitz, 1859), 1.
2. “Declaration des droits de l’homme et du citoyen (1789),” in *Les Constitutions et Les Principales Lois Politiques de la France Depuis 1789*, Léon Duguit (Paris: Librairie Générale de Droit et de Jurisprudence, 1952), 1.
3. The phrase is from Irwin Cotler, “Jewish NGOs and Religious Human Rights: A Case Study,” in *Human Rights in Judaism: Cultural, Religious, and*

Political Perspectives, ed. Michael J. Broyde and John Witte, Jr. (Northvale, NJ: Jason Aronson, 1998), 165.

4. Abdullahi Ahmed An-Na'im and Francis M. Deng, eds., *Human Rights in Africa: Cross-Cultural Perspectives* (Washington, DC: Brookings Institution, 1990); Abdullahi Ahmed An-Na'im, ed., *Proselytization and Communal Self-Determination in Africa* (Maryknoll, NY: Orbis Books, 1999); Symposium: "The Problem of Proselytism in Southern Africa," *Emory International Law Review* 14 (2000): 491–1303.

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6. Susanne Hoerber Rudolph, "Introduction," in *Transnational Religion and Fading States*, ed. Susanne Hoerber Rudolph and James Piscatori (Boulder, CO: Westview Press, 1997), 6.

7. Natan Lerner, *Religion, Belief, and International Human Rights* (Maryknoll, NY: Orbis Books, 2000), 129–47; Tad Stahnke and J. Paul Martin, eds., *Religion and Human Rights: Basic Documents* (New York: Center for the Study of Human Rights, Columbia University, 1998).

8. Tore Lindholm, W. Cole Durham, Jr., and Bahia G. Tahzib-Lie, *Facilitating Freedom of Religion or Belief: A Deskbook* (Leiden: Martinus Nijhoff, 2004); Malcolm D. Evans, *Religious Liberty and International Law in Europe* (Cambridge: Cambridge University Press, 1997); Bahia G. Tahzib, *Freedom of Religion or Belief: Ensuring Effective International Legal Protection* (The Hague: Martinus Nijhoff, 1996); *Religion and Human Rights* I and II.

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10. Francis M. Deng, *War of Visions: Conflict of Identities in the Sudan* (Washington, DC: Brookings Institution, 1995), 9–31.

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Part Two

**RELIGIOUS FREEDOM AND
HUMAN RIGHTS**

Chapter Three

Religious Freedom

A Challenge for the Church

Johannes A. van der Ven

At the end of *Occidentalism*, in which Ian Buruma and Avishai Margalit analyze current conflicts about Islamic countries, they conclude that the only real solution would be to introduce democracy and human rights. And in the process, they add, one must not overlook the mosque.¹ This argument could stem from Western self-interest, inasmuch as the mosque is perceived as a breeding ground of propaganda for, and calls to join in, the *jihad*.² The introduction of the rule of law can also be viewed from the angle of Islamic interests, as happens at Muslim conferences³ and statements by individual Muslim scholars,⁴ because it would be to the benefit of Islam. But if the mosque cannot be overlooked, neither can the church: what's sauce for the goose is sauce for the gander. While the mosque has a long way to go, the church also has to take certain steps, especially the Catholic Church, even though democracy and human rights were embraced at the time of Vatican II and a declaration on religious freedom, acclaimed as of historic proportions, was issued. This chapter is about religious freedom, with a view to interpreting it more comprehensively. First I examine two philosophical principles in Kant's thinking on human rights and consider them in the perspective of the Christian religion: human dignity and autonomy. On these principles religious freedom is based. Then I describe the road on which the Catholic Church is about halfway by now: from tolerance to religious freedom to separation of church and state.

HUMAN DIGNITY AND AUTONOMY IN RELIGIOUS PERSPECTIVE

Human dignity is a key concept, if not *the* key concept, in human rights thinking. It crops up in all international documents on the subject and often in the

constitutions of the 192 nations currently recognized in the world. The position of autonomy is different. The term is rarely or ever encountered in such documents, although it features commonly in analyses and reflections on human rights. On the one hand, human dignity directs the interpretation of autonomy; on the other, autonomy helps to define human dignity more precisely.

Human Dignity

In the literature on human rights, Immanuel Kant's interpretation of human dignity occupies a prominent place. Thus a commentary on the recent South African Constitution says, with reference to Kant, that human dignity is "above all price and so admits of no equivalent." This is not just a fine figure of speech, but also marks a watershed between racism and democracy, as is evident in the judgment of the apartheid regime, under which "blacks were treated as means to an end and hardly ever as an end in themselves; an almost complete reversal of the Kantian imperative and concept of priceless inner worth and dignity."⁵ The terms "price" and "value" indeed derive from Kant, specifically from his *Grundlegung zur Metaphysik der Sitten*, according to which price belongs to economic traffic, in which goods are bought and sold and prices fluctuate according to laws of supply and demand. But what applies to goods does not apply to human beings qua human beings, says Kant. Human beings do not have a price; they have value; they represent value—intrinsic value, ends in themselves. On this basis he formulates the well-known categorical imperative: "Act in such a way that you always treat humanity, whether in your own person or in the person of any other, never simply as a means, but always at the same time as an end." This is a brilliant dictum. After all, there is no action in which human beings do not use both themselves and the other as means; but, Kant insists, they should not be used purely as a means, but always at the same time as an end.

Autonomy

Kant's notion that human beings have intrinsic value leads to the insight that no outside agency has the authority to tell or even to teach people what they may and may not do. Human dignity also confers sovereignty, self-determination on humankind. People direct their own lives; they are autonomous—a law unto themselves. But how can and should people direct themselves? The answer is: ultimately by using their own rationality. It does not mean that every individual is a law unto himself or herself, for that would lead to capriciousness. It means that people are bound by the law of reason, which resides within them as rational beings—a fundamental characteristic that they share

with other people and that distinguishes them from other living beings. I said that *ultimately* they have to use their rationality. Here the word “ultimately” is of crucial importance. Naturally people are influenced by all sorts of drives, some of them acting below the rational level, such as the drive for survival, for procreating, and nurturing their offspring, as well as drives to hoard money, power, and reputation. Yielding to such a drive puts people at its mercy, instead of being guided in sovereign fashion by their own rationality. Kant does not seek to extinguish or suppress these drives, but to regulate them on the basis of informed judgments that result from rational reflection and evaluation and then incorporate them in these. Hence it is not a matter of stark, formal, cold rationality but of something that may more aptly be termed “reasonableness.”⁶ That this is not a matter of cold, almost mathematical operations is even more apparent if one borrows the concept from modern cognitive science that practical rationality—for that is what is at issue—is founded in and nourished by emotional and intuitive processes and preverbal cognitive and reasoning processes *in interaction with* reflective cognitive and reasoning processes.⁷ In autonomous decisions and actions, all these elements are weighed against each other, both consciously and unconsciously, and ranked in terms of reasonableness.

THE CHURCH: HALFWAY RELIGIOUS FREEDOM

Human rights represent a judicial application of human dignity and autonomy. The key principle here is what is right in a judicial sense. According to Kant this judicial principle is that each person’s free choice goes hand in hand with that of other people. Free choice in this sense also incorporates the legal principle of equality. It implies that people do not commit themselves more to someone else than they can commit themselves mutually. In other words, freedom, equality, and reciprocity as legal principles imply each other.⁸ Religious freedom is the concretization of human dignity and autonomy in the religious sphere, with due regard to freedom, equality, and reciprocity. Any rights established in the area of religious freedom should comply with these principles. Religious freedom is said to be not only historically, but also from a systematic point of view, the cornerstone of human rights in general: when religious freedom disappears all human rights disappear.

However important religious freedom may be, it is also controversial. On the one hand, it ranks among the so-called nonderogable rights, implying that they may not be abrogated even if a state of emergency is proclaimed in a country. On the other hand, there are those in nonreligious circles who are calling for its deletion from the constitution, because it is already incorporated in

other human rights such as freedom of conscience and expression, freedom of association and assembly, and the right to participate, individually and collectively, in the cultural life of the community. One cannot get rid of a sense of nonsynchronicity: while the church is taking the necessary steps via the three stages of tolerance, religious freedom, and separation of church and state, nonreligious groups are already preparing to abolish religious freedom. It seems as if the church is fighting a rearguard action, whereas more progressive groups have already left the battlefield. Whether or not this is so should be clear from the rest of this chapter, in which I describe the three stages that the church is passing through on its way to religious freedom: those of tolerance, religious freedom in a narrow sense, and separation of church and state.⁹

Tolerance

Historically one could question the claim of those who aver that religious freedom, along with freedom of conscience, is the midwife of human rights. After all, even in antiquity, long before anything like religious freedom existed, there were elements of what eventually became known as human rights. Thus Athens was a “liberal” democracy of free citizens, although it excluded women and slaves from this freedom. In “republican” Rome principles of civil and political freedom applied and a system of checks and balances was in force to curb the power of the head of state.

Constantinian System

This was no longer the case in the Constantinian system, which subordinated the right of freedom to the right of truth—this *theologoumenon*, referring to the subordination of freedom to truth, was to continue into our own age, as will be seen below. Truth was considered to be Christian truth, relating to a separate, supernatural realm divorced from earthly reality which was assigned unconditional validity. The absolutism entailed by this religious realism necessarily dismissed other religions as false, although Judaism and Islam were given more differentiated treatment. This is the background to the cruel persecution of heretics and schismatics (especially Manichees and Donatists), including the death penalty, despite Augustine’s opposition to it. Initially Augustine adopted a generally tolerant attitude, as is evident in the rule he laid down for interaction with nonbelievers: nobody should be compelled to believe (*credere non potest homo nisi volens*), which was preserved throughout the tradition up to Vatican II. But later, when as bishop of Hippo he came into violent confrontation with the Donatists, who espoused a dif-

ferent interpretation of the sacraments and in particular opposed the close relation between church and state, he supported not only the state's use of violence against dissidents, but also the exercise of coercion to make nonbelievers join the church—to which end he invoked the New Testament verse “compel to enter” (*compelle intrare*—Lk 14:21–23).¹⁰ The *Gefolgschaftdenken*, according to which subjects were considered impelled to follow their lord's conversion to Christianity, merely resulted in delaying the social, and more particularly mental, penetration of Christianity among the populace, even when it did not culminate in a dual system of “pagan” and Christian notions and practices.

Permissive Tolerance

For Thomas Aquinas Augustine's initial statement that nobody should be compelled to believe was and remained a principle he observed unswervingly. However, he changed the prohibition, “don't compel to enter,” into an imperative: “compel to stay.” This meant that once a person became a member of the church, that person was never permitted to leave it, especially not by leaving its ranks as a heretic. This principle, too, was to be observed right into our own time, again until Vatican II, as I shall explain below. Another feature of Thomas Aquinas's attitude toward non-Christians is one that had marked the attitude of church authorities as far back as Roman times and the early Middle Ages: that of tolerance. But this tolerance was based not on respect and positive valuation, but on permission. Non-Christians were permitted so as to prevent a greater evil, that of social unrest: “the church does not approve, but permits” (*ecclesia non approbat, sed permittit*). This permissive tolerance, too, continued to serve as a guiding principle until our own day, far removed from any form of respectful or appreciative tolerance. In practice permissive tolerance acted as ecclesiastic and political discipline of non-Christians: they had to behave peacefully, for something that was not a right that one could claim but was granted by way of permission could also be revoked. In fact it promoted processes of inclusion of Christians and of exclusion of non-Christians.¹¹

This permissive concept of tolerance determined history for many centuries, when it was not swept aside by persecution and inquisition. A telling example on the Catholic side was the Edict of Nantes in 1598, which extended tolerance to Huguenots in France at the time, and on the Protestant side the Act of Toleration of 1689, which did the same for Catholics in England. The reason the edict of Fontainebleau in 1685 revoked the edict of Nantes was not just social, as though Protestants caused only social unrest. It was intermingled with a religious reason: tolerance was seen as a Trojan

horse ridden by Protestants, while its belly was used to smuggle in skeptics, agnostics, and atheists who subverted the religious foundations of the morality of the Catholic Church, and in that way destroyed morality itself.

Respectful Tolerance

One of the foremost scholars to be profoundly perturbed by the revocation of the edict of Nantes by the edict of Fontainebleau was John Locke, who in consequence had to flee to the Netherlands. In his *A Letter Concerning Toleration* he made some moves toward a positive, respectful, and appreciative tolerance by presenting three perspectives: those of the church, the state, and the individual. From the angle of the church he argued that tolerance is characteristic of the true church, because it is founded on love. Love can flourish in the church because it is an association of free individuals, who joined its ranks of their own choice. From the point of view of the state he pointed out that it should not interfere with things that did not concern it, because the state and the church had very different aims. The former should look after safety, peace, and prosperity; the latter should busy itself with saving souls. The state would be wise to practice maximum tolerance in the religious sphere, since that, in contrast to coercion and sanctions, contributed most to social peace. From the individual's point of view he argued that religion is an individual affair, hence religious freedom was an individual right that brooked no state interference. It should be noted that, while he assigned this right to Protestant dissidents, Jews, and even "heathens," he denied it to Catholics, Muslims, and atheists. Catholics are denied the right because they are subjects of a foreign sovereign, the pope; Muslims because they obey the mufti of Constantinople; and atheists because they cannot keep their promises, oaths, and contracts since they do not believe in God.¹² With this three-pronged approach Locke exceeded the bounds of negative, permissive tolerance, moving toward religious freedom in a narrow sense and the separation of church and state, although his attitude toward Catholics, Muslims, and atheists indicates that he had not yet arrived at a concept of reciprocal tolerance. This is a concept that assigns a fundamental claim to freedom, based on human autonomy, to all adherents of any religion whatever, including nonreligious worldviews, even when the latter attack religions and spread atheistic propaganda.¹³

In Locke's day the Catholic Church was a long way from embracing the idea of tolerance, even in its various phases of permissive tolerance, and remained so for a long time afterward. The popes, especially after the French Declaration of the Rights of Man and of the Citizen in 1789, rejected tolerance altogether as one of the absurd libertine lies of the French revolution, as Pope Pius VI put it.¹⁴ Later popes like Gregory XVI and Pius IX likewise con-

demned tolerance in harsh terms, the latter mainly in his *Syllabus* of 1864. Not until Leo XIII was there any discernible change. Since then church doctrine has remained ambivalent, a result of the permissive tolerance that gradually came to be adopted. It boiled down to tolerating dissidents, not merely for social or missionary purposes but for flagrantly self-interested purposes. This was couched in terms of *thesi* and *hypothesi*. In its *thesi* the church continued to reject tolerance, specifically when Catholics constituted the majority in a country. Its religious legitimation was the right of truth, that of the Catholic Church, which incontrovertibly took precedence over the right of freedom—a view that continued to resound in ecclesiastic councils right up to Vatican II.¹⁵ In the *hypothesi*, however, tolerance was permissible in special circumstances, when Catholics (as yet) constituted a minority and were unable to assert the right of truth. Dondeyne rightly refers to this as tempered intolerance.¹⁶ Here one could ask a simple question: what does it mean that the right of truth has precedence over the right of freedom? Does it mean anything other than that a particular group (the doctrinal authority) can impose its will, at any rate in *thesi*, on minority groups? Is this a matter of truth or of power?

Respect does not enter into this kind of tolerance. It is based on a striving for unity: *one* culture (*Leitkultur*), *one* civilization, *one* religion, with pluralism as an evil to be endured. Respect is not simply a matter of recognizing the existence of different religions, but of according them the recognition they deserve and the esteem they merit. It is expressed in opening oneself to the ideas and practices of others, in acknowledging that they have sound reasons for those ideas and practices and, finally, in putting up for discussion one's own ideas and practices, of which one used to be firmly convinced but which may (for the time being) have lost their unassailable certainty through encounter with others. Such respect is based on an exchange and coordination of perspectives.¹⁷

Ultimately permissive tolerance is incompatible with human rights. It conflicts with the philosophical principles of human dignity and autonomy, as well as the judicial principles of freedom, equality, and reciprocity. With hindsight, the fact that pressure from philosophical, judicial, and political forces caused it to develop into religious freedom in a narrow sense may be regarded as a step in the right direction. Without such philosophical, judicial, and political pressure the church would have remained bogged down in permissive tolerance.¹⁸

Religious Freedom in a Narrow Sense

Although religious freedom as a human right was already included in the French Declaration of the Rights of Man and of the Citizen in 1789, the

Catholic Church took nearly two centuries more to produce a declaration on religious freedom on the very last day of Vatican II. It has been said that this was the most important document of the council. This evaluation prompts a critical question: does it take adequate account of the judicial principles that buttress human rights—freedom, equality, and reciprocity? Let us take these three principles as our guideline in this subsection.

Freedom

In regard to the principle of freedom, it should be noted that article two of the Vatican Declaration on religious freedom (*Dignitatis humanae*) concurs with international human rights law, namely that nobody can be forced to accept a particular religion (cf. International Convention on Civil and Political Rights, 1966, art. 18, par. 2). Violation of this prohibition not only conflicts with human dignity in that such a person is turned into an instrument of a religious group, but also with autonomy in that her freedom of choice is taken away. But something else is woefully lacking in the Vatican Declaration. The Universal Declaration of Human Rights of 1948 not only states that people are free to choose their religion, but also that a person has the “freedom to change his religion or belief” (art. 18). In the International Covenant on Civil and Political Rights of 1966 “to change his religion or belief” is replaced by the less explicit “to have or to adopt a religion or belief of his choice” (art. 18, par. 1), and in the Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief of 1981 by the even feeble “to have a religion or belief of his choice.” Thus the formulation becomes more and more diluted: from “to change” to “to adopt” to “to have.” According to Paul Wuthe this betrays an influence from Islamic countries. On the one hand the Koran relegates apostates to hell and prescribes a canonical tradition that they should be put to death; on the other hand it could be that these countries wanted to curb the missionary activity of other religions and therefore excised the element of “to change his religion or belief” from the texts. The Vatican Declaration is couched on similar lines when number 2 merely refers to freedom in the initial act of faith, namely accepting it (in accordance with the old prohibition “don’t compel to enter”), but for the rest makes no reference whatever to possibly leaving the church and instead puts up barriers against apostasy: “On their part, all men are bound to seek the truth, especially in what concerns God and His Church, and to embrace the truth they come to know, and to hold fast to it” (no. 1). The purpose, then, is: accept the faith freely and thereafter preserve it in obedience to God and his church. In other words, whatever non-Catholics do, Catholics are only free to use the front door of faith but not the back door—there is no back door; there is an entrance, but no exit.¹⁹ This is a reversion to Thomas Aquinas’s rule, when he

replaced the prohibition, “compel to enter,” with the command, “compel to stay.” Put differently: here too, as in the age of permissive tolerance, the right of truth takes precedence over the right of freedom.²⁰

Equality

Of course, there is more at issue than a chance omission, and that brings us to the principle of equality. This equality does not merely mean that all people are equal before the law, but also all religions. More than that, religious and nonreligious worldviews are likewise equal before the law. That is why the aforementioned United Nations documents consistently refer to “religion or belief.” This equality implies recognition of a plurality of religious and non-religious worldviews. It implies, furthermore, recognition of an equal right to public manifestation for religious and nonreligious worldviews alike, as well as the right to make religious propaganda—in a religious sense, evangelizing, mission, and in a nonreligious sense, agnostic or atheistic propaganda. However paradoxical it may sound, in terms of the reciprocity concept of tolerance we dealt with earlier, classical religious freedom in our day includes the right to propagate atheism. After all, the law does not recognize true or false religions and worldviews.²¹

Is the Vatican Declaration at fault in not mentioning either the plurality of religious and nonreligious worldviews or their equal right to spread propaganda? The answer to the question depends on how one views the Declaration in its entirety. If it is seen as a document with an intra-ecclesiastic purpose and target group, the omission is reasonable. But that is not the intention of the Declaration. It explicitly focuses on the theme of “the right of the person and of communities to social and civil freedom in matters religious,” as the subtitle indicates. Hence it is a declaration that the church addresses to the outside world in order to communicate its conception of freedom to states and their publics. For the same reason the first part does not refer just to the church itself, but consistently speaks about religious communities in the plural, however biased and deficient it may be from an inclusive perspective in a council document that closely approximates the Declaration on Religious Freedom: the Declaration on the Relation of the Church to Non-Christian religions.²²

But one could ask whether it should not have included communities adhering to nonreligious worldviews as well, since according to international human rights law they have the same right to freedom. The answer is self-evident. But can one find a reason for this omission? It lies in the unusually vehement confrontation and renunciation of atheism in another Vatican document, *Gaudium et Spes*. Atheism, it avers, is among the greatest evils of our time, of which those who have turned their backs on God are themselves

guilty (no. 19). It stems from the reduction of human beings to economic, social, and technological factors, if autonomy is taken too far (no. 20). It is a pernicious theory and practice that conflicts with reason and universal human experience (no. 21). Not only do these statements attest lack of respect, but the argumentation itself is questionable. In any event, empirical research in cultural anthropology, sociology, and cognitive science of religion does not support the claim that belief in God is a universally human phenomenon. It seems that this sweeping condemnation in eleven hard-hitting lines lands the church back in the trap of the syllabus of errors (*syllabus errorum*) of Pope Pius IX in 1864, whereas the very first draft of the Declaration contained only a three- or four-line reference to atheism.²³ In any event, this background explains why the council mentions only religious communities to the exclusion of non-religious worldviews, and furthermore says nothing about the right to change one's belief and embrace such a nonreligious worldview.

Reciprocity

As for the third principle, reciprocity, again the Declaration on Religious Freedom falls short, at least when we ask the simple question: does the text allow for a reciprocal relation between church leadership and ordinary members? In the absence of such a relationship, one has to state in terms of religious freedom that the principle of reciprocity is not fully developed. A reciprocal relationship consists in church leadership creating or, even better, guaranteeing structural conditions for the individual interpretations and ideas of its members in order to form their own opinions, even when these deviate from the traditional, standard view. Küng's theological definition of the term "church," to which I subscribe, allows sufficient scope for that: the church is a biblically founded community of baptised members who believe in Jesus the Christ, want to celebrate his eucharist, try to live according to his gospel and want to be called a "church."²⁴ Such scope is totally lacking in book III of the Catholic Church's *Codex* (1983) on the church's task of proclamation, which commentators maintain comes close to the Declaration on Religious Freedom. This certainly applies to paragraph 2 of canon 748, which, like the Declaration on Religious Freedom, defines the freedom of accepting the faith. However, paragraph 1, which precedes it, states that those who have embraced the faith are obliged and have the right, in that sequence (!), to observe it. What this duty and right imply is spelled out in the immediately ensuing canons. These deal with the infallibility of the pope and bishops (c. 749), the doctrinal authority (c. 750), heresy, apostasy and schism (c. 751), religious assent and obedience (c. 752–754), also in regard to the ecumenical movement (c. 755). The conclusion is: the latitude that the Declaration (seemingly) of-

fers is declared closed by the ecclesiastic Codex, at any rate to Catholics. Ultimately they are simply passive subjects.

The same applies to church-affiliated, academic theologians. After all, how can the professional requirements of a university without any condition (“*université sans condition*”), as Derrida puts it, in which nothing can *not* be called into question and no truth claim can be considered irrefutable, be reconciled with the credal and ecclesiastic oaths that theologians are required to swear? How can the requirements of free scientific research, whose results cannot be predicted in advance, be reconciled with a sworn statement that theologians submit in obedience, not only to doctrinal statements considered to be divinely revealed, but also to both definitive and nondefinitive ecclesiastic dogmas?²⁵ Here not just one right is at stake, but two: not only religious freedom but also academic freedom, as stipulated by the European constitution of 2004: “Academic freedom shall be respected” (art. II-73).

SEPARATION OF CHURCH AND STATE

Although separation of church and state is often regarded as an aspect of religious freedom, it seems meaningful to make a distinction between the two. The actual necessity to make it is evident in figure 3.1. The vertical axis relates to the separation of church and state and the horizontal axis to religious freedom, with “+” representing the existence of such separation and/or religious freedom, and “0” the lack of it, resulting in four different cells.

In France, known as a *république laïque*, there is both separation of church and state (+) and religious freedom (+), whereas the former USSR is characterized by a similar separation of church and state (+) but no religious freedom

| Separation | + (High Levels of Religious Freedom) | 0 (No Religious Freedom) |
|--|--------------------------------------|--------------------------|
| + (High separation of church and state) | France | Former USSR |
| 0 (No separation of church and state) | England | Islamic States |

Figure 3.1. Religious Freedom and Separation of Church and State

(0). England, known for its Anglican state church, has no separation of church and state (0), but it does have religious freedom (+), while Islamic nations are marked by the absence of both separation of church and state (0) and religious freedom (0).

This figure explains why the Vatican Declaration of 1965 emphasizes religious freedom but not the separation of church and state. There are too many countries with a state church, hence without this separation, such as Norway, Denmark, Greece, Malta, the United Kingdom in England and Scotland (but not in Wales and Northern Ireland), and Switzerland, as well as Finland, Sweden, and Bulgaria to some extent.²⁶ The Declaration could not ignore this.²⁷ It had solid ground, however, to pronounce on the separation of church and state as a principle, just as it frequently makes a distinction between actual situations and principles in the sphere of social morality. Yet it failed to do so, because it was felt, as is evident in the third of altogether six draft texts, that religious freedom can coexist with a Catholic state church in countries where Catholics are a majority²⁸—in which regard the aforementioned *thesi* and *hypothesi* thinking resurfaces. In the final text the “Catholic state church” is abandoned, and it merely states that when a particular religious community is given special civil recognition, the religious freedom of all religious communities should be respected (no. 6).

Four Models of the Separation of Church and State

That separation of church and state is by no means uniform is evident when one reviews the various models in which it is embodied in diverse statutes.²⁹ The first model is known as the endorsed model. A historical example is the so-called preferential church (*bevoorrechte kerk*), which was the Reformed church (*Gereformeerde Kerk*, later called *Hervormde kerk*) in the Republic of the Netherlands before 1795. Contemporary examples are mainly in predominantly Catholic countries—in Latin America (Bolivia, Costa Rica, Panama, Paraguay) and in Spain. The second is the cooperationist model, in which the state reaches various agreements with the church regarding funding for church activities and salaries for clergy, even collecting what is known as a church tax, as in Germany. A close parallel is the third model, the accommodist model, which is characterized by benevolent neutrality. This is expressed in concrete provision of financial subsidies, recognition of religiously relevant dates such as Sundays and other religious feast days, permitting religious symbols and statements in speeches and public settings, and maybe a reference to God in the preambles of constitutions. The latter was a bone of contention in the compilation of the draft of the European constitution of 2004, the final preamble settling for a bland reference to the “cultural, reli-

gious and humanist inheritance of Europe” and, in the preamble to the Charter of Fundamental Rights in the same draft, for an even blander reference to the “spiritual and moral heritage” of Europe, wrongly omitting to mention the specific contributions of Judaism, Christianity, and Islam.

In a multicultural society these three models pose problems, since the various religions and nonreligious worldviews object to the preferential treatment of Christianity and demand equal treatment. Not surprisingly, there are calls for an Islamic national feast day, for instance instead of Whit Monday. The same principle of equality, albeit in a reversed way, is evident in the report of the Stasi commission in France, which maintains that not just the veils worn by Muslim girls in public schools conflict with the separation of church and state, but also the wearing of yarmulkas or large crucifixes on the chest—a verdict that the government introduced throughout France in September 2004.

Because of these problems there is increasing insistence that the aforementioned three models be replaced by a fourth—a separationist model, which means that the slightest hint of state support for religion should be branded unconstitutional. Not only tax deductions or tax exemptions should be prohibited, but also religious education at state-funded and even at private schools. The state should treat religion as a strictly individual affair, which does not mean that people cannot confess their faith collectively. At present countries of the European Union are all still characterized by elements of the cooperationist or accommodist models, evidenced by state funding of spiritual care in hospitals, prisons, and armies, religions’ access to the media, the right to have private schools, and support for religious rather than atheistic groups. The question is how long this will continue. One would expect that as the populations of European countries become more and more secularized the separationist model will gain support, as is evident among non-Christian parties in the Netherlands.

The Public Arena

To avoid misunderstanding: as indicated already, this does not mean that people can only confess their faith privately, not collectively. Both the individual and communal aspects of religious freedom are left intact: “either alone or in community with others” (draft European constitution of 2004, art. II-70). People also retain the right to testify to their religion in civil society and participate in public debate on that basis: “in public or in private” (draft European constitution, art. II-70). The question is, from what angle do people take part in the public debate? Some want religions, on a basis of an overlapping consensus, to raise only the views and arguments that they share with other

religious and nonreligious worldviews and political and judicial trends, implying that their specific religious inspiration and ideas should be cherished only within their own ranks. Others feel that these religious insights should be introduced into the debate at the outset, since they form the basis of ethical notions and impart both historical and religious depth to the public discourse. Yet others adopt a middle position. Religions should engage fully in the public debate in terms of their own ethical viewpoints without shunning religious considerations. However, these considerations should not be dragged in holus-bolus; their adherents should prudently wait for the right moment so as to present them in a balanced manner, in the sense that others will also appreciate their relevance to the debate.³⁰

Potential Conflicts

Within the separation of church and state the state assigns the church autonomy, at least insofar as its exercise of autonomy is not detrimental to the common good. By virtue of that autonomy the church can be a legal person, or a person in terms of public law if, as in England, it is a state church; or a corporation in public law (*Körperschaft des öffentlichen Rechts*) as in Germany; or in terms of private law (association) as in the Netherlands. This includes the right to establish its own organization, determine its own doctrine, develop its own management structure and act in a regulatory capacity within it.³¹ But because freedom of organization may be regarded as an effect of religious freedom, conflicts may arise between this human right and other human rights. In that case the fundamental question is, which has priority—the rules of the religious organization, themselves based on religious freedom, or the other human rights as laid down, for example, in the draft European constitution of 2004? Conflicts or potential conflicts abound: exclusion of married men and women from (senior) ecclesiastic office, which is counter to both the prohibition of discrimination (art. II-81) and the equality of males and females (art. II-83); exclusion of cohabiting, unmarried couples, especially homosexuals, from ecclesiastic office and the sacraments, which is counter to both the prohibition of discrimination (art. II-81) and respect for private life (art. II-67); mandatory celibacy for those holding (senior) ecclesiastic office, which is counter to the right to marry and the right to found a family (art. II-69); subjection of academic theologians to the doctrinal authority, which is counter to the aforementioned right to academic freedom (art. II-73). Infant baptism, too, can be a topic of debate in view of the fact that it is treated as an indelible mark (*character indelibilis*), which conflicts with the rights of the child whose “views shall be taken into consideration on matters which concern them in accordance with their age and maturity” (art. II-84).

In cases of (potential) conflict between human rights in concrete instances, as may arise between the right to religious organization based on religious freedom and other human rights, the question is whether there is any hierarchy among human rights and, if so, of what nature. A first observation in this regard is that, according to human rights “orthodoxy,” all human rights are universal, indivisible, interdependent, and interrelated, as stipulated in the Vienna Declaration and Programme of Action adopted at the World Conference on Human Rights of 1993 (art. 5). In other words, they constitute a whole: no right may be removed in order to resolve a possible conflict between human rights. A second comment is that if an actual conflict arises, the documents offer no directions regarding a hierarchical arrangement, in terms of which one human right outranks another. In other words, all human rights are equal. So much for the theory. In practice, however, when a judge has to intervene because the documents provide no hierarchical order, religious freedom has so far prevailed (in most countries). Hence in a conflict between the rules of religious organization based on religious freedom and other human rights, religious freedom usually has priority, for instance over the prohibition of discrimination or the equality of males and females. But as society becomes increasingly secularized, just as there is a trend among nonreligious groups to replace the cooperationist or accommodist models with the separationist model, there will be a growing trend in this sphere, too, to abandon the priority of religious freedom in exchange for, for example, the prohibition of discrimination, at any rate when it comes to discrimination on grounds of race, sex, or sexual orientation.³²

CONCLUSION

In this chapter I argue that the two philosophical principles underpinning human rights—human dignity and autonomy—should be fully incorporated into the church’s policy. In the case of human dignity it is something that applies to all people, especially widows, orphans, and the poor, as we saw in our analysis of the theme of humans as images of God. In the case of autonomy, it incorporates in orderly fashion all biological, social, and religious contingency, as we saw in the description of the theme of creation. On these grounds the church should take the necessary further steps on the way of religious freedom: from permissive tolerance to religious freedom to separation of church and state. If it fails to do so and simply advocates human rights beyond its own domain while refusing to apply them within its own walls, it cannot escape the cynical reproach of double standards and hypocrisy. As in the case of the *thesi* and *hypothesi* position in the practice

of tolerance in bygone times, it will always be accused of bad faith. It will only genuinely contribute to human rights when it introduces these rights in the church itself. Only then can the mosque follow suit.

NOTES

1. I. Buruma and A. Margalit, *Occidentalism* (New York: Penguin, 2004).
2. Ministry of Home Affairs, *Van Dawa tot jihad Biza* (The Hague, 2004).
3. Teheran International Conference on Human Rights 1968; Universal Islamic Declaration of Human Rights 1981; Cairo Declaration on Human Rights in Islam 1990; Arab Charter on Human Rights 1994; Organization of the Islamic Conference on Human Rights in Islam 2002.
4. Some publications: Sultan Hussein Tabandeh, *A Muslim Commentary on the Universal Declaration of Human Rights* (London: F. J. Goulding, 1970); Abdullahi Ahmed An-Na'im, *Toward an Islamic Reformation* (Syracuse: Syracuse University Press, 1990); Ann E. Mayer, *Islam and Human Rights* (Boulder, CO: Westview Press, 1991); Mohammed Hashim Kamali, *Freedom of Expression in Islam* (Cambridge: Islamic Text Society, 1997); Farid Esack, *Liberation and Pluralism* (Oxford: Oneworld Publication, 1997). Talal Asad, *Formations of the Secular* (Stanford: Stanford University Press, 2003); Fatima Mernissi et al., *Religie en Moderniteit* (Berlin: Zutphen, 2004).
5. S. Cowen, "Can 'Dignity' Guide South Africa's Equality Jurisprudence?," *South African Journal on Human Rights* 17 (2001): 34–58, here 43.
6. J. Rawls, *Lectures on the History of Moral Philosophy* (Cambridge: Cambridge University Press, 2000), 291ff.
7. A. Damasio, *The Feeling of What Happens* (New York: Harcourt Bracer, 1999).
8. I. Kant, *Die Metaphysik der Sitten*, (Frankfurt: Gruyter, 1977), 337: "Eine jede Handlung ist Recht, die oder nach deren Maxime die Freiheit der Willkür eines jeden mit jedermans Freiheit nach allgemeinden Gesetze zusammen bestehen kann." Ibidem, 345. Equality is "die Unabhängigkeit, nicht zu mehrerem von anderen verbunden zu sein, als wozu man sie wechselseitig auch verbinden kann." The combination of freedom, equality and reciprocity is the basis of human rights.
9. P. Zagorin, *How the Read of Religious Toleration Came to the West* (Princeton: Princeton University Press, 2003).
10. R. Forst, *Toleranz im Konflikt* (Frankfurt: Suhrkamp Verlag, 2003), 69–82.
11. Forst, *Toleranz im Konflikt*, 82–96.
12. J. Locke, *A Letter Concerning Toleration* (London: Routledge, 1991), 45–48.
13. Forst, *Toleranz im Konflikt*, 556–64.
14. P. Wuthe, *Für Menschenrechte und Religionsfreiheit in Europa* (Stuttgart: Kohlhammer, 2002), 43–56.
15. E. W. Böckenförde, *Kirche und Christlicher Glaube in den Herausforderungen der Zeit* (Münster, Germany: Lit-Verl., 2004), 203.

16. A. Dondeyne, *Geloof en wereld* (Antwerp: Patmos, 1962), 214–15.
17. J. A. van der Ven et al., *Is There a God of Human Rights?* (Leiden, Netherlands: Brill, 2004), 542–50.
18. Böckenförde, *Kirche und Christlicher Glaube in den Herausforderungen der Zeit*, 200: “Die Religionsfreiheit, die heute auch den Christen weithin eine Selbstverständlichkeit ist, wird in ihrer Entstehung nicht den Kirchen, nicht den Theologen und auch nicht dem christlichen Naturrecht verdankt, sondern dem modernen Staat, den Juristen und dem weltlichen rationalen Recht.”
19. J. A. van der Ven, “Godsdienstvrijheid als ecclesiologisch paradigm,” in *De functie van de kerk in de hedendaagse maatschappij* (Netherlands: Averbode, 2002), 17–64, here 31–39.
20. Böckenförde, *Kirche und Christlicher Glaube in den Herausforderungen der Zeit*, 205.
21. J. Witte, *Religion and the American Constitutional Experiment* (Boulder: Westview Press, 2005), 162–63.
22. Cf. J. A. van der Ven et al., *Is There a God of Human Rights?*, 532–34.
23. Ph. Delhaye, “De waardigheid van de menselijke persoon,” in *De kerk in de wereld van nu*, 211–34, here 212, no. 2.
24. H. Küng, *De kerk* (Hilversum, Netherlands: 1967), 333.
25. For example the priesthood as a male prerogative and the invalidity of Anglican ordination.
26. F. Hammer, “Der verfassungsrechtliche Status der Kirchen in Europa,” in *Ideen für Europa*, 373–400, here 378–82; L. Prakke and C. Kortmann, *Constitutional law of 15 EU member states* (Deventer, Germany: Kluwer, 2004).
27. Vatican City itself not only has a state church but is actually a theocratic state, headed by the pope himself with undivided legislative, administrative, and judicial power (art. 1 of the constitution of 2000).
28. J. Hamer, “Geschichte des Textes der Erklärung,” in *Die Konzilserklärung über die Religionsfreiheit*, J. Hamer and Y. Congar (Paderborn, Germany: Verlag Bonifacius-Druckerei, 1967), 59–123, here 97.
29. W. C. Durham, “Perspectives on Religious Liberty,” in *Religious Human Rights in Global Perspective, Legal Perspectives*, ed. J. van der Vyver and J. Witte (The Hague 1996), 1–44, here 19–25.
30. J. Stout, *Democracy and Tradition* (Princeton: Princeton University Press, 2004).
31. M. S. Bates, *Religious Liberty* (New York: International Missionary Council, 1945), 304–6.
32. The manifesto entitled “For Freedom” (*Om de Vrijheid*) of the Dutch Party for Freedom and Democracy (*Volkspartij voor Vrijheid en Democratie: VVD*, 2005, p. 13) advocates giving the right of nondiscrimination on grounds of race, sex, or sexual orientation priority over religious freedom, since these are natural endowments, hence beyond freedom of choice, whereas membership of a religious community is a matter of personal choice.

Chapter Four

The Enduring Alliance of Religious Freedom and Democracy

Joseph Loconte

More than a decade ago, Samuel Huntington warned that the “clash of civilizations” would have much more to do with religion than power politics. “Civilizations are differentiated from each other by history, language, culture, tradition and, most important, religion,” he wrote. “The fault lines between civilizations are replacing the political and ideological boundaries of the Cold War as the flash points for crisis and bloodshed.”¹

In a post-9/11 world threatened by Islamic radicalism, Huntington’s insight is being reconsidered—and feverishly at that. Scholars and thinkers from across the political and ideological divide, even the most secular-minded, now find themselves talking in religious categories. Every major political journal and news magazine devotes regular attention to Islam, reform-minded Muslims, and the prospects for democracy in the Middle East. Titles like *Terror and Liberalism*, *Holy War, Inc.*, *After Jihad*, *Infidel*, and *Knowing the Enemy* line the book shelves. “The twenty-first century will be a time of religious violence and warfare,” writes Pauletta Otis, professor of strategic studies at the Joint Military Intelligence College. Religion, she adds, is emerging as “the single most important political-ideological default mechanism in global conflict.”²

Despite this fresh appreciation for the significance of faith in the modern world, a crucial dimension to religion—the principle of religious liberty—is often left out of the discussion. Yet a commitment to religious freedom, in theory and practice, is absolutely central to confronting this development in geo-politics.

One reason for focusing attention on religious liberty is philosophical: Religious ideals are foundational to the concept of human rights and the democratic institutions that safeguard these rights. If the biblical view of the dignity of every individual is not protected by law and custom, then civil and

political liberties are left to the whims of the regime *du jour*. It is hard to name a state governed by a purely secular vision for human rights that can boast even minimal adherence to basic civil liberties. A second reason is the practical contribution of the quest for religious freedom to democracy. The concept of limited, representative government grew from the soil of dissenting Protestantism. It's no coincidence that the world's most successful democracy—the United States—began its political journey as the most religiously free and diverse nation in the West. A final reason for the priority of religious liberty in promoting human rights is the link between faith and national security. Those states that militantly enforce sectarian religion not only trample democratic freedoms, but typically play host to terrorist violence. Conversely, governments that allow freedom of worship tend to be less threatened by faith-based extremism. As the International Crisis Group put it recently: “Treat religious freedom as a security issue, not just a human rights issue.”

A FOUNDATION FOR HUMAN RIGHTS

Scholars continue to debate the philosophical basis for civil and political liberty. In his 290-page textbook on human rights, political scientist Jack Donnelly devotes barely a page to the religious foundation for rights—and dismisses the religious argument as unpersuasive.³ Harvard professor Michael Ignatieff criticizes the impulse to anchor human rights in transcendent religion. “Elevating the moral and metaphysical claims made on behalf of human rights may be intended to increase its universal appeal,” he writes. “In fact, it has the opposite effect, raising doubts among religious and non-Western groups who do not happen to be in need of Western secular creeds.” Better, he says, to find purely prudential grounds for rights.⁴

An obvious problem with this line of argument is that the concept of human rights simply did not develop apart from religious conviction. As legal scholar Harold Berman observes, there are strong connections between religious ideals and the political-constitutional reforms that swept over Europe and America from the time of the Reformation to the Enlightenment. “In speaking of the secular outlook of the Enlightenment . . . one cannot ignore the fact that that secular outlook was itself derived from certain religious beliefs,” Berman writes.⁵ Indeed, though regarded as the secular engine of democratic rights, the Enlightenment drew at least some of its raw material from Biblical sources. The inherent freedom of the individual, the emphasis on human reason, the primacy of conscience—all these Enlightenment ideals found inspiration in Jewish and Christian claims about the God-given dignity of every person.

Almost unique among the world's religions, the Bible regards human beings as less than angels but more than beasts: creatures, yes, but creatures made in the image of their Creator. As such, they are capable of reason, choice, creativity, imagination, love, and virtue. Any assault on the life or dignity of the individual is an affront to his Maker. The first murder recorded in the Bible, for example, Cain's murder of his brother Abel, is condemned in precisely these terms. Likewise, the moral imperatives of the Decalogue are rooted in the same understanding of human nature. "In the opening chapter of the Hebrew Bible, God declares that He has made man in His own image: to teach us that one who is not in my image is still in God's image," says Jonathan Sacks, Britain's chief rabbi. "That is the most powerful antidote to hate ever created." No theme is more powerfully illustrated in the New Testament than the innate value of every person in the sight of God. "St. Paul long ago made our ancestors familiar with the idea that every soul is virtually sacred," wrote philosopher William James, himself a religious skeptic. "Since Christ died for us all without exception, St. Paul said, we must despair of no one."⁶

Enlightenment icons were thoroughly familiar with these religious themes. No one can read the works of John Locke (his *Letter Concerning Toleration*) or Thomas Paine (his political firebomb *Common Sense*) and not be struck by their reliance on biblical images and ideals. "Like the captain of our salvation," writes Locke, priests and magistrates alike should "tread in the steps, and follow the perfect example of that prince of peace, who sent out his soldiers to the subduing of nations, and gathering them into his church, not armed with the sword, or other instruments of force, but prepared with the gospel of peace. . . . This was his method." Even the architects of the French Revolution, for all their violent anticlericalism, produced a "Declaration of the Rights of Man" that anchored political and civil liberties "in the presence and under the auspices of the Supreme Being." Thomas Jefferson, America's quintessential Enlightenment man, declared his philosophical allegiance to Bacon, Newton, and Locke—all deeply religious figures. "Jefferson's universe was as purposeful as that of Timothy Dwight," writes historian Henry May, "and presupposed as completely the existence of a ruler and creator."⁷

Consider, as well, the religious ideals that animate the modern understanding of freedom of conscience. The Bible portrays conscience as the realm of faith and conviction, a sanctuary where divine grace and human decision-making meet. Conscience is both personal and universal, provocative but not coercive, an expression of God's moral laws yet corrupted by willful disobedience to those laws.

Thus, Protestant reformer Martin Luther invoked freedom of conscience to oppose what he saw as the false and oppressive teaching of the Catholic

Church. “I cannot and I will not recant anything,” he told his accusers, “for to go against conscience is neither right nor safe.”⁸ Luther would set off a political as well as spiritual revolution. Indeed, when the modern human rights movement took shape after World War II, a committee of leading philosophers looked back on Luther’s achievement as they drafted a memorandum exploring the basis for civil liberties. Their 1947 UNESCO document cited the Reformation—“with its appeal to the absolute authority of the individual conscience”—as one of two historical events most responsible for the cause of human rights.⁹ It’s true that the Reformation helped unleash the religious wars of the seventeenth century, and that much of the modern emphasis on freedom of conscience was a response to that bloody, troubled era. As scholar David Little argues, the history of Western Christianity “is really one long and many-sided controversy over the proper interpretation of freedom of religion and conscience.”¹⁰ Nevertheless, the proponents of religious liberty did not forsake religious ideals about conscience and human dignity. Rather, they upheld those ideals and pushed them to their logical conclusion.

No figure illustrates this fact more powerfully than the chronic dissenter of the seventeenth century, Roger Williams. At the age of eight, Williams saw a preacher-friend, Bartholomew Legate, burned alive for daring to read and teach the Bible in English. It must have been one of the events that launched Williams on a lifetime campaign to defend religious freedom against the intrigues of church and state. Equally important, however, was his Christian belief in the God-given worth of every person. Jews, Muslims, Native Americans, pagans—all possessed the same moral faculties. “Williams’s way of understanding the core of Christian belief caused him again and again to emphasize . . . our common humanity,” writes historian William Lee Miller. “Williams’s appeal to this common humanity had in it a breadth of moral imagination and a transcendent self-critical turning that are rare.”¹¹

The political result for Williams was to insist on a clean separation between church and state. It was the only way to insure that the magistrate would never use state power to compel belief and enforce religious orthodoxy. Thus his adage: “Forced worship stinks in God’s nostrils.” It was this conviction that drove him out of Massachusetts Bay. What John Winthrop called a “holy covenant”—where religious law and civil law often were identical—Williams called an unholy delusion.¹² The settlement he founded on Narragansett Bay became Rhode Island, a haven for religious dissenters of every stripe. As Williams described his founding vision: “[N]o person in this colony shall be molested or questioned for the matters of his conscience to God, so he be loyal and keep the civil peace. Sir, we must part with lands and lives before we part with such a jewel.”¹³

FAITH AND FREEDOM IN AMERICA

The career of Roger Williams also points to a second reason for linking religious freedom to human rights. No impulse has proved more decisive to democracy than the quest for liberty of conscience. Put another way, the very idea of representative government grows from the soil of dissenting Protestantism. The inherent pluralism of Protestantism (the multiplicity of sects) is part of the reason. But so is its theology: Where the spiritual ideals of Protestantism are present—freedom of conscience, the universal availability of grace, the fallen condition of every person, the priesthood of all believers—democratic rights tend to follow. “Cross-national statistical research suggests a strong and consistent association between a society’s proportion of Protestants and its level of political democracy,” write scholars Robert Woodberry and Timothy Shah. “When Protestant beliefs in freedom and equality demanded a democratic politics, the Bible did not seem to stand in the way.”¹⁴

Numerous historians have observed this link between faith and freedom that first surfaced in the English revolution and the rise of Puritanism. The Protestant insistence on religious liberty, many would argue, culminated supremely in the American Revolution and the American Founding. Though most scholars rightly stress the influence of republicanism and the Enlightenment, no other nation began its democratic journey with as great a level of religious liberty and diversity as the United States.

Indeed, the nation’s Founders regarded faith as an indispensable support for republican government. On this point, James Madison, father of the Constitution, was rock solid. “What captured Madison’s energies, abilities, and time was not what truths lay at the end of the religious quest,” writes historian Edwin Gaustad, “but the right of all humankind to seek those truths without penalty or burden or any civil disability whatsoever.” The contest to secure that right came to a head in 1784, when the Virginia General Assembly tried to pass a General Assessment bill to collect and distribute tax money to all Christian churches in the name of “public morality.” (Similar tax schemes had been adopted in Massachusetts, Connecticut, and New Hampshire.) Church-going had declined in Virginia, but Madison saw the bill for what it was: an attempt to prop up the Protestant Episcopal (Anglican) church with taxpayer money. Prompted by Baptist leaders and others, he penned *Memorial and Remonstrance Against Religious Assessments* in July 1785.

Biographer Irving Brant judges the legacy of Madison’s fifteen-point document with these words: “[It] continues to stand, not merely through the years but through the centuries, as the most powerful defense of religious liberty ever written in America.”¹⁵ No wonder: In his *Memorial*, Madison regards religious belief as “precedent, both in order of time and in degree of obligation,

to the claims of Civil Society.”¹⁶ By placing the right of conscience superior to all other rights and duties, he gave it the strongest political foundation possible. This same conviction surely guided his work a few years later as chairman of the House conference committee on the Bill of Rights to the Constitution. His original proposal for the First Amendment was among the most ambitious offered: “The civil rights of none shall be abridged on account of religious belief or worship . . . nor shall the full and equal rights of conscience be in any manner, or on any pretext, infringed. . . .” Though somewhat less robust in its protections, the final version—“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof”—clearly bears the Madison stamp.

Madison’s main objective was to protect religious believers from the state—not the other way around. Indeed, he saw religious liberty as the cornerstone upon which the edifice of democratic freedoms depended. Religious freedom was America’s “first freedom” because without liberty of conscience all the other democratic freedoms—free speech, a free press, the right to assembly—were meaningless. “Its maintenance would not automatically preserve the entire liberty of the citizen,” writes Irving Brant. “But without it the other rights were sure to be destroyed.”

THE CROWN JEWEL OF THE UNIVERSAL DECLARATION

This same belief in the priority of religious freedom animated the debate of the late 1940s over an “international bill of rights.” With the atrocities of the Holocaust still fresh, members of the newly formed United Nations Commission on Human Rights hammered out a manifesto of civil liberties. The authors warned that “disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind.” The thirty articles of the Universal Declaration of Human Rights enumerate political and social protections, including the right to life and liberty, equality under the law, and freedom of speech and assembly. There are also prohibitions against slavery, torture, and arbitrary arrest.

The crown jewel of the document is Article 18: the right to “freedom of thought, conscience, and religion.” The provision was drafted by Lebanese ambassador Charles Malik, an Arab Christian and a strong intellectual force on the Commission. Malik’s provision enraged the communist and Muslim delegates (six of the original European members belonged to the Soviet bloc, while nine members claimed Islam as their dominant religion). At one point in the debate, Malik laid out four propositions that he thought should guide the Commission’s work. All touched on the rights of conscience over and

against the state. “People’s minds and consciences are the most sacred and inviolable things about them,” he said, “not their belonging to this or that class, this or that nation, or this or that religion.”¹⁷

Malik argued that human beings possessed spiritual capacities which must be respected—a direct challenge to Marxist materialism. “All those who stress the elemental economic rights and needs of man are for the most part impressed by his sheer animal existence. This is materialism, whatever else it may be called,” he said. “But unless man’s proper nature, unless his mind and spirit are brought out, set apart, protected, and promoted, the struggle for human rights is a sham and a mockery.” Thus, Malik insisted that Article 18 include the right to change one’s religion—an affront to Islamic states that treated conversion outside of Islam as apostasy and sedition (Saudi Arabia would abstain from the final vote on the document as a result). But he held his ground. His experience in Lebanon as a youth must have been part of the reason: The country was a mix of Islamic, Christian, Arabic, and French cultures, and its population was about equally divided between Christians and Muslims. Malik’s family members were Greek Orthodox Arabs, and he attended an American Protestant mission school. He had seen the fruit of religious conversion firsthand.

Despite heated exchanges during Commission debates, the decisive argument was that man’s spiritual freedom had political consequences: namely, that the power of the state must be limited enough to respect such freedom. More than any other Commission member, Malik distinguished between the machinery of government and the institutions of civil society—including families, professional associations, and religious groups. Following Madison and Tocqueville, this Arab intellectual understood that private associations are what stand between the individual and the state. Unless the proposed declaration “can create conditions which will allow man to develop ultimate loyalties . . . over and above his loyalty to the State,” Malik warned, “we shall have legislated not for man’s freedom but for his virtual enslavement.”

It’s difficult to overstate the influence of the Universal Declaration of Human Rights. For sixty years it has served as the Magna Carta of the modern human rights movement. Its language affirming the “equal and inalienable rights” of all people influenced scores of postwar and postcolonial constitutions and treaties. Drew University’s Johannes Morsink calls it the “secular bible” for literally hundreds of advocacy groups and thousands of foot soldiers in the field.¹⁸ The Declaration’s emphasis on religious liberty is one of the reasons. It inspired the development of several other international documents aimed at promoting its principles: the International Covenant on Civil and Political Rights (1966); the U.N. Declaration on the Elimination of All Forms of Intolerance and Discrimination

Based on Religion or Belief (1981); and the Vienna Concluding Document (1989). Though the standards expressed in these documents don't carry the force of law, they've been shaping international protections for religious liberty for decades.¹⁹

RELIGION AND SECURITY

Championing religious liberty has never been a major goal of U.S. foreign policy. That may be changing. It has become increasingly clear that states which deny religious freedom—especially those with majority Islamic populations—also deny other fundamental human rights. The same nations often play host to terrorist organizations, fund their activities, or give them safe haven. As the U.S. Commission on International Religious Freedom (USCIRF) summarizes the relationship: “Recent events . . . demonstrate that promoting freedom of thought, conscience, religion, or belief as a U.S. foreign policy objective is intertwined with the aims of combating extremism and terrorism on the one hand, and promoting stability, freedom, and democratic development on the other.”²⁰

Nowhere is this insight more vividly on display than in Afghanistan and Iraq. Before the U.S.-led invasions, gross and systematic violations of religious liberty occurred under both regimes. Both the Taliban and Saddam Hussein manipulated religion to repress political opposition. Both made a mockery of basic norms for human rights. And both were deeply engaged in terrorist activities that became destabilizing influences on the world stage.

In January 2004, as Afghanistan adopted a new constitution, various human rights groups raised concerns about its commitment to religious freedom. Though the document protects the freedom of non-Muslim groups to exercise their faith, it does not explicitly extend to every individual the right to freedom of thought, conscience, and religion. The constitution also contains a “repugnancy clause” which states that “no law can be contrary to the beliefs and provisions of Islam.” It remains unclear whether the international standard of religious liberty—the right of an individual to change his religious belief—will be honored in Afghanistan. Yet if the rights of conscience are not protected by law, it's difficult to see how other civil liberties—freedom of speech, freedom of the press, etc.—could flourish. Without these liberties, a healthy civil society is impossible. Without them, there is no peaceful way to navigate the nation's religious diversity. The predictable result will be social instability.

Iraq faces similar challenges. A significant turn toward human rights occurred when, on March 8, 2004, the Coalition Provisional Authority (CPA)

and the Iraqi Governing Council endorsed the right to freedom of thought, conscience, and religious belief and practice for every Iraqi in the Transitional Administrative Law (TAL). “No fair reading of the TAL would permit the creation of a state based solely on Islam and Islamic law and without protections of universally recognized human rights,” according to a USCIRF report. “It is potentially a model for the entire region.”²¹ Iraq’s permanent constitution, which mirrors the TAL in many respects, nevertheless throws doubt on the rights of religious minorities. “This Constitution guarantees the Islamic identity of the majority of the Iraqi people,” it reads, “and guarantees the full religious rights to freedom of religious belief and practice of all individuals.” Those guarantees are, to say the least, in serious tension. Since the toppling of Saddam Hussein’s Ba’athist regime, the nation’s majority Shi’a Muslim population has enjoyed religious liberty for the first time in decades. But some Shi’a leaders are demanding the implementation of Islamic law (Sharia), and hard-line clergy have reportedly taken over local courts. The ultimate effect of the constitution’s assurances about freedom of religion, especially in the midst of ongoing sectarian violence, remains unclear.

In a way few policymakers anticipated, America’s nation-building efforts in Afghanistan and Iraq now depend in large measure on the fate of religious liberty in both nations. The unrest in these countries, as well as in nations such as Iran, Pakistan, Saudi Arabia, Nigeria, Sudan, Burma, and Indonesia, is a symptom of a deeper illness—the impulse to repress religious liberty and manipulate religious passions for political ends. The relationship between religious freedom and national security has become painfully apparent: Governments that uphold the principles of religious liberty are also inclined to secure a range of other basic civil and political rights; states that honor civil and political freedom are not likely to become breeding grounds for violent religious radicals. Thus, any “realpolitik” approach to international relations that ignores the religious dimension to civil society and politics is anything but realistic. “There is an essential real-world connection between religious freedom and national security,” writes Harold Saunders, a twenty-year veteran of the National Security Council in the White House and the State Department. “The realist paradigm leaves human beings out of the picture and provides no space for religion—an especially problematic omission in our current international context.”²²

The Bush Administration challenged America’s foreign policy establishment to connect the dots. In several important speeches, in fact, President Bush underscored the relationship between religious and political freedom and national security. The Administration’s 2002 National Security Strategy put it this way: “In pursuit of our goals . . . America must stand firmly for the nonnegotiable demands of human dignity: the rule of law; limits on

absolute power of the state; free speech; freedom of worship; equal justice; respect for women; religious and ethnic tolerance; and respect for private property.” The document further explains that the nation’s security strategy “must start from these core beliefs” and look for ways to expand liberty.²³ President Bush echoed this theme a year later in a speech honoring the twentieth anniversary of the National Endowment for Democracy. “Successful societies guarantee religious liberty—the right to serve and honor God without fear of persecution,” Bush said. “As long as the Middle East remains a place where freedom does not flourish, it will remain a place of stagnation, resentment, and violence ready for export. And with the spread of weapons that can bring catastrophic harm to our country and to our friends, it would be reckless to accept the status quo.”²⁴

THE ROAD LESS TRAVELED

Reckless indeed. Inattention to religious freedom as a political and civic norm has surely contributed to the rise of authoritarian states and violent, religious radicalism. Nevertheless, the bias against international standards for human rights, especially religious liberty, comes not only from repressive regimes. It can be found in numerous institutions and organizations within democratic states—those that seem to be outraged more by “cultural imperialism” than by arbitrary arrests, torture, and executions. “If you follow the human rights discourse today, it is a standard argument used again and again,” says Martin Palous, the Czech Ambassador to the United States. “It is that the doctrine of human rights is some sort of Western-hidden European imperialism, to impose certain standards and traditions on others.”²⁵

Moreover, even the defenders of universal human rights often neglect the ultimate source of those rights: the ideals of religious liberty that grew out of the Christian tradition. Max Stackhouse, professor of Christian Ethics at Princeton, is clear on this point. “Certainly we cannot say that all of Judaism or Christianity has supported human rights,” he admits. “Still, intellectual honesty demands recognition of the fact that what passes as ‘secular,’ ‘western’ principles of basic human rights developed nowhere else than out of key strands of the biblically-rooted religions.”²⁶ An earlier generation of thinkers and statesmen took this argument for granted. “Under the often misunderstood but active inspiration of the Gospel, the secular conscience has understood the dignity of the human person,” wrote Jacques Maritain during the height of WWII. Under the same inspiration, he argued, the secular mind “has understood that the person, while being part of the State, yet transcends the State, because of the inviolable mystery of his spiritual freedom.”²⁷ As a wartime

president, Franklin Roosevelt recognized that the Nazi threat to civilization included the abolition of religious freedom. “The defense of religion, of democracy, and of good faith among nations is all the same fight,” he said.²⁸

History strongly suggests that the gravest threats to human dignity come not from those who hold firmly to biblical religion. The worst dangers come from those who either abuse religion to rationalize repression or from those who deny, on secular grounds, that universal human rights exist. To do so is to deny the God-given rights and spiritual longings of all human beings—what Augustine called the God-shaped vacuum in every human heart. This negation of the deepest basis for human dignity, with all its political implications, is a sure road to civic strife and violence. “A state that accommodates the religious aspirations of its citizenry promotes stability and security for a simple reason,” writes Kevin Hasson, president of the Beckett Fund for Religious Liberty. “Such a state accurately recognizes who its citizens are.”

America has made the recognition of man’s spiritual nature a hallmark of its political and constitutional order. In a post-9/11 era of religious despotism, no nation is better positioned to promote this ideal, and all the democratic freedoms that depend on its flourishing.

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Chapter Five

Religious Freedom and International Law

Robert F. Drinan

The status of religious freedom in the world is now more complex than at any moment in modern history. After the Holocaust the freedom to worship God according to one's own conscience has been made secure in Europe. But the future of religious faith has been complicated by the resurgence of the religion of Islam and the Koran. International law has been struggling to formulate a set of principles which could harmonize the clash of religions. But international jurists have not been able to write an international covenant on religious freedom as they have done with respect to the freedom of speech, press, the right to be free from torture, racial and gender discrimination, and similar conditions. This complex topic can be explained in reference to the following issues:

- I. The United Nations Declaration of Human Freedom and the Decree on Religious Liberty by the Second Vatican Council in 1965.
- II. Parents and religious freedom for their children
- III. Religious freedom in different cultures and undemocratic political systems.
- IV. The future of religious freedom: Can some consensus be developed on the harmonization of the exercise of religious freedom and a state that guarantees some form of "establishment" of religion?

THE UNITED NATIONS DECLARATION OF HUMAN FREEDOM AND THE SECOND VATICAN COUNCIL'S DECREE ON RELIGIOUS LIBERTY

It is not easy to underestimate the guilt felt in Europe when this traditionally Christian continent realized that six million Jews had been killed in the

Holocaust. The shock was one of the major reasons for the formation of the United Nations and the development of the Universal Declaration of Human Rights of 1948. The idea of internationally recognized human rights is mentioned five times in the U.N. Charter; it was not even mentioned in the charter of the League of Nations. A guarantee of religious freedom is mentioned in both of these documents—an essentially new concept in world history.

Beginning around 1950, the United Nations and other bodies developed covenants on political and economic rights, the rights of women and children, the right to be free of torture and discrimination predicated on race. There are now six United Nations monitoring committees to receive and comment on the periodic reports of nations on how they are carrying out their commitments to the binding treaties they signed and ratified. A comprehensive evaluation of the work and effectiveness of these six world committees has yet to be done. But the effect of these watch dog groups has clearly elevated the level of compliance and, more importantly, has educated the whole world as to what is expected of every nation and every human being with respect to the rights of others. Regrettably, no consensus was developed with regard to religious freedom. Some Muslim nations refuse to accede to the proposition supported by most nations that a person has a right to leave his or her religion. Muslim officials insisted that the Koran specifically forbids any person born a Muslim to leave or to change his faith.

The absence of a consensus to agree to a binding covenant on religious freedom led finally in 1981 to a United Nations Declaration on Religious Freedom. This document, while admirable, is not intended to become a binding treaty or a part of international law. But it is still a very significant development in world law. Possibly the most important part of the document is its teaching that the right to follow one's conscience is a privilege that can be claimed by every individual person. This teaching is new in international law and may be the "ticking bomb" as the world ponders the privileges which the law confers on every individual. The inerrancy of conscience is a doctrine embraced by both Martin Luther and Cardinal Newman. The voice of conscience, they agreed, is the voice of God. The United Nations Declaration on Religious Freedom is obviously a landmark in the history of how governments should relate to religion and what church groups should expect from governments. The 1981 document makes it clear that no government can suppress religious or antireligious opinions. The Declaration protects free thought and free expression. The assumption is that the government should be secular but not in a sense that could be construed as hostile to religion. The United Nations Declaration could be construed as requiring a separation of church and state but not in a way that could be deemed to have a negative impact on religion.

The United Nations Declaration on Religious Freedom will be difficult for some Muslim nations to accept because in the world of Islam there has not yet developed the separation of government and religion which is common in Europe and America. In the Islamic world, the Koran and Sharia (or Muslim law) tend to be overlapping. There is no clear separation of the government from the Muslim religion. Indeed some scholars and jurists would say that the Koran actually requires a union of the state and religious institutions.

Central to the development of the U.N. Declaration on Religious Freedom in 1981 is the historic position taken on religious freedom in 1965 by the Second Vatican Council. This assembly of some 3,000 bishops adopted after long debate a position on religious freedom that repudiated centuries of teaching by the Catholic church that error has no rights, and that the Catholic church has the right and even the duty to use the force of government to uphold and enforce doctrine of the Catholic church. The Council fathers declared that no form of coercion may ever be used to have a government assist in the advancement of religion. It is not possible to document precisely how this amazing declaration influenced the content of the U.N.'s Declaration on Religious Freedom in 1981. But it seems self-evident that the Vatican statement changed almost everyone's previous theology on this topic. It is true, of course, that the World Council of Churches had previously adopted a position exalting religious freedom. But the impact of Vatican II on how the world thinks about religious freedom has been immense.

Pope John Paul II implemented Vatican II by apologizing for several things throughout history inconsistent with Vatican II. He criticized the Crusades, the Inquisition, the church's persecution of the Jews, and other violations of the letter and the spirit of Vatican II. One could almost say that the reversal of the Catholic Church's position on religious freedom introduces a new form of Christianity; it is a religion that promotes international human rights in novel ways. It is a fuller Christianity since it elaborates and applies the centuries-old doctrine of the natural moral law which the Catholic Church has always nurtured. Indeed one could argue that the documents of Vatican II contributed immensely to the growth of those internationally recognized human rights contained in the United Nations Charter and the Universal Declaration of Human Rights.

What is the future of the U.N. Declaration on Religious Freedom? Will it flower into a covenant, like similar declarations on the rights of women and children that have evolved into binding covenants? The truth is that no one can answer these questions. It depends on what can or will happen in the Islamic countries. If some Muslim nations enforce a strict version of the Koran, the growth of all other religions will be forbidden in certain countries like

Saudi Arabia. The U.N. Declaration on Religious Freedom also depends upon how France and other European countries interpret the right to free exercise of religion of Muslims who settle in Europe. The ban on the Muslim head scarf in France may be taken as a symbol of religious intolerance in the Islamic world and could lead to retaliation. The feelings and public opinion in those areas of the world over the invasion of Iraq could deepen the antagonism toward what is perceived as a negative attitude toward the culture of Islam on the part of Europe and the United States. In my recent book¹ I seek to explain the ramifications of religious freedom around the world. The reality is that the West knows far too little about the underdevelopment of religious freedom in the nations where Muslims live or govern. Some 1.3 billion people are Muslims by birth—one-fifth of the human race. There is no central authority for an official interpretation of the Koran or of the meaning of Sharia. There appears to be a remarkable level of conformity with the demands of the Muslim religion. But the astonishing lack of knowledge about Islamic culture outside the vast areas where Muslims live is in itself a dangerous thing. It may be, however, that the economic and political globalization, which is sweeping around the world, can and will bring changes that will make mutual acceptance of diverse religions possible and even necessary.

Each year the U.S. State Department is required by the Congress to issue a 3,000-page document outlining the state of human rights in each of the 191 nations on the planet. This report on the free exercise of religion is useful, but cannot be fully understood unless one has an extensive comprehension of the background of the status of religion in a particular country. In the 1990s Congress required the State Department to add a new unit to report on the nations that are the worst offenders against religious freedom. The repression of religious groups in various countries often has political roots and causes, so it is difficult to pinpoint certain conduct as definitively antireligious rather than as actions motivated by political or economic reasons.

Persons in the West and those anxious to maximize religious freedom constantly urge dialogue and mutual forbearance between persons and groups of differing faiths. But the Muslim or non-Christian nations are so far apart politically, linguistically, and ideologically, that dialogue about religion and theology may appear to some to be premature. Everyone agrees that many persons and some governments in the world desire to extend the 1981 U.N. Declaration on Religious Freedom into a binding treaty. But in the 20 percent of the world that is Muslim, the worshipers will not readily give up the protection of the government nor are governments prepared to arrive democratically at their official positions without the guidance of centuries of rulings by the religious leaders of the Islamic world.

But the Islamic nations—like all the members of the United Nations—are bound to observe freedom of religion. The freedom to believe or not to believe is just as clear in human rights treaties as the right to a free press or to a free assembly. Freedom of religion is contained in the report regularly reviewed by the U.N. Committee on Human Rights which monitors compliance with the United Nations Covenant on Civil and Political Rights. But the United Nations Human Rights Committee has not concentrated on the right to freedom of religion as much as it could have or should have. More complaints about religious freedom will be filed. They will come from Muslims who may desire that Muslim civil authorities do more to promote religion. They may also come from former Muslims or non-Muslims living in Islamic countries who may desire to be free from the restrictions which Muslim governments impose on believers and nonbelievers alike. The very idea of having a government that does not help or hinder religion is a concept almost unknown in the Islamic world. Its acceptance cannot be predicted in the near future if ever.

PARENTS AND RELIGIOUS FREEDOM FOR THEIR CHILDREN

How should the world react to the desire of parents to transmit their religious beliefs to their children? It is one of the most basic problems confronting those who want to expand religious freedom. Article 26 of the Universal Declaration of Human Rights grants parents a prior right to have a voice in the education of their children. The duty of governments to provide at least a grade school education and to make it compulsory and free was made a part of international law only after World War II. Even before this epochal event, most European countries required compulsory education and had come to an agreement with religious groups to give substantial funding to the church-related school. England, France, Belgium, and Holland enacted such agreements. Religion was required in the states of Germany, Spain, and Italy. Indeed the United States is now alone among governments that deny substantial financial assistance to schools, of less than collegiate rank, affiliated with religious groups.

In the United States some 2.5 million children attend Catholic grade and high schools. There are also significant numbers of children in evangelical Protestant schools and a lesser number in Hebrew day schools. The complaint by Catholic authorities that they are entitled to some reimbursement for the cost of these schools has never been granted by the U.S. Supreme Court. In a long line of cases beginning with *Everson* in 1947 the Supreme Court has not yielded to the pleas in the language of religious freedom for subsidies for

church-related schools. Some opening for religions has been granted, but many states have constitutional provisions that disallow public monies to schools that are operated by religious groups.

If eventually the world agrees to guarantee religious freedom in international law, the question of the place of religion in public schools will have to be resolved.² It will not be easy. The American approach guarantees freedom to be free from religion rather than the right to have the government advance your religion. It seems clear that an international forum or tribunal on religious freedom could clarify the claims which religious believers have and which nonbelievers oppose.

RELIGIOUS FREEDOM IN DIFFERENT CULTURES AND POLITICAL SYSTEMS

If the protection of religious freedom begins to obtain international protection, practices in China will certainly be examined. The authoritarian nature of the government in Beijing also raises fundamental questions under the U.N. Declaration on Religious Freedom, most notably in regard to the treatment of the religious group Falun Gong. China, like some other non-European countries, would probably resist efforts to raise the U.N. Declaration on Religious Freedom into an enforceable covenant. Such an effort would indeed raise questions of whether the devotees of Christianity or the Mormon religion or other faiths should have some protection under international law if they assert that the gospel or their conscience compel them to spread their religion into foreign lands. Christ himself was certainly insistent that his followers spread their faith to the far corners of the world. Russia was rebuked by the international community when it was forced to allow some two million Soviet Jews to leave that country to migrate to the United States, Israel, or elsewhere. The force of world opinion against the denial of religious freedom to the Jews in the U.S.S.R. was dramatically successful. In the year 2004 Congress created a new office in the U.S. State Department to monitor the status of Jews throughout the world. It will report, expose, and admonish. But again the question recurs: would a world entity requiring religious freedom for all have a beneficial effect on everyone? Nations will almost certainly continue to collaborate with entities of the United Nations that seek to advance freedom of the press, the rights of children, and other human rights. But will most countries be reluctant to have an international body monitoring their arrangements on religious freedom? The answer is probably yes. The way a nation treats religion within its borders depends on history, linguistic differences, and the political power of those who are opposed to the majority or minority religions.

Turkey is surely a special case in the annals of the struggles over religious freedom. Over the last generation or two Turkey became a secular state. The Muslim religion was disestablished. The head scarf for Muslim women was disallowed. In a case resolved in 2004 by the European Court of Human Rights, that tribunal ruled unanimously that a female medical student in Turkey could not wear the veil while in medical school. She was required to transfer to Vienna for her medical training. The decision of the European tribunal seems to be restrictive of religious freedom. But Turkish authorities insisted that the veil was a way of proselytizing, and that a secular government has a right to forbid such conduct.

The decision of the Strasbourg tribunal gave legal authority to France to ban the veil in all public schools in that country. The example of Turkey, now justified by the highest court on human rights in Europe, has to be discouraging to those who want to maximize religious freedom. But it is a sign of how a U.N. tribunal on religious freedom might operate when sovereign states are pressing to keep their government free from religious influences.³ Iran and several other countries still require the headdress of all women in public. In Saudi Arabia women cannot drive, vote, or be elected to office. Such restrictions certainly violate international law. They may also violate religious freedom taken in a broad sense to the effect that everyone has a right to develop the talents conferred upon that person by God. Many Islamic nations were surprised by the conduct of Iran when it issued a decree of the death penalty against the novelist Salman Rushdie because he left the Muslim religion into which he was born and wrote an allegedly blasphemous novel. If no Muslim can leave the faith of his upbringing, would a world court on religious freedom conclude that such a belief defies reason and advocates murder, which is forbidden by every religion?

Some of the problems involving religious freedom appear to be irresolvable, as is clear from the following sets of questions:

1. Should individuals, theistically opposed to all war, receive exemptions—not to do noncombatant work but to be excused from any duty that directly or indirectly helps the government to kill combatants and innocent civilians? The European Court of Human Rights has been less than generous in its cases involving conscientious objectors.
2. Polygamy for men is allowed under certain interpretations of the Koran. Is this unfair to the first wife who at least theoretically only gets one-half of the income of her husband who now supports a second wife? In addition, could it be said that polygamy violates the rights of children? Will the dictates of conscience, now enshrined in world law as never before, be a defense for some persons who state that they have a divine mandate to follow

their conscience? Could the addition of the voice of conscience into international law grow to be a very difficult issue? How deeply and broadly is the new mandate of international law to respect the dictates of conscience?

THE FUTURE OF RELIGIOUS FREEDOM

An evolving body of international law on human rights has surely become a new and powerful moral force in the world since the birth of the United Nations. But now, nongovernmental organizations (NGOs) have in some way overshadowed the development of international law. In 1993 some 172 nations gathered in Vienna for a U.N. World Conference on Human Rights. As a delegate from the American Bar Association, I observed the amazing array of NGOs devoted to the rights of women, children, the disabled, the indigenous and other groups. The final declaration of the Vienna conference is a monumental reassertion of all of the international and human rights regulations that have developed in the world since 1945. The 172 participating nations recognized that the Cold War was over, and that all of the energies devoted to that struggle against Communism could now be directed to the evolution of internationally recognized human rights.

Religious freedom was included in the Vienna declaration. But the silent assumption was that the U.S.S.R. and its satellites would no longer persecute religion, and that therefore a new declaration for religious freedom would not be necessary. The Vienna declaration is a restatement and a strengthening of all of the human rights guaranteed in international law developed since World War II. But the need for legal machinery to enforce religious freedom did not specifically arise. Delegates from previously Communist nations in Europe began to discuss ways of getting back their properties seized by Communist officials. But there was little talk of the problems about religious freedom in the Muslim world.

Indeed the jubilation over the end of the Cold War and the restoration of freedom in Eastern Europe obscured much consideration of the future problems related to governments suppressing religion. China was present in Vienna and, after some quarreling about the universality of human rights, agreed to the final sweeping document that reasserted and enlarged the range of human rights that had at least the status of customary international law. Nor was there discussion in Vienna—or in later years—of the question beyond all questions: Do governments depend on the moral values developed by the religious groups in their society? People do not want their governments to create or implement values which the governments themselves develop. This feeling is deeply felt in all religious groups in America. Americans want their govern-

ment to promote virtue and values, but only when there is some kind of a consensus among the people. People recognize that in a society as heterogeneous as America, there is a clear need for a unifying principle derived not from values created and enacted by the Congress but from values desired from traditionally moral and religious groups in the nation. The U.S. Supreme Court in the 1952 *Zorach* ruling ruled 6-3 to allow religious education off the premises of public schools. In dicta Justice Douglas wrote, “We are a religious people whose institutions presuppose the existence of a supreme being.” Some Americans—and some people around the world—feel the need for a government to reinforce their religion and moral commitments. How can these anxieties and deep convictions be enforced in such a way that freedom of believers and the rights of nonbelievers are guaranteed? The United States presumably will never repeat the enactment of the eighteenth amendment to ban the sale and use of alcohol. That amendment, enacted by a Protestant lobby composed mainly of Methodists, was repealed by the twenty-first amendment. It is generally regarded as a mistake—directed by a religious group following what it claimed to be a truth from the Bible and applicable to the entire country.

Let us conclude by returning to the basic concept of Christianity and human rights. It is fair to assert that Christianity in a sense created human rights. Christianity brought the golden rule and the good Samaritan into the world. The Christians also built on the Hebrew Bible. And the Koran took the best of both traditions. Buddhism and Hinduism are in the same vein. All the religions assert in unison that every person is unique and precious. Every religion preaches love in its own distinctive way. It is probably more explicit in Christianity since Christ told the Apostles at the Last Supper “Love one another as I have loved you.” As globalization brings the 6.2 billion human beings on the planet into a greater closeness than ever before, we are all confronted with the need to understand the religions of the world. We recognize with shame that religious differences have caused bitter wars and long-standing enmities. There are no simple solutions. Let me simply close with this passage from the first letter of John 4, 7–8:

Let us love one another for love comes from God. Whoever loves is a child of God and knows God. Whoever does not love does not know God, because God is love.

NOTES

1. *Can God and Caesar Coexist? International Law and Religious Freedom* (New Haven: Yale University Press, 2004).

2. Germany has adopted a distinctive approach to this issue. Adherents to Catholic and Lutheran theologies pay a certain amount of their taxes to assist the religious bodies, including public schools, to which they belong. Protests against this system have been surprisingly few until recently. To some Americans such a tax seems confiscatory. But to the legislature in Germany it apparently continues to be a way of keeping peace in a country deeply split over religious differences.

3. There is only one known case in the United States where a girl in middle school desired to wear the veil. The Justice Department under John Ashcroft was prepared to defend the right to this young student to wear the Islamic veil.

Chapter Six

Democracy and Human Dignity

Jean Bethke Elshtain

Will future generations look back upon this as an age of democracy? Or, instead, will our era be viewed as one characterized by grand but failed promises? Will democracy, in practice, prove to be a wave of transformation that ill-suited certain peoples and cultures? Even worse, will democracy be assessed critically as just another means whereby the few imposed their will on the many?

I am in the camp of the hopeful. For I am convinced that we are living through the emergence of a new age of democracy together with the emergence of new international norms that legitimate democracy as both means and end to a decent political life. In the 1970s there were approximately forty democracies in the world. By the year 2000, some 120 democracies had come into being. But the peoples of the world will not rest content with that number—more democracies are destined to arise. This new age of democracy will generate no utopia. No age ever has. That said, future generations will look back on an era that did not flinch from complex, even grave, challenges, that looked to what Abraham Lincoln called “the last best hope of mankind” as the first and best hope of the beleaguered many against the repressive few. Democracy may, in Winston Churchill’s pithy words, be the “worst form of government except for all the others that have been tried”—or words to that effect—but, for all that, democracy today is premised on the dignity of the human person as a statement of fact and as a cry of hope by those whose dignity is daily assaulted.

At points in what is by now a thirty-year career of lecturing, writing, and teaching, I have been associated with criticism of too much “rights talk” of a certain kind, despite which I have become a champion of democracy and of the “rights talk” central to it. So my first task will be to explain what this is

all about. What do we mean by human dignity? How is it that democracy is the form of government most consistent with the premise, and promise, of human dignity? My second task will be to explore the prospects for democracy in a number of troubled places on our globe. Under this rubric I will bring forward two examples—one drawn from the recent past; one from the struggles of the present moment.

THE PREMISE AND PROMISE OF HUMAN DIGNITY

To our first concern: what is human dignity that politics should take account of it and not violate it? We all have some rough and ready idea of what is involved here. It is the notion enshrined in our own constitution and articulated in many of the world's great religions, namely, that human beings are "endowed by their Creator with certain inalienable rights." This endowment means that, as President Bush put it in several speeches and has, as presidents before him have, noted many times over, "Liberty is not America's gift to the world; it is God's gift to humankind." This is a way of saying that no government, no system, no single culture can give to or impose on the world what the human beings within it are ill-suited to. The world has learned this the hard way. All one need do is to look at the political horrors of the twentieth century and to note that, for all the glittering promise of 1,000-year reichs and classless utopias, all such systems could do was to lay waste and not to create.

As the greatest father of the Western church, St. Augustine of Hippo argued that evil can only wreck havoc, can only take away from that which is good, so evil political systems can only destroy. And because all they did and could do was, and is, to lay waste, they could not and cannot survive. They were defeated from within as well as from without. The world has taken note of the tens of millions of victims piled up on the altar of so-called historic necessity.

My own family was touched in a relatively mild way—by comparison to the horrors many families suffered—by twentieth-century totalitarianism. On my mother's side of the family we come from a small people, the Volga Germans. These were ethnic Germans living in the Volga River region in Russia. They had been encouraged to come to Russia by Catherine the Great because these German-speaking peasants were known for their habits of thrift, hard-work, and piety. It was her hope that they would teach their Russian counterparts such habits. Over the centuries, the Volga Germans grew into a distinctive community. Always subject to suspicion and, at times, attack because they were strangers within the broad sea of Slavic peoples, there was nonethe-

less no orchestrated campaign to obliterate them—not until World War II and the cruelty and paranoia of Stalin. The Volga Germans had done nothing. But they were suspected of keeping secret their latent sympathies for the German invaders. It followed that these communities were to be uprooted, their members sent into internal exile or killed outright. I think of this often and of what would have been the catastrophic fate of my grandmother and grandfather had their families not emigrated before the Bolshevik coup and before the dreadful events of World War II transpired. My grandmother told me several times that the relatives with whom she had remained in occasional contact were never heard from again after Stalin's assault.

The Volga Germans knew little or nothing of democracy. They had never lived under a democratic government. I suppose that if a scholar of certain sensibilities had visited their villages and interviewed people, he or she would have concluded that these simple, pious folks were really not the stuff out of which democracy is made. They identified thoroughly with their community of fellow ethnic Germans—*unser leute*—and they certainly did not think of themselves as “rights-bearing subjects.” They located authority within the Bible. They lacked a democratic civil society or infrastructure. They functioned on assumptions that dictated that the boys in the family inherited land but not the girls. This hypothetical scholar would have missed the boat. For there were resources within this tradition that underscored the dignity of the human person: in the case of the Volga Germans, their religious heritage. If you believe human beings are created in God's image, certain things follow. A system of socio-political equality as we now understand it may not follow. But the premise of human dignity is clearly at odds with any system that traffics in routine horrors and cruelties; that singles out whole categories of people for death and destruction. I am reminded here of the words of a Muslim woman who fled Iran for the safety of our shores, fled, therefore, a repressive theocracy for the bracing air of freedom of speech and free exercise of religion and civic equality for women, who said, in response to a person who challenged her, “No woman anywhere wants to be beaten seventy times because she has accidentally displayed a bit of ankle.”

No woman wants to be beaten. It is that simple. I do not care how “multi-cultural” you are, anyone who claims that a culture that metes out as part of its official, structural doctrine routine beatings, amputations, and killings because, if one is a woman, one has for a moment longed to feel the sun on one's uncovered face; or because, if one is a teenager, one has listened to a hip-hop record; or because, if one is a homosexual, one is by definition unclean; or because, if one is a moderate follower of Islam, one opposes theocracy, anyone who claims that such things are simply signs of a culture's “difference” is one who fails to understand the imperatives that flow from human dignity.

The premise of human dignity is not up for grabs. It is non-negotiable. It is no bargaining chip. It is the place from which one begins. From this beginning point certain things follow. Let's get more specific at this point. Because democracies are associated with rights, and because the world committed itself to human rights over fifty years ago with the Universal Declaration of Human Rights, it makes sense to reflect a bit on what rights flow directly from the premise of human dignity and whether any system in the modern world, save democracy, routinely honors such rights and obligates itself to respect them.

The first noticeable mention of rights in our system is, of course, the Bill of Rights. The Declaration of Independence had spoken of the ground of rights—in nature and nature's laws. What God, or the higher law, or nature gives, so to speak, man is not permitted to take away. The rights embodied in the Bill of Rights revolve around civic freedoms and around what the government *cannot* do to you. Rights were designed primarily as immunities, as a way to protect us from overweening governmental power. The rights-bearing subject was a civic creature, a community being, a family man or woman located within a web of human relationships.

But we were not defined solely by such relationships. Our dignity comes to us as persons. We are at once singular and relational. Rights speak to both aspects, both parts of our complex natures. We are both "one" and a part of some "many." Rights are always transitive, always involve us with others. We cannot be "different" all by ourselves. Political freedom is public and open, involving the possibility of action, helping one to appreciate the hope embraced by, and expressed in, the identities and actions of tens of thousands of ordinary citizens. Rooted in hope, the action of a free citizen marks human dignity and generates new possibilities.

Scholars of the great civil rights movement of the 1960s note the "repertory of freedom" embraced by the civil rights movement—and spearheaded, of course, by African-Americans who had themselves been consigned historically as beings whose very natures made them unsuited to the responsibilities and rights of democracy. But the great slave song—"Oh Freedom/Oh Freedom/Oh freedom over me/And a'fore I'd be a slave/I'd be buried in my grave/And go home to my Lord and be free"—told another story. It told a story of democratic yearning based on human dignity. In Sojourner Truth's stirring cry: "And ain't I a woman?" And isn't a woman a human person? And do not civic implications flow from this fact?

The "repertory of freedom" involves at least four basic meanings: legal freedom, freedom as moral autonomy, participatory freedom, and freedom as deliverance from a subjugated condition. This repertory of freedom is derived from a particular cultural inheritance—the West—with its Catholicism,

Protestantism, Renaissance, Enlightenment, and all the rest. But each culture finds its own way to similar truths. Each culture finds within itself resources it can draw upon to underscore the imperative toward liberty.

Human rights will not be identical in every single culture. But, I daresay, no democratic culture can ever include statutes that make a normative good of ethnic cleansing, repression of religious freedom, routine rape and physical torture, disappearances, the whole sorry repertoire of despotic regimes, past and present. Nature did not make some saddled, booted, and spurred with others to ride upon, as Abraham Lincoln insisted, did not create the naturally subjugated and the naturally supreme. Democracy consists, minimally, in the articulation of immunities: the “thou shalt nots” of political rule. There will be many issues on which cultures differ and within which traditions dictate varied normative goods and outcomes. Some cultures are able to sustain certain sorts of “positive rights,” as they are called, and others are not. The so-called social welfare democracies of Scandinavia and Western Europe are learning, for example, that certain of their social entitlements have proven, or are proving, not to be sustainable over the long haul. With a declining tax base, they cannot meet the expectations of citizens long used to a menu of benefits from government. There is a real possibility that pension systems will collapse; work weeks will lengthen; vacations will shorten; fee-for-service health care will eventuate, and so on.

But none of us will conclude that such alterations mean that Norway or France or Germany are no longer democracies. Such benefits are not the heart of the matter. The heart of the matter lies in those immunities I have already enumerated. It is those immunities that are the rock-bottom recognition politically of the premise of a given human dignity. Clearly, there will be, and there should be, many debates flourishing. But I am writing about something far graver. As a member of the board of the National Endowment for Democracy, I can report that we learn at each and every quarterly meeting of the horrors vast numbers of the world’s human beings face at this very moment. It is not the intricacies of competing prescription drug plans that concern such people. It is how to stop the arbitrary killing and routinized violence simply in order that people might then work to create a democratic civil society within a framework that recognizes human dignity.

THE PROSPECTS OF DEMOCRACY

Now I move to our second concern, prospects for democracy. I have insisted several times over that it is incorrect, indeed condescending, to assume that certain sorts of people are ill-suited to democracy, that they do not aspire to

breathe the bracing air of freedom; that they do not mind routinized cruelties and barbarisms. This is balderdash no matter under what rubric it is articulated and promoted. I will take up two cases: the first is an example of the democratic movements in Latin America; the second, the prospects for democracy in the Arab-Muslim world.

In the late 1970s and early 1980s, Argentina was swept by a wave of political horrors. The state, following a military coup in 1976, adopted terror as official state policy. I made five trips to Buenos Aires, beginning in 1982 when Argentina was under the third of three military juntas prosecuting what was known as the “dirty war,” and concluding in 1987. The worst of the “disappearances”—a terrible new word (though not a new phenomenon) that had entered the political vocabulary—had by then taken place. The “proceso” or “Process of National Reorganization” claimed an estimated 10,000 lives. The tortured and killed were disproportionately young: 69 percent were between the ages of sixteen and thirty, and 147 were children. No one knows how many babies were born to mothers in captivity—mothers who were killed after the baby’s birth. Estimates run to 400–500.¹

In this violent matrix of political horror, a group called “The Mothers of the Disappeared” emerged. Las Madres split into two groups, one endorsing officially a Peronist line; the others promoting constitutionalism and human rights. The Mothers remained united, however, not only on the basis of their grief as sorrowing women but on their insistence that the only legitimate regime was one that honored basic human rights construed as immunities. Human rights entered into and became constitutive of the political group identity of Las Madres. Political theorist James Tully claims that human rights “is the only bulwark, however fragile, against the brutalization of everyday life in many parts of the world.” The notion of human rights has become “part of the normative culture of every country and is advanced by international institutions”; it follows that “the resistance to oppression will tend to take the form of a struggle for the establishment of liberty in its rights form.”²

As I spoke with members of Las Madres about these and other matters, I learned that human rights was a way to express the timeless immunities of persons from the depredations of their governments rather than as a vehicle for entitlements. It was a way of saying “Stop!” not “Gimme.” Rights gave political form and shape to their protest. As one of the Mothers, Maria Adela Antokoletz, put it: “When justice is not fulfilled, when rights are not cherished, those who killed and tortured will do it again because they got away with it.” The Linea Fundadora group of Mothers, in their January 1989 “Project Proposal of Madres de La Plaza de Mayo,” stated: “We are certain that

our actions contribute to the strengthening of democracy. . . . We are also certain that history has given us the role of being the Memory, so that NEVER AGAIN will there be repression in our country, and the children of our nation could grow and mature in freedom.”

The Mothers encoded democracy in its specifically liberal understandings—the reference here is historic liberalism, grounded in human rights construed as immunities and responsibilities—into their self-definition. Through their actions and deeds, the ethical force of an argument from human rights helped to animate quiescent sectors of a moribund and demoralized civil society. Whatever Argentina’s future fate, these Mothers would say human rights can never again be trampled upon with such impunity. That is their wager—one to which they have devoted their lives in the name of the lost lives of their children.

Bear in mind that it was once a prevalent view that democracy would not be sustainable in Latin America because Catholicism, given the Church’s traditional structure and the role of the Pope and the magisterium, could never give rise to and endorse a democratic society. John Paul II, in Encyclical after Encyclical, homily after homily, speech after speech, underscored the point about human dignity and respect of non-negotiable rights, beginning with the right to life itself.

Now I turn to the prospects for democracy in a region that faces a serious freedom and democracy deficit, namely, the Muslim-majority Arab Middle East. Here, too, we hear the same old song: democracy is incompatible with Islam; the vast majority of Muslims neither want nor can they sustain democracy; democracy is an alien transplant; on and on. But a report from an association of Arab states began with a very different critical self-examination. In what has been described as a “brutally honest” report, the group argued that the “three main reasons the Arab world is falling off the globe”—the GDP of Spain is greater than that of all twenty-two Arab states combined—is due to a shortage of freedom to speak, innovate, and affect political life, a shortage of women’s rights, and a shortage of quality education. A serious “freedom deficit undermines human development,” says the report. One remarkable statistic speaks volumes: “The whole Arab world translates about 300 books annually—one-fifth the number that Greece alone translates—In spite of progress in school enrollment, 65 million Arab adults are still illiterate, almost two-thirds of them women.”

Just as no woman wants to be beaten so, surely, no woman wants to be kept in ignorance. Once people have a taste of literacy and of freedom—they do not go back. If the prior condition was so great, so consistent with human dignity, why wouldn’t one repudiate an education, once it becomes available, or

hide inside the walls of a home when one could venture forth into the world. The testimony of brave Arab Muslim moderates promoting “civic Islam” is abundant and clear: it is a form of cultural condescension to insist that Islam is per se incompatible with and hostile to democracy and basic human rights. I applaud the fact that the United States will no longer excuse and accommodate “the lack of freedom in the Middle East” as its official policy. As President Bush pointed out, such accommodation “did nothing to make us safe—because in the long run, stability cannot be purchased at the expense of liberty.” Despite the inroads of the insurgents, and the wrenching problems of providing effective governance, there are hundreds of democratic civil society initiatives underway in Iraq. Constituencies for civic education and independent economic activity are growing. Networks of communication are exploding now that people no longer face the possibility of a death penalty for the mere possession of a cell phone. Over 100 newspapers are being published. Independent radio stations are springing up. Political party development is stirring. The operating premise is that coalitions between and among these groups is workable so that politics across ethnic lines will be possible in the future. The number of political parties and movements making them known is nearly 200. Some have organized as women, business people, secular professionals, as well as along religious lines.

Most civic organizations in Iraq call themselves human rights groups and they have formed to document and redress the human rights abuses committed by Saddam Hussein’s regime, with hundreds of mass graves now identified where the slaughtered were tossed ignominiously into the ground. For example, a new organization, the Free Prisoners Movement, is meeting daily with victims to document stories of brutalized families and forced disappearances. An indigenous National Democratic Institute has emerged that hopes to play a key role in promoting and strengthening the democratization process. What is significant is that women are full-fledged participants in these civil society organizations.

This is but the tip of the iceberg. The road ahead is fraught with difficulties. The security situation on the ground is perilous, particularly in the so-called Sunni Triangle region of Iraq. The central government continues to struggle with sectarian militias. But energy and hope is in the air—along with the frustration. Now that the “republic of fear” is no more, people grow impatient for the “republic of human decency and dignity and democracy”—and that is no surprise. We all have a stake in the outcome of these developments. Whatever one’s position on the Iraq war, I do not know how any decent person of conscience can but pray and hope for an outcome that promises that the long-suffering Iraqi people will no longer live in fear and that they, too, can take their place at the table of free citizens.

CONCLUSIONS

In July, 2002, four brave women from Muslim-majority countries—Nadjet Bouda from Algeria, Muborak Tashpoulatova from Uzbekistan, Mariam Hussein Mohamed from Somalia, and Mehrangiz Kar from Iran—received the “Spirit of Democracy” award given annually by the National Endowment for Democracy. Each spoke movingly of her own efforts to create governments and regimes that do not routinely torture, disappear, torment, and rape women and men. Each called for more, not less, American support and involvement. We must heed these calls. In the final analysis, it is their struggle. But all freedom-loving peoples have a stake in the outcome of these struggles.³

At base, the cry that is going forth is the cry for dignity, the cry for recognition, and the recognition that in the whirlwind of political horror and violence that is the lot of all too many on our troubled globe, there remains hope: hope that the arbitrary violence of warlords fanning hatred and of despots slaughtering the innocent will cease; hope that fundamental dignity and decency will arrive. This hope is tethered to the recognition that no system is perfect and democracy is no panacea. But it remains the earth’s last, best political hope.

No democratic society can be the city of God. But in its commitment to an earthly city of human dignity, democracy offers intimations of the perfect sisterhood and brotherhood that, for religious believers, will characterize the end time. In the meantime there is work to be done and that is the work of democracy.

NOTES

1. See my chapter “The Mothers of the Disappeared: Passion, and Protest in Maternal Action,” in *Representations of Motherhood*, ed. Donna Basin et al. (New Haven: Yale University Press, 1994), 75–91.

2. James Tully, “Introduction,” in John Locke, *A Letter Concerning Toleration*, ed. James Tully (New York: Hackett Publishing, 1983), 15.

3. A lengthier account of these events can be found in the epilogue to my book, *Just War against Terror: The Burden of American Power in a Violent World* (New York: Basic Books, 2004), 174–81.

Part Three

**Theological and Philosophical
Foundations for Human Rights**

Chapter Seven

Universal Rights or Personal Relations?

Patrick H. Byrne

When we speak of human rights, we often have in mind the sort of listing found in the UN Declaration of Human Rights. Mary Ann Glendon traces the drama that led to that Declaration in her highly regarded book *The World Made New: Eleanor Roosevelt and the Universal Declaration of Human Rights*.¹ Glendon observes that in the years immediately following the end of the Second World War there opened a brief window of opportunity for developing such a Declaration. Glendon tells the story of how Eleanor Roosevelt and her colleagues on the UN Human Rights Commission were able both to formulate and to gain acceptance for that Declaration. Soon that window closed as cooperation among the victorious allies quickly hardened into deep mistrust and hostility. Not surprisingly, competing national self-interests, alarm at Soviet expansionism, and the Palestinian refugee crisis all posed serious obstacles in the path toward the formulation of an acceptable Declaration.

Yet another kind of obstacle was posed by disagreements about the very principles that would underpin the Declaration. The language of “rights” itself arose and gained currency within the context of modern Western philosophical assumptions about the individualistic nature of human beings, and about the minimal role proper to government. These assumptions were no more universally accepted at the time that the Commission conducted its work than they are today. Stronger emphases upon duties, virtues, and conceptions of the common good came from several quarters in ways that stood in tension with more individualistic presuppositions. These alternate emphases modulated the meanings given to the various lists of human rights.

After considerable debate, the Commission prudently resolved to develop a listing of rights that all could agree upon, despite their differences on matters

of principle and interpretation. As French philosopher Jacques Maritain put it at the time, the agreement would have to be “not on the basis of common speculative ideas, but on common practical ideas.”² Glendon continues,

If there are some things so terrible in practice that virtually no one will publicly approve them, and some things so good in practice that virtually no one will oppose them, a common project can move forward without agreement on the reasons for those positions.³

The resulting Declaration lists as rights due to every human being the familiar sorts of “first generation” civil/political rights that formed the backbone of the Bill of Rights in the Constitution of the United States: the rights to life, liberty, property, freedom of expression, religion, movement, peaceful assembly, and due process. It also includes so-called “second generation” socioeconomic rights that rose to prominence later in the nineteenth century, such as the right to work, to join unions, to education, and to an adequate standard of living (including medical care, clothing, and housing).⁴ In a recent article, John Haughey remarks that a third category of rights, group/cultural rights, also has begun to win acceptance since the promulgation of the UN Declaration in 1948.⁵ Yet even these rights are intimated, if somewhat vaguely, when the Declaration speaks of “the right to a nationality” and “the right freely to participate in the cultural life of the community.”⁶

Officials and renowned scholars from a wide array of traditions came to endorse the listing of rights enumerated in the Declaration. Glendon narrates in particular how members of Christian, Jewish, Muslim, Hindu, and Confucian religious traditions embraced almost all of the rights enumerated in the Declaration. For example: “The absence of formal declarations of rights in China, said Confucian philosopher Chung-Shu Lo, did not signify ‘that the Chinese never claimed human rights or enjoyed the rights of man.’”⁷ It seems that something common but unarticulated underlay these religious traditions, despite their significant differences in words and practices.⁸

Given the ever-increasing barriers to cooperation that were rising in this period, it was indeed prudent to concentrate upon a practical list of rights where consensus could be reached. Still, the questions regarding principles cannot be evaded forever. Eventually the very commitment to practical ideas erodes if questions of principles are not faced and resolved. As Maritain put it, agreement about human rights can be maintained “on condition no one asks why.”⁹ But the question of why can only be deferred at risk of losing commitment to human rights in the long run.¹⁰ More recently there have arisen new kinds of challenges to the commitment to human rights, challenges that also demand answers to “Why?” Critics query whether the very idea as well as the specific enumeration of human rights is not inextricably based upon a Western prejudice. Was not the Declaration, after all, just another more sub-

tle form of Western imperialism, imposing specifically Western cultural values upon non-Western peoples? This challenge has been advanced in various forms by certain religious leaders, by totalitarian leaders of certain nations, and in discussions by postmodern thinkers in the West.¹¹ While each of these criticisms must be viewed carefully for its deepest motivations, there is something persuasive in their various appeals to the importance of particularity and situatedness in thinking about human rights, features that are eliminated as irrelevant in universalist foundations of human rights. The next section looks more closely at some of these universalist approaches to answering why we should affirm human rights, and at their limitations as well.

UNIVERSAL HUMAN DIGNITY AND THE PROBLEM OF IMPERSONALISM

Both at the time of the UN Commission and more recently, attempts to provide principles that ground human rights have been articulated in terms of the notion of “human dignity.” Rights are understood as “indispensable for [one’s] dignity”; that is, rights are both what is owed to the dignity of each human being, and what are the necessary conditions for the realization of human dignity.¹² The UN Declaration, for example, begins with the words:

Recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice, and peace in the world.¹³

But what exactly is meant by human dignity? In the Commission’s discussions, some members emphasized individual liberty as the core of human dignity, while others stressed the intrinsically social dimensions of being human as the root of human dignity. The very notion of human dignity itself, while powerful and compelling, was and continues to be somewhat vague and contested.

Arguably the terminology of respect and dignity in relation to human rights comes into Western thought with the writings of the philosopher Immanuel Kant. Kant made the powerful claim that “morality and humanity, insofar as it is capable of morality, *alone* have dignity.”¹⁴ Kant based his claim on his analysis of a morality that “already dwells in the natural sound understanding, and needs not so much to be taught as merely to be elucidated.”¹⁵ Kant argues that this ordinary sense of morality consists in human “respect” for the rationality of law, especially as demarcated by the universality of law. Because this respect-worthy universal moral law already resides in every person’s “ordinary reason,” Kant argues, therefore each and every rational being deserves the same respect owed to moral law itself. This fact leads to Kant’s

famous formulation of the moral categorical imperative as a principle of human dignity: “Act in such a way that you treat humanity, whether in your own person or in the person of another, always at the same time as an end and never simply as a means.”¹⁶

Kant’s strong claim regarding human dignity makes a very powerful and inspiring initial first impression. Yet it has certain features that become troublesome upon closer inspection. For one thing, Kant’s understanding of the principle of human dignity is closely allied with his radical conception of human autonomy. Kantian morality is moral precisely because it is the result of one’s *own* reason, not of any outside influence. While this insistence has the salutary effect of staving off inauthentic, external influences on one’s decision-making (such as temptations of pleasure, or peer pressure), it also has a radically isolating dimension. Kant wrote, for example,

there are many persons who are so sympathetically constituted that, without any further motive of vanity or self-interest, they find an inner pleasure in spreading joy around them. . . . But I maintain that in such a case an action of this kind, however dutiful and amiable it may be, has nevertheless no true moral worth.¹⁷

Thus, despite his remarkable affirmation of the high moral worth of human dignity, there is an impersonalism to Kant’s way of grounding that value. It regards human beings as detached from the personal connections that enrich and particularize their unique lives. It is an impersonalism that sits uncomfortably with Christian faith.

More recently, in his *Theory of Justice*, philosopher John Rawls sought to develop Kant’s basic ideas. In doing so, he sought to avoid Kant’s transcendental idealism and find an approach that was more acceptable to the “Anglo-American tradition of moral and political thought in which Rawls’ work is firmly installed.”¹⁸

Rawls approaches the question of rights and justice by means of his two principles: the “liberty principle” and the “difference principle.” His liberty principle pertains to civil/political rights and requires that any truly just society must insure to each citizen basic liberties such as freedom of conscience, freedom of expression, and due process of law. In Rawls’ words: “each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty for others.” On the other hand, his difference principle addresses the issue of equitable distribution of socioeconomic rights such as wealth and social position. Unlike the liberty principle, Rawls formulates this principle in negative terms: “social and economic *inequalities* are to be arranged so that they are . . . reasonably expected to be to everyone’s advantage.”¹⁹

While Rawls endeavored to develop a more adequate basis for human rights, his theory of justice is still characterized by the same sort of impersonalism that is found in Kant's philosophy. Rawls argues for both of his principles and their lexical ordering on the basis of what he called "the original position." The original position plays a role in Rawls's philosophy similar to that played by "the state of nature" in the writings of Locke and other founders of modern political theory such as Thomas Hobbes and Jean-Jacques Rousseau. The original position is a hypothetical situation characterized by a "veil of ignorance" in which "no one know[s] his place in society, his class position or social status, nor does anyone know his fortune in the distribution of natural assets and abilities, his intelligence, strength, and the like."²⁰ The burden of Rawls's argument is to show that, under condition of this veil of ignorance, every rational person would choose the two principles with their lexical ordering. Since these principles will be chosen without knowing one's own situation, Rawls argues that they will not be designed to advance the interests of certain individuals in particular sets of circumstances.²¹

Hence according to Rawls these principles and the rights that they underpin are just and fair, precisely because they are principles that do not favor any particular person. Indeed this rigorous, impersonal fairness is the aspect of Rawls's theory that many have found to be its most attractive feature. Still, there is something quite troubling about the impersonalism that is thought to be essential to the basis of rights and human dignity in Kant, Locke, Rawls, and similar thinkers. Rights pertain to individuals that are hardly recognizable as persons. In Kant's thought the only quality that makes a person be a person is her or his reasoning capacity to think universal law. In Locke it is a person's instinct for survival and detachment from others. In Rawls's veil of ignorance, the subject of rights is shorn of every feature ordinarily taken to constitute personhood: gender, race, ethnicity, place in society, natural assets and abilities, intelligence, etc.²² If the judgment about my dignity is not made about me in my personal, concretely constituted and interpersonally situated life—if that judgment is made, rather, about some partial and abstract quality of mine—then it seems that what matters to me most is irrelevant to my true worth.

Rejection of this sort of abstract impersonalism underlay the sharp edge of Malcolm X's critique of the civil rights movement. Malcolm called for more than rights to assemble and speak as white people did: "Human rights! Respect as *human beings!* That's what American black masses want."²³ His indictment was of what he perceived to be a kind of impersonalism in civil rights. Mere legal accommodation did not address the deeper issue of human dignity, especially the right of African-Americans to be respected precisely as black-skinned people, and not merely as abstract individuals to be respected only insofar as they were stripped of their racial and historical particularities.

While there was no doubt legitimacy in his criticism of some participants in the civil rights movement, still Malcolm X seriously misunderstood Martin Luther King, Jr., himself on this point. From a very early stage, King envisioned his movement as precisely a revolution in human dignity, a revolution in personal relations.²⁴ In the next sections of this paper, I will explore how a Christian understanding of personal relations can restore a richness to the ideas of human dignity and human rights that seems to be missing in the impersonalism of the universalist modern philosophical groundings.

A CHRISTIAN THEORY OF PERSONAL RELATIONS

In Roman Catholic circles, reflection on human dignity and social justice usually takes as its point of departure the remarkable passage from the first Creation narrative in *Genesis*: “So God created man in his own image, in the image of God he created him; male and female he created them” (1:27). According to the Catholic tradition, human dignity is grounded in God’s creative decision to bestow upon every human being God’s own image.²⁵ God deserves unconditional respect and dignity and, therefore, so too do the human bearers of God’s image.

Of course in order for any such theory of human dignity and rights to advance beyond this starting point, the question of just what it is in human beings that reflects (i.e., “image”) God must be addressed. Traditionally Roman Catholic reflections argue that it is human intellect and will that constitutes the image and likeness of God. Social reflection then proceeds to articulate in some detail what is implied in respecting human beings as intelligent and free—for example, what sorts of social requirements are necessary for the flourishing of human intelligence and freedom.

While this approach is rich with many valuable resources, it does not place personal relations at the very heart of a Christian approach. The social dimensions of human rights are derived from the social *nature* of human beings, rather than directly from humans’ relationship to God. In what follows, I attempt to offer an approach that places relationships with God at the very basis of the theory. It is my hope that this approach compliments rather than replaces the riches of either Roman Catholic or other Christian traditions of reflection on human dignity and rights.

A fruitful basis for this alternative Christian approach to the foundations of human rights can be found in the work of Canadian theologian and philosopher Bernard Lonergan; S.J. Lonergan’s interest in the phenomena of personal relations traces back at least to the publication in 1957 of his philosophical masterwork, *Insight: A Study of Human Understanding*. That book

is most often regarded of as a work about epistemology. Yet in its concluding “Epilogue,” Lonergan remarked:

Since I believe personal relations can be studied adequately only in [a] larger and more concrete context, the skimpy treatment accorded them in the present work is not to be taken as a denial of their singular importance in human living.²⁶

Some years later he explained that he had originally intended *Insight* to extend into theological areas including the question of personal relations, but his appointment to a teaching post at the Gregorian University in Rome compelled him to “round off” the book short of that intended objective.²⁷

Lonergan provided at least a glimpse of what he had in mind regarding personal relations in a summer lecture course in the year following the publication of *Insight*. In that course he set forth an intermediate version of what he came to call his theory of the human good.²⁸ In that theory he proposed a structure or framework for analyzing human social arrangements in terms of their value dimensions. That structure identifies three interrelated levels: a level of “particular goods” that a given social arrangement makes available; a level of institutional order (“good of order”) that is the intelligible cooperative pattern of social arrangement; and a level of personal relations. Each of these levels has a special pertinence to issues of human rights.

First, the level of “particular goods” concerns specific satisfactions of human needs and desires. The most obvious instances of particular goods are those which meet recurring biological needs for comfort, health, exercise, rest, reproduction, protection, and survival. Yet particular goods also include the satisfactions of the needs and desires for education, guidance, leadership, legal assistance, transportation, expression, recreation, entertainment, beauty, worship, etc., that arise in organized societies. All these examples of goods are called “particular” because they occur at and are limited to particular individuals at particular times and places. A particular meal is limited to me today; it does not satisfy your need for nourishment today nor mine tomorrow. The same can be said of any individual person’s satisfaction of even higher particular needs for, say, sympathy, learning, aesthetic enrichment, or worship. Many of the social/economic rights identified in the UN Declaration and similar lists pertain to particular goods: the rights to food, shelter, clothing, health care, education, protection from harm, freedom of movement, etc.

Second, the satisfaction of our biological as well as higher needs is, however, a recurring requirement, even in the most elementary societies. The recurrence of our needs calls for the creation and ongoing adaptation of institutions and networks of institutions that form a second level that Lonergan calls

“good of order.” At this level, particular goods that satisfy particular needs are provided on a regular, reliable basis by intelligently organized institutional patterns. By “institutions” Lonergan denotes a very broad class of informal as well as formal social arrangements. Families, neighborhoods, groups of friends getting together each week to play sports, and publicly administered beaches are institutions—as are the more obvious formal instances of businesses, banks, schools, courts of law, hospitals, and churches. Without such institutions, the satisfactions of particular needs would remain largely matters of blind chance.

These institutional patterns originate in what Lonergan called “insights.” People have insights that come up with ever new skills, and ever new ways to organize skills into roles, and roles into institutions. Such insights make it possible to achieve by cooperation and organization what we could not achieve separately. At their best institutions are the products of these human acts of ingenuity and practical intelligence that coordinate diverse human activities into efficacious patterns of cooperation and organization. The regularities of institutions result from the insights that produce informal as well as formal norms, rules, and laws that channel human activities into cooperative patterns. Institutions continue to operate at their best when their members are able to use their insights and their intelligent and critical capacities for self-correction to adapt the institutions to changing conditions. Institutional patterns are “good” to the extent that people freely work together on the basis of mutual understanding (insights), and to the extent that institutional patterns are constantly adapted, improved, and refined through implementation of ever new insights. An institutional order is not good if it follows only some rigid concepts of how things must be done universally the same in all circumstances.

Just as institutions coordinate human activities and roles into regular patterns of cooperation, “goods of order” coordinate institutions into coherent and effective patterns of mutual dependence. A good of order is a sort of ecosystem of human institutions. Goods of order are

concrete, dynamic, and ordered totalities of desirable objects, of desiring subjects, of operations, and of results. So, for example . . . [in] the economic order of the region as a whole . . . particular economic goods are greatly increased or diminished according to whether the overall economy is becoming better organized or is deteriorating.²⁹

Rights to particular goods such as food, shelter, protection, health care, and education are made real and delivered by institutional orders. Institutions not only ensure “entitlement” (positive) rights by delivering particular goods;

they also (although less obviously) protect “immunity” (negative) rights such as freedom from interference with personal action. Moreover a great many rights actually pertain directly to the very participation in institutions. Rights to peaceful assembly, to vote, to due process, to work, to unionize, to freedom of the press, to obtain and dispose of personal property all refer to activities and roles that occur within institutional orders. Just who is allowed to participate in the institutions, and in what fashion, are all matters of how the institutions are organized and regulated.

Civil rights as we know them are largely the products of innovations and transformations of institutions of government and legal practice (e.g., in Europe and North America in the eighteenth century, and again in the United States in the 1960s). Social and economic entitlement rights, however, have proven more difficult to realize through primary reliance upon the mandates of institutions of government and law. This suggests that different sorts of institutional innovations of specifically economic and social institutions and their networks will be needed to more adequately realize these “second generation” rights.

In a very real sense, then, it is more accurate to say that human rights exist and reside in institutional patterns (goods of order), than to say that they reside in individuals.

Third, the level of personal relations pertains to *how* people treat one another. Two people can be performing exactly the same roles and tasks (e.g., nurse) in the very same kind of institution (e.g., hospital) in two different cities, but they might be treating their patients and coworkers in very different ways. Those different ways of interacting with people in the same institutional patterns constitute the concrete patterns of personal relations. The ways that people treat one another in, say, their hospital roles usually reflect the pattern of personal relations of the local culture. One hospital will feel warm and welcoming while another will feel cold and business-like, even though both hospitals might be equally good at treating medical problems. How groups of people treat one another while performing their institutional roles constitutes their networks of personal relations.

Personal relations originate in feelings, but they do not reside merely internally in sentiments. Personal relations depend upon ideas, but they do not reside in some merely idealistic realm. Personal relations reside in *how* people actually deal with one another *in doing* activities in their institutional and social settings.

Furthermore, the lived reality of personal relations is the most concrete embodiment of the values in social institutions. A group of people reveals the values to which they are collectively committed in the ways that they treat one another. Lonergan observes that there is an intimate connection between

the level of personal relations and the intelligible patterns of cooperation that occur in the institutional level of the good of order:

the two can also be united insofar as the person emerges with personal status within the [good of] order. Then the order is an order between persons, and the good of order is apprehended, not so much by studying the [institutional] schemes . . . but by apprehending human relations. . . . [T]he simplest and most effective apprehension of the good of order is in the apprehension of personal relations.³⁰

Loneragan's use of the phrase "personal status" here refers to how a person is valued. That valuation is effected and constituted socially by the entire pattern of personal relations. A given person's value (or "status") is implicitly defined by her or his place in a concrete, really existing pattern of relations among other persons. The meanings and values of recurring patterns of institutional interactions is what Lonergan calls "cultural values."³¹ Cultural values are carried in the ways that people in that culture (or subculture) relate to one another, in the pattern of their intricate and intimate personal relations. This pattern of cultural values may be expressed in stories, legends, gestures, rituals, monuments, and so on, but those expressions derive their meaning from and live on in the ongoing pattern of personal relations. The cultural valuation of a person is effected by the cultural pattern into which she or he is thrown. No one can constitute the value of her or his personhood (her or his personal status) all alone.

Certain values will hold the highest place in the culture of one set of personal relations, while other values will be prominent elsewhere. In one society success in competitive sports will predominate, whereas *joi d'vivre* will be preeminent in another. Other values (e.g., hard work, intellectual pursuits, artistic creativity, family affection, honesty, loyalty, modesty, generosity, etc.) rank nearer or farther away from the preeminent value, forming a particular culture's scale of value priorities. The preeminent value, and its associated scale of values, is to be discerned in the ways that certain people and their actions are honored, while others are ignored, or even despised. In these patterns of how people are treating each other, each person is being valued more highly, or more lowly, or outright devalued, in terms of the scale of values that is implicit in these patterns of interpersonal regard and interaction. A person's "dignity" is the value bestowed upon (or denied to) that person in the particular, concrete network of personal relations within which they live and move and have their being.

Clearly, the account of personal relations offered thus far faces a serious objection from the perspective of universal human rights. A given culture val-

ues some people more highly than others, whereas universal human rights affirm an unconditional worth (dignity) of every human being. But the preceding account of personal relations is still not complete, for the theological dimensions of personal relations have not yet been included. These theological dimensions lift the patterns of personal relations above the sorts of cultural limitations and prejudices that universal human rights seek to remedy.

After joining the faculty at the Gregorian University, Lonergan began offering his courses on the Christian doctrines of the Incarnation and the Triune God.³² Most of his work on this topic focused on developing a quite technical “analogical” theory about the personal relations among the three divine Persons within the oneness of God. The details of that theory would require a lengthy tangential digression, which must be foregone for present purposes. Two key points, however, are relevant: (i) that the very essences of the divine Persons are constituted by their mutual personal relations (or “processions,” to use traditional language); and (ii) that those personal relations are relations of unconditional love and unrestricted mutual understanding.³³

Using his explorations of the relations internal to God among the three divine Persons, Lonergan then developed his theology of the divine “missions.” Through the missions of the Son and Spirit, the divine personal relations are communicated to human beings. In speaking of “divine missions” Lonergan had in mind such scriptural passages as: “As the Father has sent me, so I send you” (John 20:21); and “When the Advocate comes whom I will send you from the Father, the Spirit of truth that proceeds from the Father, he will testify to me” (John 15:26). These and similar passages affirm that the First Person of the Trinity (whom Jesus called Father) sends forth on missions to humanity the Second and Third Persons (Son and Holy Spirit). Further, as the Gospel passages indicate, human beings are gradually incorporated into participating in these divine missions (“so I send you”).

Lonergan explores what it means for the purely divine personal relationships of unconditional love and understanding to enter into the network of finite human relationships by God’s initiative. Because the Son is sent to humanity, and because to be the Son is to be in relationship to the Father and the Holy Spirit, these divine relationships enter into and transform human relationships through the mediation of the Son.

Likewise, the mission of the Holy Spirit also brings the divine relationships of unconditional love and unrestricted mutual understanding into play within the pattern of human personal relationships. In this regard, Lonergan would frequently quote the passage from St. Paul’s *Letter to the Romans* (5:5): “God has poured out his love into our hearts by the Holy Spirit, whom he has given us.” Lonergan identified the gift (mission) of the Holy Spirit with the religious experience of “being in love in an unconditional fashion.”³⁴ He agreed

with St. Paul that this experience is not primarily a matter of our love for God. It is, rather, God's own love poured into us. It is God's infinite and unconditional love of everything about every thing and every one—in all of our particularities, concretely situated as we are, living out our lives in performing our responsibilities in very concrete institutions.

Although he was a Catholic theologian and priest, Lonergan was nevertheless quite emphatic that the self-gift of God's love in the mission of the Holy Spirit is not at all restricted to Christianity. Lonergan argued that this gift and the experience of it is transcultural, and that it is the transcendent basis of all genuine religions, non-Christian as well as Christian.³⁵ As Lonergan put it, the Holy Spirit has an "invisible" mission that touches the inner heart of every human being, and thereby transforms the pattern of human personal relations in many different religious settings. On the other hand, while Christ is also for all humankind, still Christ has a specific "visible" mission that originates at a particular place and time, and emanates outward as His disciples outwardly preach the good news of God's personal entry into our personal relations.³⁶

PERSONAL RELATIONS, HUMAN DIGNITY, AND HUMAN RIGHTS

The ultimate goal of the divine missions, as Lonergan put it, "is the divine good itself."³⁷ The divine missions ultimately draw humanity ever more into the fullness of the loving embrace of the personal relations among the three divine Persons. The divine missions achieve this by transforming all aspects and all levels of human interactions. Lonergan described this transforming effect of divine personal relations in the following way:

although the other goods of order externally imitate that supreme good of order that we observe in the Holy Trinity, nevertheless . . . the economy of salvation, which is ordered to participation in divine beatitude itself, should not only imitate the order of the Holy Trinity but also in some manner participate in that order. For this reason the very divine persons who from eternity proceed from the Father are also in time sent by the Father to initiate and strengthen new personal relations of reconciliation and love with human persons.³⁸

Lonergan interprets Christian images, such as the "Kingdom of God" and the "economy of salvation," as pertaining to this entry of the divine personal relations into human personal relations. This newly inaugurated pattern of personal relations "is called a kingdom because of its similarity to a good political order" or to be "an economy [of salvation] because of its similarity to the good of order in acquiring, producing, and managing material things."³⁹

In other words, the transformed personal relations are lived out in institutional patterns (goods of order) in which persons cooperate with one another to meet their needs and realize their highest values. Reciprocally, the transformed personal relations determine what kinds of institutional patterns will be appropriate to the living out of these relations.

For we want to communicate what is good to those whom we love; we gladly cooperate with them to bring about what is good; to make our cooperation more effective, we acquire the necessary habits and detest the contrary defects; and so, supposing the union of love, all the other things follow that make for the good of order, as is most plainly seen in marriage.⁴⁰

The loving personal relations of a family guide the planning of how to organize tasks and roles so as to meet the needs of the family. Likewise, as new needs and conditions come along, love of one's school, company, neighborhood, city, or country also guides the ways that people exercise their intelligences in improving and adapting institutional structures, in order to maintain the commitment to those that they love. But of course in his discussion of the divine missions, Lonergan was primarily focused upon the love of God and the love of all that God understands and loves in the way that God loves them because God loves them. When God's unconditionally loving, personal relations gain a foothold, then human beings use their intelligence, their critical reasoning, and their personal responsibility to devise the organizations and institutions, roles, and skills that are needed to nourish and foster those divine loving relations on this earth.⁴¹

In this way, the entry of God's divine personal relations into human personal relations establishes the most profound foundation for the notions of human dignity and human rights. Because of God's unconditional understanding, God knows each and every human being as she or he is situated in all her or his unique, concrete, institutional relations with all other beings. Through God's unconditional love, God values each and every person as she or he exists in her or his unique network of relationships. Through the divine missions God communicates that unconditional value of each person. That unconditional love for each of us establishes an unconditional worth, that is the most profound and unsurpassable meaning of human dignity. That most fundamental meaning of human dignity is the value that God sees in each person in light of God's unconditional love.⁴²

By entering into the network of human personal relations, God shares with human beings that unconditional human dignity, which is to be lived out in appropriate institutional patterns of cooperation. God's transformation of personal relations bestows a radically new valuation of the human dignity of

each human being, and also sets in motion the quest for the social, economic, political, and cultural institutions that will make it concretely possible to value and to relate to one another as God values us. By way of contrast, when human dignity is thought of as resting on the foundation of an abstract, universal rationality, then human ingenuity sets about constructing institutions that are characterized by an impersonal bureaucratic proceduralism.

On the view that human dignity, rather, derives its fundamental meaning from the dynamic network of divine-human personal relations, then human rights are to be understood as norms that make it possible for human beings to participate in patterns of institutional cooperation that promote this transcendent value of human dignity. Human rights are concerned with making it possible for human beings to intelligently, creatively, and critically adapt and develop those institutional patterns for the sake of living together in God's transformed personal relations.⁴³ For example, economic rights to property, housing, food, and health care have to do with securing the biological conditions needed for the sake of living out divinely transformed personal relations. Civil rights of speech, assembly, press are normative because people need to be free from coercion so that they can use their imaginations, come up with insights about how to cooperate ever better, and to communicate and perfect those ideas through mutual criticism and dialogue, for the sake of better realizing the divinized personal relations.⁴⁴

Personal Relations and the Civil Rights Movement

So far I have presented a very terse and very general overview of Lonergan's theological account of personal relations and their relationships to human dignity and human rights. My presentation no doubt must seem quite abstract. Yet a very concrete manifestation of what Lonergan is getting at occurred just over forty years ago in Birmingham, Alabama.

In his 1963 "A Letter from a Birmingham Jail" Martin Luther King, Jr., answers the criticisms leveled at him in an open letter from eight prominent Alabama clergymen.⁴⁵ These critics accused King both of inciting violence, and of betraying his ministerial obligation to uphold moral uprightness by breaking the city's laws. King's famous letter is his response, where he draws upon his learning and weaves together an impressive lesson on the nature of just and unjust laws. It has become a classic in moral reflection in the United States.

Before turning his attention to the question of whether the laws were just, however, King begins his letter by answering the charge of inciting violence. There King explains the theory of nonviolent direct action that he had learned from Mohandas K. Gandhi. King explains that nonviolent direct action requires careful completion of four basic steps: assessment, negotiation, self-

purification, and direct action. Assessment, in King's words, is the "collection of the facts to determine whether injustices are alive."⁴⁶ Genuine negotiation, or at least the sincere effort to negotiate, must precede any escalation to the level of direct action. This is so because direct action itself "seeks to create such a crisis and establish such creative tension . . . [in order to] dramatize the issue [so] that it can no longer be ignored."⁴⁷ If these direct actions were not preceded by sincere attempts at negotiation, then they could not justifiably be called actions of the last resort, and the resulting crisis would lose its moral stature and its potential for creative resolution.

Still, it is the third step, self-purification, that is the most essential of all.⁴⁸ Without self-purification, direct action could not be nonviolent. Nor could it be the source of the sort of *creative* tension that King envisioned.

So we had no alternative except that of preparing for direct action, whereby we would present our very bodies as a means of laying our case before the conscience of the local and national community. We were not unmindful of the difficulties involved. So we decided to go through a process of self-purification. We started having workshops on nonviolence and repeatedly asked ourselves the questions, "Are you able to accept blows without retaliating?" "Are you able to endure the ordeals of jail?"⁴⁹

Of course, effective workshops on self-purification entail much more than asking these questions. They involve practices of prayer, scriptural reflection, meditation, imaginative anticipation, role-playing, and imitation (e.g., imitating Christ or St. Francis or Gandhi). These practices include rehearsing bodily behaviors, and in so doing, they are indispensable preparations for nonviolent demonstrations.

Self-purification is a process whereby "natural" impulses of self-protection give way to other actions. The meaning of these alternative actions is a dramatic meaning. Actors in nonviolent demonstrations deliberate about and choose to introduce these actions into the ongoing human drama of personal relations of the local culture. In Birmingham and in other nonviolent demonstrations, these were actions deliberately chosen in order to dramatically portray the injustices of racial segregation. The nonviolent protestors simply performed roles of free assembly at various institutions that white people performed day in and day out. The nonviolent protestors did so knowing that they would expose themselves to arrests and blows. In eliciting these responses, they allowed the underlying violence that enforced segregation laws to rise to the surface, and thereby they made the full reality of the dramatic pattern of distorted personal relations much more evident.

African-Americans were profoundly devalued by the prevailing pattern of segregated personal relations. In a racist network of personal relations,

African-Americans were assigned the value of being less than a fully valued person, although it took the Civil Rights Movement in the United States to make this fact powerfully evident to all. A network of personal relations can be violent, without this being obviously so. The nonviolent demonstrators intended to reveal both the devaluation of human beings and the underlying violence of these patterns of personal relations. Where there are such patterns of personal relations, there is no real outer peace. There is at best the illusion of peace—the peace that the world gives.

Still, we may ask, if the valuation of a person is constituted by the cultural pattern into which she or he is thrown, how is it possible for a devalued person to overcome this degradation? From whence spring the individuals who know and value themselves more positively? Fortunately, no one pattern of personal relations will be fully determinative. Alternative and counter-cultural patterns of personal relations can exist and do arise within dominant patterns. It was no accident that the Civil Rights Movement sprang primarily from the African-American churches, and this has now been well documented. Humanly, these churches are patterns of personal relations that constitute a positive valuation of persons. They constitute patterns of personal relations that are countercultural to the prevailing racist patterns of personal relations. Yet churches are not merely human organizations. African-American churches are institutions that incorporate the fuller array of divine-human personal relations. Like other religious organizations, at times the African-American churches did this imperfectly, better at some times and locations than at others. Nevertheless, it was the real, albeit often submerged, evaluation of persons by God that made it possible for people to know and value themselves as God knows and values them, and the churches manifested this divine valuation. Their acceptance of God's valuation of them as persons made possible the alternative dramatic actions of civil rights demonstrators, and that made possible the dramatic (though not yet completed) transformation of personal relations in the United States.

At its deepest level, then, the Civil Rights Movement was an effort to effect a revolution in personal relations. King used to say that his objective was not merely the legal reform of civil rights, but the "beloved community."⁵⁰ In Lonergan's terms, the Beloved Community refers to patterns of human interaction where God's personal relations determine how people are valued. In that community, God's personal relations inform and govern human participation in institutional cooperation at all levels. This is why King did not stop with legislation such as the Civil Rights Act (1964) and the Voter Rights Act (1965), but went on to demonstrate for transformations in economic institutions as well.

CONCLUSION

The concepts and terminology of human rights came out of modern political philosophy, whose relationship with Christianity is both complex and strained. What I have tried to indicate in this article is how a theological theory of personal relations can provide a foundation for human rights that is Christian at its roots. Of course this way of grounding of human rights will inevitably alter the “feel” that one has about rights.

For example, in Locke’s political philosophy, rights rest upon the foundations of biological survival and individual sovereignty. If people hold those foundations, this affects how they pursue and feel about their rights.⁵¹ In the approach that I have tried to develop here, however, biological survival is a condition for building up and perfecting the personal relations among human and divine persons. It is these personal relations, not mere biological survival, that most profoundly animate the pursuit of rights. These personal relations between humans and God are the reasons why nonviolent activists will freely risk their biological well-being and their lives for the sake of the Beloved Community. Again, in the approach offered here, God, not the individual human, is sovereign. When one thinks about rights as stemming from the entry of God into human affairs, this profoundly alters the ways that people organize institutions and initiatives that promote and ensure rights.

Again, a Kantian foundation for human rights rests upon a conception of rights stemming from an unchanging form of universal reason and from individual autonomy. In the approach presented here, reasoning involves the creative, flexible, self-correcting dynamism of human insights and intelligence *for the sake of* realizing the personal relations communicated by God. Moreover, the autonomy of human action is not radically individualized but is situated; it depends upon, draws upon, and has its impact upon those networks of institutions and personal relations within which human beings exercise their autonomy.

In this article I have not tried to offer a rationale for human rights that appeals to all peoples, abstracting from all differences. I have not appealed to a lowest common denominator that every human being will agree to; postmodern criticisms have made us all wary of any such attempts. Rather, I have tried to offer a rationale for human rights that intends to speak specifically to Christians, a rationale that draws upon the very roots of Christianity, namely: the personal relations of the Triune God entering into our own interpersonal human lives. I have done so in the hope that this account may help Christians to think creatively and critically, and to act intelligently, responsibly, and lovingly with regard to human rights issues. I

offer this so that Christians, myself included, may have a deeper understanding rooted in our own most profound realities, and from that basis may enter into practical cooperation with others in the arenas of human rights, in order to help bring about a better world.

NOTES

1. Mary Ann Glendon, *The World Made New: Eleanor Roosevelt and the Universal Declaration of Human Rights* (New York: Random House, 2001).

2. Glendon, *The World Made New*, 77.

3. Glendon, *The World Made New*, 78.

4. See Glendon, *The World Made New*, 310–14.

5. This paper is inspired by and intended as a complement to John C. Haughey, S.J., “Responsibility for Human Rights: Contributions from Bernard Lonergan,” *Theological Studies* 63 (2002): 764–85.

6. Glendon, *The World Made New*, 312–13.

7. Glendon, *The World Made New*, 73.

8. In section III of this article, I offer a suggestion as to what this unarticulated something might be.

9. Glendon, *The World Made New*, 77.

10. See Haughey, “Responsibility for Human Rights,” 780–81.

11. Haughey, “Responsibility for Human Rights,” 764.

12. Glendon, *The World Made New*, 313.

13. Glendon, *The World Made New*, 310.

14. *Grounding*, 40–41 <435>, emphasis added.

15. *Grounding*, 9 <397>.

16. *Grounding*, 36 <429>.

17. *Grounding*, 11 <398>.

18. Michael J. Sandel, *Liberalism and the Limits of Justice* (New York: Cambridge University Press, 1982), 25.

19. Emphasis added; the full text of the difference principle reads: “social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be to everyone’s advantage, and (b) attached to positions and offices open to all.” John Rawls, *A Theory of Justice* (New York: Oxford University Press, 1971), 60. Both principles undergo considerable refinement and reformulation through Rawls’s book, but these nuances do not overcome the problem of impersonalism.

20. Rawls, *A Theory of Justice*, 12.

21. See, however, Sandel’s rejection of this claim, *Liberalism and the Limits of Justice*.

22. In his later works, Rawls endeavored to accommodate some of these factors without abandoning his initial framework; his attempts have not been received as enthusiastically as his original theory.

23. *The Autobiography of Malcolm X* (with the assistance of Alex Haley) (New York: Grove Press, Inc., 1965), 272; the emphasis is Malcolm's.

24. See for example 293 of Martin Luther King, Jr., "Letter from a Birmingham Jail," 289–302, in *A Testament of Hope: The Essential Writings and Speeches of Martin Luther King, Jr.*, ed. James M. Washington (San Francisco: HarperSanFrancisco, 1986), hereafter cited as "Letter."

25. See for example *Rerum Novarum: Encyclical of Pope Leo XIII on Capital and Labor*, 40; *Pacem in Terris: Encyclical Of Pope John XXIII on Establishing Universal Peace in Truth, Justice, Charity, and Liberty*, 3; *Centesimus Annus: Encyclical of Pope John Paul II*, 11.

26. Bernard Lonergan *Insight: A Study of Human Understanding*, Collected Works of Bernard Lonergan, vol. 3, ed. Frederick E. Crowe and Robert M. Doran (Toronto: University of Toronto Press, 1992), 754; cited hereafter as *Insight*.

27. Bernard Lonergan, "Insight Revisited," in *A Second Collection*, ed. William F. Ryan, S.J., and Bernard J. Tyrrell, S.J. (Philadelphia: The Westminster Press, 1974), 268. The main body text of *Insight* was 748 pages in its 1958 edition; it is 770 pages in the 1992 University of Toronto Press edition.

28. The lectures of that summer course have been edited and collected in Bernard Lonergan, *Topics in Education*, Collected Works of Bernard Lonergan, vol. 10, ed. Frederick E. Crowe and Robert M. Doran (Toronto: University of Toronto Press, 1993), cited hereafter as *Topics*; the structure of the human good is found on pages 32–43. The most mature, although not the most detailed, version of his theory of the structure of the human good is found in Bernard Lonergan, *Method in Theology* (New York: Herder and Herder, 1972), 47–52; hereafter cited as *Method*.

29. Lonergan, *The Triune God: Systematics*, Collected Works of Bernard Lonergan, vol. 12, ed. Robert M. Doran and H. Daniel Monsour, trans. Michael G. Shields (Toronto: University of Toronto Press, 2007), 493; cited hereafter as *Triune God*. For a more extended discussion of the good of order, see *Insight*, 237–39.

30. Lonergan, *Topics*, 41.

31. Lonergan, *Method*, 39.

32. See "General Editors' Preface," Bernard Lonergan *Triune God*, xvii–xxii.

33. Lonergan's theology offers no more than an "imperfect understanding," for Lonergan affirmed the utter transcendent mystery of God. Hence, his theology did not pretend to offer a direct explanation of the divine Trinity. The best that this theology could offer was an analogous ("imperfect") understanding of the Trinity. Following traditional lines, Lonergan sought the best possible analogous understanding of the Persons by means of the relations, or "processions," within the one eternal God. Lonergan explores how the processions of unrestricted understanding and unconditional loving constitute each of the divine Persons both as divine and as Persons. In their relationships they love, value, understand, and constitute one another unconditionally. As Lonergan puts it, "we call the Father, the Son, and the Holy Spirit *persons* . . . [among other things] by reason of relations both among themselves and to us." Bernard Lonergan, *Triune God*, 313.

34. Lonergan, *Method*, 105–6.

35. Lonergan, *Method*, 108–9, 278–83. See also Frederick E. Crowe, S.J., “Lonergan’s Universalist View of Religion,” *Method: Journal of Lonergan Studies* 12 (1994): 147–79. Elsewhere Crowe writes: “Whereas the Son of God was given once and for all in a particular place and at a particular time, the Spirit is not given once and for all, but continues to be given over and over, in every place and at every time, in an ongoing Pentecost.” *The Lonergan Enterprise* (Cambridge, MA: Cowley Publications, 1980), 89.

36. Lonergan, *Triune God*, 491ff.

37. Lonergan, *Triune God*, 495.

38. Lonergan, *Triune God*, 497.

39. Lonergan, *Triune God*, 495.

40. Lonergan, *Triune God*, 495.

41. Haughey rightly points out that responsibility for rights “can and should be located foundationally within what Lonergan describes as ‘the invariant structure of human consciousness,’” 770–71. To Haughey’s point I add that human beings exercise the operations of that structure of consciousness under the influence and guidance of personal relations, and that in doing so they originate and transform institutional patterns.

42. Technically of course God does not “see”; God’s knowledge of our value is had in God’s unconditional love for us.

43. See Haughey, “Responsibility for Human Rights,” 770–73.

44. My use of the idea of viewing rights as “minimal conditions” for participation in social goals is certainly not original; see for example Glendon, *The World Made New*, 313, and Hollenbach, 48. What is original here is the proposal that rights are to be understood as guarantees and conditions for promoting the participation in the personal relations transformed by the divine missions.

45. See www.virtualology.com/virtualmuseumofhistory/hallofusa/famousamericans/martinlutherkingjr.info/mlk/, August 20, 2007.

46. King, Jr., “Letter,” 290.

47. King, Jr., “Letter,” 291.

48. Curiously, in the first version of King’s letter that I ever read, his discussion of self-purification was excised. See Robert N. Bellah, et al., *Individualism and Commitment in American Life: Readings on the themes of Habits of the Heart* (New York: Perennial Library, 1987), 306.

49. King, Jr., “Letter,” 291.

50. See James H. Cone, *Martin & Malcolm & America: A Dream or A Nightmare?* (Maryknoll, NY: Orbis Books, 1991), 63–66, 297. This is the profound dimension of King’s movement that Malcolm X failed to recognize.

51. Locke, op. cit, 8–9.

Chapter Eight

Human Rights, the Common Good, and Our Supernatural Destiny

Dana L. Dillon

In his 1995 address to the United Nations, Pope John Paul II celebrated the Universal Declaration on Human Rights as “one of the highest expressions of the human conscience of our time.”¹ He recalled that the 1948 document had been promulgated by the United Nations as a response to the outrages against human dignity perpetrated during the Second World War. The Pope then noted the acceleration and globalization of the quest for greater freedom, greater respect for human dignity, and a fuller share in the life of society which seems, in many places of the world, to have found both inspiration and support in this landmark document. He declared that “there are indeed universal human rights, rooted in the nature of the person, rights which reflect the objective and inviolable demands of a universal moral law.”² He went on to indicate that the universality and objectivity of these rights do not simply secure these rights themselves, but are in fact indicators of “a moral logic which is built into human life and which makes possible dialogue between individuals and peoples.”³ In other words, the assertion of universal human rights, whether adherents recognize it or not, acknowledges a “universal moral law” that can serve as the framework for and the beginning of a further conversation about the nature and destiny of humanity.⁴

One’s understanding of human rights is always rooted in one’s concept of the human person. No Catholic approach to either of these concepts is complete without taking into account that God has created human beings for a destiny which is both transcendent and collective: union with God. Thus, before Catholics can speak of human rights properly, we must place the dignity of the human person in the context of our common good and our supernatural end. Like so much of Catholic teaching, the pope’s remarks to the UN acknowledge shared ground with the common conception of rights and yet also

express a desire to push the conversation forward so that the fullness of the Church's witness may be heard.

When we situate human rights in a fully Christian concept of the human person, complete with her supernatural destiny, we enrich the meaning of rights-language and extend the claims that human beings can make upon one another from the minimal concept of rights to a fuller concept of right relationship. After a very brief sketch of rights and the human person as conceived in modern liberal political theory, I will show that the Catholic tradition conceives of the human person in a fundamentally different way, with particular emphasis on the communal nature and supernatural destiny of human beings. Secondly, I will show that, in the Catholic view, the common good is a more fundamental concept than human rights. Finally, I will argue that only by locating human rights in a fully Christian concept of the human person and the common good do we preserve and promote human rights or the true dignity of the human person.

RIGHTS IN MODERN LIBERAL POLITICAL THEORY

As mentioned above, most participants in the global conversation about human rights assume notions of human rights, of human nature, and of the modern nation-state which are rooted in the tradition of modern liberal political theory. The modern mind has been captured by the story told in largely similar ways by such early modern theorists as Thomas Hobbes, John Locke, and Jean-Jacques Rousseau. Each sets the beginning of the human story in the "state of nature." The exact qualities of this state vary among the theorists, but they share the assumption that humans are by their nature individual. Without state or community of any significant sort, each individual has basic rights that center on their ability to secure a living and to defend themselves from harm. Locke emphasizes the perfect freedom, equality, and independence of the individuals in this condition.⁵ The state develops when a number of such individuals decide that they can better secure these two ends by joining together with others. When they do so by contract, they turn over some of their rights to the state (or the sovereign) and in return receive the state's protection of their goods and persons. In this tradition, not only is human nature inherently individual, but community itself only exists subsequent to a collection of persons *willing* it so. The state itself is limited to the purposes for which the individuals contracted it, generally the maximum protection of persons and property balanced with the minimum of necessary constraint on freedoms.

In this conception, both individuals and their rights exist prior to any sort of human community. Because of this, rights are intrinsic to the individual and are only secondarily (if at all) located in the community. In the case of basic material rights, such as food, clothing, and shelter, each individual's right to these things is rooted in the idea that he would have been able to procure them for himself in the state of nature, that is, in the individual state in which he found himself prior to his free choice to join together with others in a social contract. He exchanges the right to do violence to secure these things for the right to have the things he has appropriated for himself secured from such violence by means of law. But because of the priority of the individual and her rights and the limited and contingent status of the community, individual rights always have the potential to conflict with the good of the community. In John Rawls's *A Theory of Justice*, we see the fruit of this story and its sense of justice and rights:

Each person possesses an inviolability founded on justice that even the welfare of society as a whole cannot override. For this reason justice denies that the loss of freedom for some is made right by a greater good shared by others. It does not allow that the sacrifices imposed on a few are outweighed by the larger sum of advantages enjoyed by many. Therefore in a just society the liberties of equal citizenship are taken as settled; the rights secured by justice are not subject to political bargaining or the calculus of social interests.⁶

For Rawls, as for so many who have been party to recent conversations about rights and justice, the dignity of the human person, conceived in terms of liberal individualism, results in an understanding of justice that can conceive of conflicts between the freedoms of some individuals and the rights of others, or even between the good of a particular individual and the welfare of the whole society.

A CATHOLIC ALTERNATIVE

In order to understand the difference between this modern liberal sense of human rights and the human person, it is necessary to look to the Catholic tradition and highlight certain key differences. For the sake of focus and brevity, this exploration will focus upon three crucial areas. Although they overlap and have bearing upon one another, we will treat each as distinctly as possible. First of all, the Catholic tradition holds that the fullest revelation of the mystery of the human person is found in Jesus Christ. Second, the Catholic tradition holds to a deep unity among all human persons. Third, the

Catholic tradition holds that all of humanity has a supernatural destiny, union with God.

Human Person Revealed in Christ

Gaudium et spes declares: “In reality it is only in the mystery of the Word made flesh that the mystery of humanity truly becomes clear. . . . Christ the new Adam, in the very revelation of the mystery of the Father and of his love, fully reveals humanity to itself and brings to light its very high calling.”⁷ Obviously, for Catholics, Christ is the center of revelation, and therefore of knowledge, not only concerning God, but also concerning human nature. Christ is the new Adam, who does not fall. He is not only the Word, but the perfect human being and therefore the perfect image of the Word. As such, Christ is the completion and perfection of humanity. Henri de Lubac puts it this way: “Christ, by completing humanity in himself, at the same time, made us all complete—but in God. . . . [W]e are fully persons only within the Person of the Son, by whom and with whom we share in the circumincession of the Trinity.”⁸ Our personhood flows from the personhood of the Word and Son, in whom, by whom, and for whom we were both created and redeemed. However, Christ is not only our perfection but also the full revelation of humanity, in two senses. He reveals what it means universally to be a human being, but he also reveals to me what it means to be me. Again, we turn to de Lubac’s description: “By taking possession of man, by seizing hold of him, and by penetrating to the very depths of his being, Christ makes man go deep down within himself, there to discover in a flash regions hitherto unsuspected.”⁹ Christ both restores us to and points us to depths within ourselves that we would not know otherwise, or at least that we would not know as clearly. In the words of *Gaudium et spes*, “To follow Christ the perfect human is to become more human oneself.”¹⁰ Christ draws us into a more careful and more comprehensive scrutiny of what it means to be human. In that very restoration, we learn of our deep connection to every other human person. As de Lubac puts it:

That image of God, the image of the Word, which the incarnate Word restores and gives back to its glory, is “I myself”; it is also the other, every other. It is that aspect of me in which I coincide with every other [human being], it is the hallmark of our common origin and the summons to our common destiny. It is our very unity in God.¹¹

Thus Christ reveals to us that the depths within each of us coincide with those same depths within all of us. We cannot understand ourselves as isolated individuals, we cannot understand ourselves apart from one another, and we

cannot understand ourselves apart from the God who has created us for union with him.

Unity of the Human Family

Henri de Lubac's *Catholicism: Christ and the Common Destiny of Man* begins with the simple claim that the human race is fundamentally a unity. Drawing upon Irenaeus, Origen, Gregory Nazianzen, Gregory of Nyssa, Cyril of Alexandria, Maximus, Hilary, Augustine, and others, de Lubac shows that many of the church fathers conceived of human nature as a "concrete nature," a "genuine reality," even a "single being."¹² Gregory of Nyssa taught that the image of God in each human being "makes us so entirely one that we ought not to speak of man in the plural any more than we speak of three Gods."¹³ Though the image is in each person, it resides more properly in human nature as a whole, for "the whole of human nature from the first man to the last is but one image of him who is."¹⁴ Clement of Alexandria has the divine Logos issue the invitation: "I summon the whole human race, I who am its author by the will of the Father! Come unto me and gather together as one well-ordered unity under the one God, and under the one Logos of God."¹⁵ Though original sin is a disruption of this unity, a significant part of the reparation of human nature in Christ is precisely the restoration of this unity.¹⁶ It is human nature "whole and entire" that the Word unites to himself in the incarnation, and "whole and entire" he bears it to Calvary, to death, to the resurrection, and to salvation.¹⁷

On this view, community is not something that is added onto a human nature which is already complete in an isolated individual: "God did not create men and women as solitary beings. . . . For by their innermost nature men and women are social beings; and if they do not enter into relationships with others they can neither live nor develop their gifts."¹⁸ It is precisely in the development of ourselves and our gifts, in service to one another, that we become capable of being the people that God created us to be. In the words of *Gaudium et spes*,

Inssofar as humanity by its very nature stands completely in need of life in society, it is and it ought to be the beginning, the subject and the object of every social organization. Life in society is not some accessory to humanity: through their dealings with others, through mutual service, and through fraternal and sororal dialogue, men and women develop all their talents and become able to rise to their destiny.¹⁹

Community is therefore an integral part of human nature and of each human person. We become our fullest selves in community. Thus, the Catholic tradition

can make the claim that the next section will develop more fully: the common good consists in the conditions which allow every person to flourish. Though social structures and institutions may vary from culture to culture, human community is as fundamental as human personhood. Each entails the other and neither is prior to the other.

Supernatural Destiny

Just as our sociality is part of us by our very nature, so too is our final end or destiny, which is union with God. Augustine's famous line expresses this beautifully: "you have made us for yourself, and our heart is restless until it rests in you."²⁰ In the very creation of humankind, God designed us for union with himself. St. Thomas Aquinas notes that God, as the uncreated good, is the only thing which can satisfy the human will,²¹ which God has created to seek the good.²² This supernatural end is therefore part and parcel of what it means to be human. From a Catholic point of view, the concept of human dignity is based "above all on the fact that humanity is called to communion with God."²³ We catch a glimpse of our supernatural destiny in our sense of ourselves as "superior to merely bodily creatures," as "more than mere particles of nature," or somehow "above the entire universe of mere objects."²⁴ When the concepts of human dignity or human rights are divorced from an understanding of the human person as oriented to union with God, they are already insufficient and skewed. Drawing from G. Fessard, Henri de Lubac shows that it is our supernatural destiny that reveals both the inviolable dignity of each person and the importance of the community of all:

on the one hand . . . by reason of this destiny each of us acquires a worth which is not to be compared with that of the whole world of nature below us, so that it becomes for all the object of a sovereign respect; on the other hand, in this absolute value, communicated by Christ, our freedom realizes the only end which is worthy of it; that is, the achievement of perfect community among all [people].²⁵

The claim here is beyond what is imaginable to human reason alone: each and every human being has an intrinsic worth beyond the whole of the rest of creation below us. At the same time, the only thing worthy of our work and attention in this world is fostering a deeper communion among all people. Our supernatural destiny is not simply supernatural; it is also common. Drawing from the book of Acts, *Gaudium et spes* states: "All in fact, are destined to the very same end, namely God himself, since they have been created in the likeness of God, who 'made from one every nation of humankind who live on all the face of the earth' (Acts 17:26)."²⁶ Both the unity of humankind and our

shared supernatural destiny are essential components of human nature. Any attempt to define the human without reference to these two aspects of human nature will fall far short of an authentic picture of the human person.

SOCIAL ARRANGEMENTS: COMMON GOOD AND PUBLIC ORDER

Common Good

Rooted in a sense of humankind as both inherently communal and destined to a common end, the Catholic tradition has insisted that a just social order will be directed to the common good, which embraces the good of all as well as the good of each, and the final good as well as the temporal good. *Gaudium et spes* defines the common good as “the sum total of social conditions which allow people, either as groups or as individuals, to reach their fulfillment more fully and more easily.”²⁷ Thus the common good involves the ordering of social institutions toward human fulfillment or flourishing. Although the common good always upholds the final good of persons, it is committed to their temporal good as well. *Gaudium et spes* insists that the rights and obligations which result from the common good are “the concern of the entire human family.”²⁸ Therefore, in Catholic thinking, the common good always remains more fundamental than the rights and obligations which flow from that good. Because the common good concerns the social conditions which best support human fulfillment, its content and meaning derive from the nature and dignity of the human person as revealed in Christ.

An exhaustive account of the common good in the Catholic tradition would be well beyond the scope of this chapter. However, a sense of the use of the term throughout the tradition will help ground our sense of it. Drawing largely on the Roman tradition articulated in Cicero and Scipio, Augustine insists that the existence of a true commonwealth, that is, a community ordered to the common good of the people, depends inextricably upon the presence of true justice:

Therefore, where there is no true justice there can be no “association of men united by a common sense of right,” and therefore no people answering to the definition of Scipio, or Cicero. And if there is no people then there is no “weal of the people,” but some kind of a mob, not deserving the name of a people. If, therefore, a commonwealth is the “weal of the people,” and if a people does not exist where there is no “association by a common sense of right,” and there is no right where there is no justice, the irresistible conclusion is that where there is no justice there is no commonwealth.²⁹

Augustine insists that a city (or nation) which does not worship God rightly necessarily lacks true justice.³⁰ When all things are not understood in their proper relation to God and to one another in God, there is no shared sense of the Supreme Good, and neither justice nor peace can be present in full.³¹ Therefore, for Augustine, a social order not directed to the common good cannot be a just society.

For Aquinas, one of the key functions of the virtue of justice is to direct the actions of the virtuous person to the common good, who is God.³² He states that the “justice which directs man to the common good is a general virtue . . . since it directs all the acts of the virtues to its own end, viz. the common good.”³³ Aquinas defines law as “an ordinance of reason for the common good, made by him who has care of the community, and promulgated.”³⁴ Law and the structures of the social order are always necessarily ordained to the common good.³⁵ Aquinas perceives the common good as twofold: “a sensible and earthly good” and “an intelligible and heavenly good.”³⁶ For Aquinas, the common good refers to the structures of our earthly life together, but always in the light of our supernatural end. In addition to this twofold structure of the common good, Aquinas has a sense of the interlocking nature of the good of a single person, a small community of persons, and the common good, claiming: “as the good of one man is not the last end, but is ordained to the common good; so too the good of one household is ordained to the good of a single state.”³⁷ Such goods, ordered to one another, do not compete with each other. In fact, it is precisely in the attainment of the good of each person and each household and each state—given that these goods are properly understood and pursued—that the common good itself is achieved.

A proper understanding of the common good thus yields a phenomenal insight: there can be no real conflict between the good of a particular person and the good of all. De Lubac describes the relation of the personal good and the common good:

for it is possible . . . to require of a man the sacrifice of his earthly life for the community, but to speak of the sacrifice of even one single personal being for the perfection of the universe is to imagine a factitious opposition between two sorts of “good” which can only coincide.³⁸

Because the good of each is ordained to the common good and because the common good is inextricably defined by the flourishing of each, there can be no real conflict of these goods. By their nature and relationship, they do not compete with one another but instead complete one another. A specific example may shed light on this. Having observed that the technological capability to increase the exchange of information and resources among different

cultures is resulting in “a more universal form of culture gradually taking shape,” *Gaudium et spes* makes what may seem a paradoxical claim: that, through this process, “the unity of humankind is being fostered and expressed in the measure that the particular characteristics of each culture are preserved.”³⁹ The movement toward cultural unity is not an unqualified good, but rather it is a good only insofar as it preserves the identities and gifts of its component parts. The common good is only realized by a kind of unity that still preserves and protects the good of its component parts. A unity which obliterated those parts—be they persons or cultures—would not be a good. We only move toward our common good when we move toward the good of each and every person.

Public Order

The development in the modern world of constitutional government necessarily led to a new moment for Catholic theology of civic authority. For medieval scholastics, the sovereign had the responsibility to care for the people, and therefore also had the duty of ordering all of the elements of social life toward the common good in keeping with the virtue of justice.⁴⁰ This was the end not only of justice but of law. As we have seen, the common good of the people included not only their temporal needs but also the spiritual good of all the people. Constitutional government, however, has developed largely out of the liberal tradition of political theorists. As mentioned above, these theories conceive of human beings as naturally individual, becoming connected to one another only secondarily and through their own choice. In governments founded upon such theories, the government is founded within certain limited rights and responsibilities by the individuals who constitute it.

Clearly such ideas are problematic in light of the Catholic understanding of the nature and dignity of the human person. However, constitutional government itself is not necessarily incompatible with the Catholic tradition. What John Courtney Murray and others have done to reconcile the modern concept of the nation-state to the Catholic tradition of the common good is to introduce the concept of society as distinct from the state itself, and to narrow the state’s responsibility to the maintenance of the public order, while the whole of society remains responsible for the common good.⁴¹ For Murray, the maintenance of the public order consists in maintaining the public peace, public morality, and justice. Therefore the state has the responsibility to protect and promote the freedoms and rights which are justly due to its constituents.⁴² In a nation-state where the government is not given full authority over its citizens—for they are citizens, not subjects—likewise it does not bear full responsibility for assuring the common good. This move acknowledges the limitations of the

state while still retaining the concept of the common good. In addition, locating the responsibility for the common good in society recognizes that human community is prior to the establishment of the state. Whereas the liberal story tends to equate the establishment of the state with the establishment of human community, the separate concept of society allows for a community which exists prior to the state and outside of any human choice to form it. Thus, not only the human person and her goods, but also the human community and its common good are more fundamental than the state. Therefore, although this model can look like a capitulation to the modern liberal model, it is not necessarily so. However, the state's responsibility for the public order, much like the language of human rights itself, can be insufficiently minimalistic if abstracted from the larger context of the Catholic tradition, particularly from the context of the pursuit of the common good.

The official church document which uses the concept of "public order" is *Dignitatis humanae*, Vatican II's *Declaration on Religious Liberty*. This document, while seeking to uphold the religious liberty of the person and the freedom of the church to exercise its mission, concerns itself with the question of what the function and the limitations of government are with regard to these freedoms. The document clarifies that the state has no right to limit the freedom either of the person or of the church. However, it also maintains that neither the church nor the state should attempt to compel personal assent to religious beliefs. In so doing, though, *Dignitatis humanae* locates "the protection of the right to religious freedom" as "the common responsibility of individual citizens, social groups, civil authorities, the church, and other religious communities."⁴³ The responsibility for the pursuit of the common good is not limited to the state alone but is spread to the entire community, both the individual persons and the smaller communities that make up the whole people.⁴⁴ However, the civil authorities are not excused from responsibility for the common good. Though the responsibility for the public order is entrusted to the civil authorities,⁴⁵ its maintenance alone does not exhaust their responsibility for the common good. The responsibility for the pursuit of the common good rests with the whole community, and civil authorities share in that responsibility. Thus, *Dignitatis humanae* does not go as far as Murray does in drawing a firm distinction between the state and society or between the common good and the public order. The common good remains the most determinative measure of every social institution, including government. In the words of *Gaudium et spes*, "The political community, then, exists for the common good: this is its full justification and meaning and the source of its specific and basic right to exist."⁴⁶ However limited the role of the public authority, it fills that role in the context of service to the common good.

CATHOLIC HUMAN RIGHTS IN A PLURALISTIC CONVERSATION

Since the UN's Universal Declaration of Human Rights in 1948, the Catholic Church has been uncompromising in its advocacy of those same human rights. However, the magisterium has been far from uncritical about how rights-language should be understood. Papal encyclicals and addresses, the documents of the Vatican Council, and the pastoral letters of bishops' conferences have all insisted that human rights can only be rightly understood in the context of a larger understanding of the human person as revealed in the light of the gospel. Turning once again to *Gaudium et spes*, we find this nuanced understanding of human rights:

In virtue of the Gospel entrusted to it, the church proclaims human rights; it acknowledges and holds in high esteem the dynamic approach of today which is fostering these rights all over the world. But this approach needs to be animated by the spirit of the Gospel and preserved from all traces of false autonomy. For there is a temptation to feel that our personal rights are fully maintained only when we are free from every restriction of divine law. But this is the way leading to the extinction of human dignity, not its preservation.⁴⁷

The council points us to the danger of rights-language. We may hear the language of "rights," correctly, as a resonance with the gospel. We may find energy to work for those rights from quarters which are not of the gospel. We should enter into this dialogue about rights enthusiastically. It should fill us with joy and hope, not fear, because this is the work of God in the world. But the qualification is clear: we must continue to witness to the truth revealed in Christ and in the gospel about the human person. We must resist the false autonomy that so often comes with rights language. When we allow rights-language to become more determinative for us than the Word of God spoken in Jesus Christ, we not only water down the gospel but also betray our fellow human beings to a supposed "human dignity" which is far less than the dignity that is truly theirs.

In addition, we must remember that human rights remain, at best, "the minimum conditions for life in community."⁴⁸ Catholics and all people of good will should work not only to secure and protect human rights for all people, but to exceed these minimums. As conversations about human rights unfold, Catholics best serve the common good, their fellow human beings, and the gospel itself by pushing others' understandings of the limitations of human rights in order to expand their awareness of the true dignity of the human person and the real solidarity of the human family. Perhaps a concrete example will illustrate this point. Technically, the civil rights movement in the American South was a success. It

secured for all Americans, regardless of the color of their skin, the right to equal protection under the law, as well as the right to equal access to all of the relevant social goods, including education, employment, health care, and the political process. We have achieved equal rights, but have we achieved right relationship with one another? Do we have a sense that the denial of basic health care to a poor elderly man in small-town Texas hurts each of us and our common good? Not simply because it could be us one day, but because it *is* us. Our connection to one another is so much more than a web of rights and claims. None of us flourish unless we all have what we need to flourish.

If we extract from the social tradition of the Catholic Church simply that human rights are a good thing but fail to learn the full context of those rights in the dignity of the human person, the connectedness of all people, and our supernatural destiny, we fail to understand the fullness of the demands of human dignity, human solidarity, and God's justice in the world. If we think that all Catholic social thought demands from or contributes to a nation's political process is the maintenance of the public order and minimal justice, we betray both our fellow human beings and the Catholic faith. Catholic Social Teaching insists that those who wish to be authentic followers of Christ can only rightly serve their neighbors and the gospel when they give themselves both to the work of securing justice for all and to the conversation about what that justice consists in. By engaging both parts of this important work, adherents of Catholic social thought truly witness to the solidarity of the human family and to Christ who came not only to save, but to teach and to serve as well.

NOTES

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31. Augustine, *City of God*, 893, Bk. XIX, ch. 27.
32. Aquinas, *Summa Theologica*, II-II. 26.3.
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34. Aquinas, *Summa Theologica*, I-II. 90.4.
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37. Aquinas, *Summa Theologica*, I-II. 90.3, ad 1.
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Chapter Nine

Božena Komárková

Toward an Existential Christian Philosophy of Human Rights¹

Joyce J. Michael

PHILOSOPHICAL MOTIFS

Božena Komárková was an advocate of human rights who defended a dissertation entitled “The Community of Plato and Augustine: The Origin and Significance of Human Rights” three years after being released from a Nazi concentration camp and a few days before the Communist Party assumed control of Czechoslovakia. That totalitarian regime prohibited Komárková from pursuing a teaching career, and forced her to retire from her post as a librarian at the age of forty-five. Although she spent the rest of her life under surveillance, Komárková continued working for, and writing about, human rights in ways which were distinguished by the scholarly integrity that is evident in “Human Rights and Christianity.” In that essay, Komárková discloses some of the central motifs of her own philosophy of human rights as she discusses the political struggles, societal transformations, and changes in the concept of natural law that grew out of the Calvinist Reformation. Included among these motifs are the following distinctive themes.

THE TRANSCENDENT BASIS OF HUMAN RIGHTS AND THE FINITUDE OF ALL HUMAN ORDERS

In analyzing the radically different outcomes engendered by opposing strains of the Enlightenment, Komárková observes that the rational method “could generate plans of social order in which a single individual could disrupt all of the cohesion of society, but it could also generate opposite schemes of order in which its members were bound by shackles much more rigid than the legacy of the Middle Ages against which the Enlightenment had set out to battle.” She

proposes that the only perspective which could balance such extremes was grounded in “an awareness of the penultimate nature of empirical experience.”²

It thus seems reasonable to conclude that for Komárková, recognition of “the conditional nature of everything human” is a necessary pre-condition of the inalienable freedoms that she identifies as being “rights which must remain . . . untouched by the state.” Yet, she also asserts that human rights “are invariably subject to an aspect of life which is not part of [the] three-dimensional reality” that encompasses the human, natural, and cosmic spheres.³ Her emphasis on the penultimate character of human systems is thus complemented by a sense that human rights and freedoms must have a transcendent basis, lest the norm of human behavior be identified with conditional reality.

Practical implications of these perceptions are revealed when, in her analysis of the political significance of the Reformation, Komárková declares: “Simultaneously with the theory of covenant and of the right to protest in the event of its violation . . . people were found to be legitimate agents of opposition against authorities who were unfaithful to God’s covenant. The private individual, attending to godly things, became a direct deputy of God, and, thereby, a statutory subject as well.” Moreover, in her discussion of the Huguenots, Komárková asserts that “people cannot confer rights on a king that they themselves do not have; consequently, they cannot entrust their conscience to [a monarch] since that belongs to God.” Her effort to avoid linking the transcendent dimension of existence with any human construct or socio-political authority is further demonstrated by the fact that she shifts from historical specificity and theological language when she affirms the Huguenots’ awareness that “there is an area of life, which, on account of its nature, must be removed from external legal intervention.”⁴

The Human Responsibility to Cultivate Human Rights

Komárková typically identifies the transcendent ground of human rights with God. However, her acknowledgement of God’s preeminence does not lead her to lose sight of the inherent worth of the human being. She values Immanuel Kant’s conviction that “the human self has an unconditional value, from which its freedom—that is, its right to moral self-determination—arises.”⁵ Her high regard for the fact that Kant was the only continental philosopher of the Enlightenment “who challenged the state’s right to control the spirit” is complemented by her assertion that “the concrete human being . . . remained an un-derived and irreducible reality and value” for John Stuart Mill.⁶

Komárková’s emphasis on the unconditional worth of the human being does not issue in a naïve advocacy of radical individualism. In analyzing the Virginia Plan, she stresses that insofar as “[o]nly God [gives] validity and

blessing to all human freedoms,” neither radical individualism nor rationalistic principles about abstract human beings can be the foundation and aim of human rights and freedoms. Their godly mandate entails radical accountability, or, to use Komárková’s diction, “freedom can exist only as a fruit of virtue.”⁷ Insofar as human beings actualize their inherent value by “fulfill[ing their] *vocatio* in service,” rights must be made manifest by concrete acts of justice, love, and humility of the sort that John Locke sanctioned.⁸ In light of her contention that rights are contingent on an active struggle to exercise “free responsibility in the sight of God,” a pioneering scholar of her work ranks Komárková among a group of highly-principled dissidents who, “in spite of their limited possibilities . . . , sought to teach social responsibility.”⁹

The Essential Role of Change

Her emphasis on human responsibility means that human rights are not static ideological constructs for Komárková. Nor does their transcendent dimension distance them from the realm of human relationships where they find practical expression. Such a dynamic conception of human rights necessitates a radical reassessment of the Enlightenment theory that the human being is “an immutable Cartesian substance whose relationship to the threefold order of humanity, nature, and the universe remains unchanging.”¹⁰ Thus, Komárková emphasizes that “within the framework of evolution, the human being ceases to be an unchangeable, ontological substance. Not only because he is changed by history, but especially because he changes through history.”¹¹

Komárková critiques the new ontological standard established by evolutionary theory by contrasting its tendency to absolutize historical and natural forces with the fact that British thinkers “did not establish closed systems . . . and did not turn [their] findings into a metaphysical standard.”¹² Yet, she also acknowledges that evolutionary theory challenged the Enlightenment belief that “[t]he rational order was an authority higher than the human being” whose logical dictates could be “satisfied by human virtue.”¹³

Komárková values the fact that British philosophers “did not permit logic to be mistaken for ontology . . . , and at no time, reduced reality to a single common denominator.”¹⁴ She stresses that, according to British thinkers, “[t]he paradigm for life [is] not complete.”¹⁵ Thus, human beings are subject to—and must be free for—change. Komárková’s discussion of John Stuart Mill similarly stresses that insofar as “God’s will is empirically indiscernible” human beings are responsible for engaging in a “continual struggle . . . for superior forms of life.”¹⁶ The very conditionality of existence seems to necessitate on-going processes of seeking, struggling, and revising.

The Necessity of Error and Imperfection

Komárková notes that for Mill, “error is . . . necessary so that truth may be refined by it.”¹⁷ Moreover, when analyzing the monistic theories of Hegel and Comte, she affirms the vital role that aberrant elements have played in the emergence of human rights. She argues that Comte’s description of “society as an all-encompassing, immortal organism did not leave room for any negative feature.”¹⁸ Yet, rights necessarily entail “the possibility of bringing the human being to fruition.”¹⁹ Thus, “[t]here was no place for human rights in [Comte’s] system.”²⁰ Incompletion and imperfection are essential to human rights because rights presuppose the awareness that life is incongruous and evolving.

Insofar as “[right] arises from the tension between what is and what should be,” Komárková asserts that “[h]uman rights arose as the safeguard of freedom in an imperfect world.”²¹ She contrasts this reality with eschatological fantasies of Hegel, Comte, and Marx, which anticipate an ideal society of “total freedom” that will “not need rights.”²² Komárková notes that when such utopian visions represent conditional human orders as having absolute truth and power, “a totalitarian solution to human questions” often results.²³ Then she offers this critical appraisal: “All totalitarian social structures are the . . . product of a civilization that [has] lost a sense for the transcendent aspect of life and therefore, [has] had to elevate the law of its society to [a position of] ultimate worth.”²⁴

Insofar as an awareness of transcendence is a necessary component of civil society, Komárková stresses that human rights must not become a new manifestation of an idolatrous absolute. She modestly identifies rights as being the “equipment that people need for a journey through an imperfect world and the aid that people need to live responsibly before God.” Thus, her critique of contrasting philosophical views is effectively de-absolutized. Humility before the transcendent dimension requires Komárková to critique the theological heritage that informs her work *and* enables her to perceive that even totalitarian systems may stimulate constructive responses to human imperfection. Moreover, Komárková takes a step beyond the human tendency to divide the world into oppositional entities when she asserts that “[f]ighters for the right of freedom . . . are able to be set free for responsibility by God, even if they forget his name.” Expanding on this conclusion, she asserts that God’s spirit “is limited neither by confession nor by atheism.”²⁵ Insofar as all human realities are conditional, they are all privy to the refining operation of the transcendent dimension and must be given due consideration.

EXISTENTIAL MOTIFS

The suggestion that totalitarian systems may stimulate a quest for human rights might appear to be dubious. However, Komárková’s insights into exis-

tential quandaries and her commitment to human rights were grounded in, and deepened by, her encounters with Nazi and communist absolutisms. The small figures of animals and people fashioned from bread, which she kept in her apartment after bringing them from the concentration camp where she had been held, suggest that Komárková did not let herself forget earlier cataclysms. Nor did she let herself be bound by present circumstances. Rather, her direct experiences with two forms of totalitarianism guided Komárková to constructive assessments of historical events and social conditions, in spite of the danger that she consequently faced. The following examples may reveal that the existential integrity of Komárková's thought is particularly evident in writings which reflect the Christian roots of her advocacy of human rights.

Restoring Lost Humanity

In "The Heidelberg Catechism in Our Century," Komárková observes that "[i]n the framework of scientific thought, sin is a heterogeneous and incomprehensible idea" which has "slipped out of human consciousness."²⁶ Yet, she also asserts that in the technological milieu, "the relationship of people . . . is not a human relationship. It is an indissoluble relationship of cold and impersonal social duties in which the human being remains a shadow."²⁷ She thus concludes that "an existential question is rending the human being from the core" leading individuals to ask: "What can I do so that people will see a person in me, so that they will be human toward me? . . . [W]here will I find a brother, so that by him and through him, I can become a human being?"²⁸

Komárková proposes that in this milieu, Christians may speak "about our being lost in a world of inhumane humanity, about our need to have a neighbor, about the true neighbor who is Christ, and about a life of joyful, reciprocal service."²⁹ Moreover, the implied possibility that transcendence may be encountered, and truth refined, in the imperfect systems of the technological age is corroborated by Komárková's avowal that "[w]here the relationships of human beings have . . . fallen to the level of being relationships to things, the living God . . . must take a stand in order to reveal . . . that the only relationship which he has ordained for people is love and that only love restores lost humanity."³⁰

These remarks place key elements of Komárková's philosophical analyses in concrete realities that are operative in conditional technological systems which seek to impose finite absolutes without "see[ing] the person."³¹ Thus, church colleagues, participants in the Academic YMCA, and dissidents who gathered in Komárková's apartment during communist times must have had a vital understanding of this telling remark: "Presently, the . . . reified, depersonalized humanity under which we are all laboring is weighing heavily upon us."³²

Furthermore, they must have been heartened to hear her speak of experiencing “life in a new dimension” and encouraged by her insistence that exploited individuals can be “rescued from . . . faceless, depersonalized humanity” by responsible acts of advocacy.³³

Rebuilding a Fractured Peace

Insofar as Komárková was no stranger to the calamitous cycles of war, she may have unique insights to offer the present age when a climate of fear and revenge is threatening to entrap large segments of the world community in warring madness. World War II’s impact on Komárková is well-documented by the journal that she wrote during her internment by the Nazis. Furthermore, the terse, reportorial style of an essay entitled “Czechs and Germans in Our Century” is suddenly transformed when she declares: “I cannot describe what came next except in terms of personal experience.”³⁴

Komárková proceeds to offer a haunting description of the arrival of German troops in her hometown in 1939. “Until then, we had understood uniformed power to be a safeguard against the violation of order and justice,” she writes. “Now for the first time, we experienced that power *encroaching* upon both justice and order.” After recalling that “[s]pring was very beautiful that year,” she adds that “[i]n an empty factory building at the edge of town, the International Red Cross had set up a camp for Jews . . . who had fled the Nazis after the Munich Agreement. Now members of the German army paced there, and methodically flogged people. We heard orders and shrieks, but we could do nothing.” Komárková concludes that “[t]he contrast between this and the radiance of nature was unbearable. An unrestrained hatred began to grow within us . . . and we became numb to human suffering . . . so that we would not ‘cave in’ because of it.”³⁵

Komárková acknowledges that hatred may lead to a thirst for revenge and that numbness may spawn a disregard for human life when she recalls that “[t]he younger generation . . . learned violence from those it hated, and subsequently perceived that to be the substance of justice.”³⁶ Yet, her assertion that “[o]nly . . . in prison did I learn to overcome this hatred, with the help of God” indicates that a different approach is possible.³⁷

Pavel Keřkovský notes that although the diary that Komárková kept in the concentration camp “bore witness to her ‘Jeremaic dispute’ with God,” she also made her first reference to the “advent nearness of God” in that journal. Insofar as that phrase refers to “a dimension [of grace] that breaks into our world unexpectedly,” Komárková’s quest to forego bitterness and take a different course is contexted in struggle, transcendence, and a sense that refining dynamics may humanize even the harshest situations.³⁸

Komárková's openness to the advent nearness of God in the midst of unthinkable brutality enabled her to assume a gracious stance with regard to the post-war expulsion of German residents from the Czech Sudeten land. In questioning President Benes' insistence that this action was necessary and right, she declares: "I needed to put the question differently! After what had happened, how could we live together? I knew a single way. That would be possible only through joint repentance."³⁹ Komárková acknowledges that "repentance does not belong among the categories of world history."⁴⁰ Nevertheless, she contends that "[i]t lies within our power to surmount the past and its discontinuity by a collective admission of our mistakes and our guilt."⁴¹

Practicing Solidarity

Near the end of "Czechs and Germans in this Century," Komárková uses theological terms to express her conviction that victims of violent oppression do not need to succumb to vengeance or apathy. "Beneath the cross, we can overcome the past," she declares.⁴² Elsewhere, she asserts: "The cross was not Christ's fate, but a free act of love," and in "New Testament Worship," she maintains that with the collapse of "[t]he illusion of progress as the self-actuated approximation of God's kingdom . . . , [c]hasms of good and evil have deepened before us, and simultaneously have split so far apart that decision-making is practically impossible without a vision of Christ's cross."⁴³

Although the cross is a significant theme for Komárková, her tendency to link it with human responsibility means that her references to this complex symbol are not empty platitudes borne of sentimental pietism. She asserts that "Jesus Christ calls each generation to carry the burden of the world as its cross and to draw strength from it for living in the abiding hope that God's intention for the human being is joy and peace."⁴⁴ Although its positive portrayal of God's will tempers this call to radical responsibility, the exacting nature of Komárková's understanding of the cross is evident when she declares: "The *kairos* of the end of our millennium is the restoration of Christ-like sacrifice to the center of life."⁴⁵

Elsewhere, Komárková observes that "[e]vil, as the outgrowth of human guilt *vis-à-vis* God and . . . humankind complicates the tableau of the Christian world and . . . makes it seem confused and uncontrollable."⁴⁶ Yet, she goes on to declare that "[t]he body, which the son of God accepted . . . , is not only a confirmation of God's love for humankind. . . . [I]t is also an affirmation of all created reality. . . . This is why everything that exists has value. . . . This is why it is acceptable to love the world and its gifts: because they are God's gifts."⁴⁷

For Komarkova, this positive portrayal of creation does not absolve the human being of the responsibility to “[give] himself up in sacrifice for his brother.”⁴⁸ Indeed, she radicalizes the implied appeal for human beings to stand alongside the powerless when she writes: “Through Christ’s sacrifice—which put him in solidarity with humankind and the world to the point of death in a place for outcasts—our responsibility for our brothers, for the world, and for the task of taking the place of the weak . . . has been set forth.”⁴⁹

Although Komárková rarely refers to human rights in theologically oriented essays, in “New Testament Worship,” she states that “[w]ith Jesus’ sacrifice, every person has become untouchable; no one may violate his dignity with impunity. This is the deepest reason that our age . . . is clamoring, with such urgency, for the dignity of the person to be guaranteed in the social sphere by legal safeguards in the form of human rights.”⁵⁰ Komárková contends that because of Christ’s sacrificial love, concrete individuals may not be treated as mere “products of nature and history.”⁵¹ Rather than being “lost cosmic or social atoms,” human beings are “creatures fashioned in God’s image” whom “God calls by their name.”⁵² Thus, human rights are more than attempts to protect self-interest and secure personal entitlements.⁵³ They are an expression of solidarity with God and among humans.

Komárková’s emphasis on human beings’ responsibility “to serve their neighbor in the fullness of love” belongs to a legacy that spans centuries.⁵⁴ In 1415, Jan Hus wrote these words “in prison, bound with chains and expecting on the morrow the sentence of death. . . . I entreat this . . . of you, that ye love one another, defend good men from violent oppression, and give everyone an opportunity to hear the truth.”⁵⁵ In the 1600s, J. A. Comenius asserted that laws established by the state must ensure that “people are not burdened by yokes of slavery, but . . . are preserved in freedom.”⁵⁶ In 1988, Jan Lochman, an exiled Czech theologian, stressed that “we must affirm quite categorically that tolerance in the Christian sense can never be equated with indifference . . . because the command to love God and our neighbor excludes relationships of sheer indifference. Love courts fellow human beings, sides with them, and . . . struggles with them for truth.”⁵⁷ Furthermore, in 2004, former dissident and noted ethicist, Jakub Trojan declared that “we are *obligated* to eliminate flagrant manifestations of human brokenness, blatant displays of injustice and poverty, and underlying, systemic inadequacies.”⁵⁸ Throughout the communist era, Komárková preserved the legacy of advocating the truth, freedom, love, and acts of resistance, which may be necessary precursors of justice and peace, and developed these in ways that may be particularly meaningful in this seculo-centric age.

HOLISTIC EMPHASES

In the seventeenth century, Comenius advocated “a unified approach to the whole of reality” by focusing on “the interrelatedness of all aspects of life.”⁵⁹ It thus appears that in maintaining this intellectual heritage, Komárková operates under such a strong sense of the interrelatedness of theology, philosophy, and existential realities that she makes few explicit connections between her philosophical analyses and theological deliberations. Hence, Keřkovský observes that “it is difficult to classify Komárková as belonging to any particular school or academic discipline” because her “intellectual struggle . . . ranges over the fields of theology, philosophy, law, and history.”⁶⁰ Four implications of this holistic approach will now be examined.

The Theological Significance of the Profane World

Keřkovský notes that Komárková’s “philosophical vocabulary is enhanced by the addition of terms coming from the biblical tradition.”⁶¹ Nevertheless, she does not turn theological imagery into an idolatrous ideological possession. Instead, she declares: “In Czechoslovakia, the fact that [the powerless God] has become the theme of philosophers rather than theologians has a very special significance. No one knows from which direction the spirit of God will blow.”⁶² Elsewhere, she asserts that “[t]he spirit of God blows where it pleases and is also audible to the Christian conscience in the profane world.”⁶³ Komárková also indicates that theological insights may find desacralized expression among people who are estranged from religious institutions. “Truth is not limited to the confessional community,” she writes. “More than that: the profane world is the condition of freedom for Christians as well.”⁶⁴

Furthermore, in an essay where philosophical and theological emphases are closely intertwined, Komárková observes that “[u]sing the intellectual approach that has become customary in scientific analysis of reality, theology, too, has subjected its own past to a radical criticism. . . . [I]t has rejected *a priori*, universal truths, [and] . . . has made factuality its basis.”⁶⁵ Since Komárková wrote those words, positivistic approaches to theological issues have been critiqued and superseded. Yet, Komárková interprets the tendency to “materialize the Bible” in an intriguing way when she states that theology’s “central domain [has become] the objectivity of God’s deeds, revealed in Jesus of Nazareth, a specific person, burdened by history. . . . In the dialectical tension between God and humankind, the weight has shifted to the human side.”⁶⁶

Secularism's Transformation of Theology

Komárková's awareness of the inadequacies of all social structures and ideological systems prevents her from idolizing any age or institution. Thus, after observing that contemporary "Christians remain an integral part of their . . . world," she acknowledges that "[i]n their similarity to, and solidarity with, [the world] lies both their strength and their limitation."⁶⁷ Yet, she does not assume that historical manifestations of Christianity are less liable to critique than sociocultural systems are. "It is its condemnation by the world that has helped theology find its true center," she candidly declares. "This condemnation has enabled theology . . . to see its own biblical sources in a new way and to gain new, liberating insights from them."⁶⁸ Furthermore, insofar as "rooting itself in Christology has made theology free for the world around it," Komárková holds that Christianity is now "able to accept the service that the world performs for it. It can even accept the world's defection from the church as being such a service."⁶⁹

Theology's Transformation of Secularism

Reflecting on the impact of the "world's defection," Komárková states: "Perhaps for the first time in its existence, theology has abandoned the theme of the enemy. It is concerned only with the theme of the brother. . . . This is the *imitatio Christi* of today's world. In spite of all of its relativity, such an understanding of faith is the only true one."⁷⁰

The paradoxical suggestion that the relativity of "the exclusive Christocentrism of contemporary theology" has issued in the "only true" understanding of faith might be interpreted as being a sign of Komárková's participation in "the affinity of theology with its age."⁷¹ Yet, insofar as she stresses that this affinity requires Christians to challenge and transform society, Komárková does not acquiesce in the ambiguous attributes of socio-centric secularism. Rather, she states that the similitude of theology to its epoch also "resounds with force in Augustine and the Reformation. Nevertheless, even at those times, what speaks to us most radically is theology's . . . dialectical tension in relation to its age . . . which brings about a qualitative transformation of all of its formal affinity with contemporary themes."⁷²

Komárková concludes that just as the church has benefited from the reassessments that were prompted by "the world's condemnation," society needs the transforming potential of "the constant identity of the Christian message."⁷³ After declaring that Jesus lives "the secular human existence so completely that he transforms the sacral theme of the priest's sacrifice into the sacrifice of his very self . . . in a place lying under a curse," she asserts that

Christians—within the church and beyond its bounds—must teach society to venture a similar sort of solidarity by daring to “work for this world and bear its wounds.”⁷⁴ Komárková is persuaded that the self-absorption of the secular mindset, which “deliberately encloses itself within realities that do not overstep the boundaries of the sensory realm,” must be challenged.⁷⁵ Furthermore, she is convinced that “by giving themselves for their brothers and sisters, [the community of believers] may invite the world to break free of its seculo-centric captivity.”⁷⁶

A Hidden Seed

When Counter-reformation policies forced Comenius into exile in 1621, he asserted that a hidden seed would preserve the traditions of the Czech Reformation. Komárková similarly speaks of “a hidden church” made up of “servants of the God who has hidden his face from [this] world.”⁷⁷ She acknowledges that people who “serve the world” may be found both “within churches and outside of them.”⁷⁸ However, she places great hope in “a hidden seed,” which does not harbor “the delusion that in difficult times, it is [the church’s] task to . . . [persevere] in places hermetically sealed off from the hostile world.”⁷⁹ Komárková emphasizes that since “the world [has become Christ’s] dwelling place,” his “followers are called to go . . . out of the shelter of the walls of the holy city.”⁸⁰ Whether the “hidden seed” is part of the church or outside of it, “Christ’s people have to live in the world” because “[t]he glory of the Lord . . . is heralded . . . by the one who stands in for the other as a brother.”⁸¹

CONCLUSION: SHATTERING BARRIERS

Guided by her perception that secular orders and the Christian tradition may be related in a constructive, if arcane, synthesis, Komárková is committed to collaborating with, and advocating cooperation among, various theological, philosophical, and secular schools of thought and practice. Thus, in reflecting on her relationship to the Czech philosopher, Jan Patočka, she declares: “In spite of the dissimilarity of our starting points, we found a common framework for working together years ago and provided an example of an intrinsic willingness to remain devoted to . . . the values that united us.”⁸² After recalling that Patočka often said, “I do not have the truth; the truth has me,” she asserts: “We are servants of an appeal that lies beyond us. Humility before a moral appeal generates responsibility and tolerance, and is also the condition of the cooperation that is necessary for clarifying [divergent] points of view

in the face of polemics.”⁸³ Another context for solidarity is identified when Komárková writes: “The inner rebirth of Catholicism is among the most striking transformations of recent times. . . . A new regard for [previously] repudiated values of civil life is being engendered by [its] struggle for the undented rights of the powerless before the powerful, the persecuted before the persecutors.”⁸⁴ In the wake of the oppressive Counter-reformation, Komárková’s assessment of Catholicism’s revitalization is both candid and positive. She observes that for hundreds of years, “Catholicism was closed to the values of the new era, which the worth of the human being as a free creature endowed with inalienable rights projected into new institutions.”⁸⁵ However, she also indicates that communism’s harsh policies led Catholics to understand that faith is not “a way of domination, but of service and cooperation.”⁸⁶ Hence, she asserts that as “[t]he history of power . . . ceased to be a source of inspiration . . . Charter 77 [became] a foundation and a plan for Catholics” as well as Protestants.⁸⁷ Thus, a shared concern for human rights appears to have enabled disparate groups to reclaim the common focus that underlies deep-rooted differences.

The nature of that common focus is spelled out when Komárková asserts that “[a] serious vision of the concrete human being is necessary for all humankind. More love and devotion are needed for the human being, than for the abstract idea. Only from that point of view will the greatest danger to our civilization . . . recede.”⁸⁸ These statements suggest that becoming enmeshed in structures and ideologies often leads human beings to lose themselves in futile struggles to preserve dissimilar (i.e., finite) “absolutes.” However, focusing on the concrete individual brings human beings face to face with the unconditional worth of life. Thus, “an effort to really help [particular persons] causes the ideologies by which human beings explain themselves to be less solid barriers.”⁸⁹ As perspectival differences between Christian advocates and secular agents of human rights become more permeable in the wake of direct encounters with specific human beings, diverse groups of “fighters for freedom” may nurture responsible and respectful cooperation. Hence, well-intentioned ideologies may “cease to be a demonic force and [may] become the resource—the help—that they originally should have been.”⁹⁰

NOTES

1. Komárková and her works have been discussed in publications of the Evangelical Church of Czech Brethren, and listings of her books appear in bibliographies of *samizdat* publications. However, few scholarly reflections on her writings are available in English at this point in time. An exception to this state of affairs is provided by the following essay: Pavel Keřkovský, “The Biblical Language of Law,” trans.

J. Michael, *Communio Viatorum* XLVIII.1 (2006). Both this essay and the book in which it originally appeared were published after this paper was written in 2004. Dr. Keřkovský's book is a seminal consideration of Komárková's thought. See Pavel Keřkovský, *Řec filosofické a biblické reflexe: problém spravedlností a lidsých práv v díle Boženy Komárkové* (*The Language of Philosophical and Biblical Reflection: The Problem of Justice and Human Rights in the Work of Božena Komárková*) (Jihlava, Czech Republic: Nakladatelství Mlýn, 2005). This is one of the most significant analyses of Komárková's thought that has appeared in the recent past.

2. Komárková, *Human Rights and the Rise of the Secular Age*, trans. J. Michael and P. Stephens (Benešov, Czech Republic: EMAN, 2003). (Identified from this point on as SA.)

3. Komárková, SA.

4. Komárková, SA.

5. Komárková, SA.

6. Komárková, SA.

7. Komárková, SA.

8. Komárková, SA.

9. Keřkovský, "Introduction," *Human Rights and the Rise of the Secular Age*, trans. P. Stephens.

10. Komárková, SA, 85.

11. Komárková, SA, 85–86

12. Komárková, SA, 86

13. Komárková, SA, 85, 86.

14. Komárková, SA, 86.

15. Komárková, SA, 87.

16. Komárková, SA, 87.

17. Komárková, SA, 88.

18. Komárková, SA, 93.

19. Komárková, SA, 94.

20. Komárková, SA, 93.

21. Komárková, SA, 94, 96.

22. Komárková, SA, 95.

23. Komárková, SA, 100.

24. Komárková, SA, 100, 101.

25. Komárková, SA, 102.

26. Komárková, SA, 132.

27. Komárková, SA, 133.

28. Komárková, SA, 133.

29. Komárková, SA, 134.

30. Komárková, SA.

31. Jiři Otter, *The Witness of Czech Protestantism* (Prague: Kalich, 1970). Jakub Trojan, "Propositions regarding Globalization," trans. J. Michael (unpublished document, 2004).

32. Otter, *The Witness of Czech Protestantism*; Komárková, SA, 135.

33. Otter, *The Witness of Czech Protestantism*; Komárková, SA, 134.

34. Božena Komárková, "Czechs and Germans in our Century," trans. J. Michael. *Communio Viatorum* XLVI.1 (2004): 90–99.
35. Komárková, "Czechs and Germans," 97–98.
36. Komárková, "Czechs and Germans," 98.
37. Komárková, "Czechs and Germans," 96.
38. Komárková, "Czechs and Germans," 96.
39. Komárková, "Czechs and Germans," 99.
40. Komárková, "Czechs and Germans," 99.
41. Komárková, *SA*, 194.
42. Komárková, "Czechs and Germans," 99.
43. Komárková, *SA*, 135–47.
44. Komárková, *Ve Světě*, 68.
45. Komárková, *SA*, 147.
46. Komárková, *SA*, 111.
47. Komárková, *SA*, 110.
48. Komárková, *SA*, 143.
49. Komárková, *SA*, 110.
50. Komárková, *SA*, 145.
51. Komárková, *SA*, 111.
52. Komárková, *SA*, 111.
53. Komárková, *SA*, 142.
54. Komárková, *SA*, 144.
55. Otter, *The Witness of Czech Protestantism*, 31.
56. Jan Amos Comenius, *The Happiness of the Nation*. Unpublished. Trans. J. Michael, 2001.
57. Jan Milič Lochman, *Christ and Prometheus: A Quest for Theological Identity* (Geneva, Switzerland: World Council of Churches, 1988).
58. Jakub Trojan, "Prepositions Regarding Globalization," trans. J. Michael (unpublished document, 2004).
59. Dagmar Čapková, "John Amos Comenius' *Pansophia*," Lecture, Protestant Theological Faculty of Charles University Prague, Spring 2000.
60. Kežkovský, *Human Rights*, 14, 11.
61. Kežkovský, *Human Rights*, 15.
62. Komárková, *SA*, 147.
63. Komárková, *SA*, 193.
64. Komárková, *SA*, 193.
65. Komárková, *SA*, 107.
66. Komárková, *SA*, 107, 109.
67. Komárková, *SA*, 112.
68. Komárková, *SA*, 111.
69. Komárková, *SA*, 111–12.
70. Komárková, *SA*, 112.
71. Komárková, *SA*, 113, 111
72. Komárková, *SA*, 111.
73. Komárková, *SA*, 111.

74. Komárková, SA, 113.
75. Komárková, SA, 104.
76. Komárková, SA, 113.
77. Komárková, SA, 112.
78. Komárková, SA, 113.
79. Komárková, SA, 193.
80. Komárková, SA, 145.
81. Komárková, SA, 145–46.
82. Komárková, SA, 193–94.
83. Komárková, SA, 194.
84. Komárková, SA, 155.
85. Komárková, SA, 153.
86. Komárková, SA, 155.
87. Komárková, SA, 155.
88. Komárková, SA, 141.
89. Komárková, SA, 142.
90. Komárková, SA, 142.

Chapter Ten

Catholic Social Teaching, Economic Rights, and Globalization

John Sniegocki

At the core of Catholic Social Teaching (CST) are several fundamental affirmations concerning the human person. Foremost among these affirmations is the belief that all persons have intrinsic dignity, a result of being created in the image of God. Secondly, the human person is viewed in CST as a social being. Human dignity can be fully realized and protected only in community.¹ Based upon these beliefs in human dignity and in the social nature of persons, CST develops a holistic, communitarian conception of human rights. “Human rights,” the U.S. Catholic bishops state in their pastoral letter “Economic Justice for All,” “are the minimum conditions for life in community.”² This communitarian understanding of rights that CST develops provides a way to avoid the excessive individualism that is often associated with rights concepts.³

With regard to the content of human rights, the U.S. Catholic bishops assert that these rights include both civil and political rights, such as the right to freedom of speech, freedom of assembly, and freedom of religion, as well as economic and social rights, such as the right to food, housing, education, and health care. It is the assertion of this latter set of economic-social rights, as well as the claims made by CST of an inextricable connection between civil-political and economic-social rights, that has given rise to controversy. This controversy has been especially strong in the United States, a nation whose philosophical and political traditions have historically viewed only civil and political rights as being rights in the true sense of the term.

The U.S. bishops ground their holistic conception of human rights in Scripture. They highlight especially the affirmations of human dignity and of concern for the poor and for social justice that are found in the Genesis creation stories, in the covenant materials, in the prophets, and in the teachings of Jesus.⁴ In these biblical texts a primary responsibility of society (including the

community of believers) is to make sure that the basic needs of all persons are met. This is strikingly evident, for example, in the Sabbath and Jubilee Year provisions of the Mosaic covenant. These provisions call for the redistribution of wealth to be structured into the laws of society through periodic forgiveness of debts, release of slaves, and the returning of land to its original owners.⁵ The intention of these measures was to maintain relative equality among the people and to guarantee that no one became permanently poor or marginalized. When the Israelites strayed from this social vision of the covenant, the biblical prophets repeatedly sought to call them back. Similarly, Jubilee-related themes play a central role in the teaching and ministry of Jesus in the Gospels.⁶

In addition to drawing upon these biblical materials, the bishops also build their understanding of human rights on the foundations of earlier CST documents. The fullest treatment of human rights in papal writings is contained in Pope John XXIII's encyclical *Pacem in Terris*. In this document, issued shortly after the Cuban missile crisis in 1963, the pope explores the conditions needed for peace within and between nations. Authentic and lasting peace, Pope John argues, can only be achieved through respect for human rights holistically understood. The Pope's position challenged the dominant perspectives of both East and West. During the Cold War conflict the western countries stressed the primacy of civil and political rights, such as those contained in the Bill of Rights of the United States Constitution. Economic and social rights, however, were generally not guaranteed. Poverty in the United States at this time, for example, was widespread and severe, despite unprecedented societal affluence.⁷ Conversely, while the Soviet-bloc countries stressed the importance of basic economic-social rights, such as the right to employment, food, and housing, they routinely violated civil and political rights. Pope John XXIII stressed that both of these types of rights must be affirmed. A person's fundamental human dignity is violated both by the denial of free speech or assembly as well as by conditions that prevent access to adequate food, shelter, and other goods necessary for human well-being and flourishing.

Among the civil-political rights that Pope John XXIII affirmed are freedom of speech, freedom of the press, freedom of association, freedom of religion, and freedom to take part in political life. Economic-social rights that the pope affirmed include the right to food, clothing, shelter, medical care, education, social services, a just wage, safe working conditions, and the right to possess private property. Along with these rights come corresponding duties, such as the duty to work if physically and mentally capable. Society and the state in turn have a duty to make sure that employment is available, or else to provide assistance to unemployed persons. Emphasized also is the duty of all persons

to employ private property in service of the common good, a principle that places important limits on the right to private property.⁸

CRITIQUES OF ECONOMIC RIGHTS

Numerous criticisms have been expressed concerning the idea of economic rights. Foremost among the objections are claims that economic rights are indeterminate in content and indeterminate with regard to agent. For example, how much education or health care does a person have a right to? Would this not vary considerably depending upon the economic conditions of one's society? And who is responsible for guaranteeing these rights? The fear of critics of economic rights is that the affirmation of these rights will lead to excessive power being given to the state. "[T]he extensive effort to commit the church to 'economic rights,'" asserts prominent Catholic neoconservative Michael Novak, "has the potential to become an error of classic magnitude. It might well position the Catholic Church in a 'preferential option for the state' that will more than rival that of the Constantinian period."⁹ Novak contends that access to goods such as food, health care, or shelter cannot properly be viewed as "rights" in a legal or juridical sense, such that the state would be required to guarantee their provision. Rather, they should be seen as goals to which societies should aspire, primarily through commitment to capitalist processes of wealth creation and through the encouragement of individual self-reliance and communal charity.¹⁰ Novak does acknowledge that as a last resort ("in extremis") the state should make provisions to assist those who "through no fault of their own" find themselves in dire circumstances, such as persons disabled by illness, accident, or natural disaster, but he does not believe that a conception of economic rights is needed in order to justify this provision of aid.¹¹ An affirmation of economic rights, Novak fears, would foster dependency by undermining self-reliance and would thus undermine human dignity rather than respect it.

Novak and others argue that only civil and political rights should be seen as rights in a strict sense of the term. For Novak, the fundamental good is liberty. Civil and political rights, he argues, preserve liberty by forbidding certain actions or interferences with individual freedoms, for example, forbidding infringement upon freedom of speech. They serve to limit and restrict the power of the state. When one affirms economic rights, however, such as the idea that the state has the obligation to guarantee employment (or a basic level of income) for all of its citizens, the implications are very different. In this case, says Novak, "the role of the state is vastly expanded, some might say to an almost infinite degree."¹² Affirmation of economic rights, Novak

fears, would ultimately result in the undermining of civil and political rights, such as through excessive taxation and excessive intervention of the state in people's lives.¹³

While acknowledging that the U.S. Catholic bishops affirm a strong role for the state in guaranteeing economic rights, Novak argues that the teachings of the popes do not. "Papal teaching," Novak and co-author William Simon assert, "does not speak of 'constitutional rights' or 'legal rights.' It has in mind 'rights' binding on other human beings morally."¹⁴ Thus, Novak and Simon claim that while the popes assert that we each have moral obligations to respond to persons in need, they do not assume that the state has the duty to guarantee the provision of these goods.

POPE JOHN PAUL II AND ECONOMIC RIGHTS

A close look at the CST documents reveals that the broad assertions of Novak and Simon concerning papal teaching are mistaken. Novak and Simon contend that papal teaching does not call for legal recognition of economic rights. Pope John Paul II, however, clearly asserts legal significance for economic rights and assigns to the state important roles in guaranteeing these rights. In his 1998 World Day of Peace message, John Paul explicitly and sharply criticizes "those who weaken the concept of human dignity by denying juridical weight to social, economic, and cultural rights."¹⁵ While careful to stress that the responsibility for upholding economic rights falls upon society as a whole and not only upon the state, John Paul nonetheless does see the state as having an important role to play in this regard. For example, in his final social encyclical, *Centesimus Annus*, John Paul assigns to the state such tasks as establishing systems of social security, regulating working hours and wages, ensuring worker safety, protecting the environment, preventing monopolies, working to ensure full employment or providing an alternative income to unemployed persons, providing assistance to poor families, and in general "overseeing and directing the exercise of human rights in the economic sphere."¹⁶ The pope especially stresses the responsibilities of the state to protect the rights of the poor and marginalized: "the more that individuals are defenseless within a given society, the more they require the concern and care of others and in particular the intervention of governmental authority."¹⁷ While John Paul II in *Centesimus Annus* criticizes an excessive bureaucratization of certain aspects of the welfare state, he nonetheless clearly affirms a fundamental role for the state in economic life as being essential to the realization of the common good.

RESPONDING TO CRITICISMS OF ECONOMIC RIGHTS

We saw above that two of the most basic criticisms of economic rights are that they are indeterminate in content and that, in contrast to civil-political rights, economic rights grant excessive power to the state. In response to the first assertion, proponents of economic rights would assert that it is possible to establish some economic rights that are universally applicable, such as the right to have basic subsistence needs met (adequate food, clean water, basic education, etc.) and the right of workers to freely organize unions, while at the same time acknowledging that specific standards above these minimums would vary depending upon the economic capacities of each society. The fact that economic rights would not be exactly the same in all contexts does not mean that certain core components of these rights cannot be established.¹⁸

In response to concerns that economic rights unduly empower the state, proponents of economic rights put forth several counterarguments. One of these arguments is that the distinction between civil-political and economic-social rights with regard to the role of the state is not as clear as persons like Novak would contend. Even the affirmation of civil-political rights includes affirmation of a strong role for the state. The right to freedom from assault or theft, for example, necessitates the existence of a vast state network of police, courts, prisons, and parole systems, along with the compulsory taxation needed to finance these programs. This is a reality that is often overlooked when civil-political rights are spoken of as restricting the state and are sharply contrasted with economic rights, which are seen as empowering the state. A second response to this objection is to stress that the assertion of economic rights is in fact a way of seeking to hold the state accountable for the well-being of its citizens, making sure that its revenues are used in ways that truly foster the common good through support for education, health care, support for the marginalized, and similar goods rather than being squandered on wasteful purposes such as excess military spending, subsidies to wealthy corporations, or other purposes that don't respond to the true needs of society.

Whereas Novak sees civil and political rights as being in tension with economic and social rights, the tradition of CST sees them rather as complementary, each necessary for the full realization of the other. “[P]olitical democracy and a commitment to secure economic rights,” the U.S. bishops say, “are mutually reinforcing.”¹⁹ This complementary nature of economic rights and political democracy will be discussed in more detail below through an exploration of the concept of economic democracy.

CATHOLIC SOCIAL TEACHING AND ECONOMIC DEMOCRACY

Accompanying an affirmation of economic rights in CST is an affirmation of the importance of economic democracy. Economic democracy refers to a more equitable (though not equal) distribution of wealth, along with significantly increased worker and community participation in economic decision-making. In its most concentrated form economic democracy can be seen in worker-owned cooperatives, credit unions, and similar enterprises. Pope John Paul II strongly praises “producers, consumers, and credit cooperatives” in his encyclical *Centesimus Annus*.²⁰ He also affirms the necessity of “various forms of participation in the life of the workplace,” building upon similar themes in his earlier encyclical on work, *Laborem Exercens*. In a 1998 speech to the Central Institute of Cooperative Credit Banks of Italy, John Paul again strongly emphasized the need to “promote real economic democracy” through support for cooperatives and other small and medium-sized businesses. Through the fostering of these economic enterprises that disperse economic power and place solidarity over profit maximization, along with appropriate governmental regulation of the market, John Paul hopes that it will be possible to defend the dignity of the human person from the threat of what he terms the “inflexible laws of capital” and from “a market that is always in danger of forgetting that the goods of creation are meant for all.”²¹

The economic vision put forth by Pope John Paul II envisions a form of market economy (as opposed to Soviet-style central planning), but a market economy in which ownership and participation in economic decision-making are widely dispersed rather than concentrated in the hands of a few. “It is the task of nations, their leaders, their economic powers and all people of goodwill,” John Paul declares, “to seek every opportunity for a more equitable sharing of resources.”²² The Pope cites approvingly the biblical practice of the Year of Jubilee, in which slaves were to be freed, debts forgiven, and land redistributed, claiming that these practices rightly seek to restore the “conditions of equality” willed by God for humanity.²³ Several major contemporary implications of the concept of Jubilee suggested by the pope include the need for extensive land redistribution and for substantive forgiveness of Third World debt. These implications will be discussed in more detail later in this chapter. This emphasis on the importance of relative economic equality has been strongly reaffirmed by Pope Benedict XVI. “Catholic social doctrine,” Benedict asserts, has always stressed “that the equal distribution of goods is a priority.”

Neoconservatives such as Novak in contrast are sharply critical of a strong emphasis on equality, fearing that it would undermine liberty. “Except in

terms of equal standing under the rule of law,” Novak argues, “equality is not a morally acceptable social ideal.”²⁴ What CST would stress in reply to Novak is that excessive levels of inequality in fact undermine the very values of liberty and democracy that Novak seeks to uphold. As in the recognition of the integral connection between civil-political rights and economic rights, CST similarly affirms the integral connection of economic democracy and political democracy. If economic democracy is lacking and wealth is allowed to concentrate in the hands of a few, the grave danger exists that political democracy will also be undermined as concentrated economic power gets translated in various ways into concentrated political power (e.g., through lobbying, campaign contributions, corporate control of the media, threats to relocate if demands for favorable policies are not met, etc.). Warnings against the dangers of concentrated economic power have deep roots in CST. Pope Pius XI, in his 1931 encyclical *Quadragesimo Anno*, states:

[I]t is patent that in our days not alone is wealth accumulated, but immense power and despotic economic domination is concentrated in the hands of a few. . . . This accumulation of power, a characteristic note of the modern economic order, is a natural result of unrestrained free competition which permits the survival of only those who are the strongest. This often means those who fight most relentlessly, who pay least heed to the dictates of conscience. . . . Free competition, and especially economic domination, must be kept within definite and proper bounds, and must be brought under effective control of the public authority.²⁵

Pope Paul VI in his 1971 encyclical *Octogesima Adveniens* expresses particular concern about the concentrated power of multinational corporations:

We can see new economic powers emerging, the multinational enterprises . . . which are largely independent of the national political powers and therefore not subject to control from the point of view of the common good. By extending their activities, these private organizations can lead to a new and abusive form of economic domination on the social, cultural, and even political level.²⁶

Similarly, the Catholic bishops of the world, gathered at the 1971 international Synod of Bishops, expressed great concern about the negative impacts of concentrated economic power. They stressed the ways in which such concentrated power can lead to the violation of basic human rights and called for concerted action to overcome it:

Unless combated and overcome by social and political action, the influence of the new industrial and technological order favors the concentration of wealth, power, and decision-making in the hands of a small public or private controlling

group. Economic injustice and lack of social participation keep a man from attaining his basic human and civil rights.²⁷

Pope John Paul II reaffirmed and further developed these critiques of concentrated economic power. John Paul condemns, for example, “the excessive cornering of goods by some” which he argues “deprives the majority of those goods and thus is accumulated a wealth that produces poverty.”²⁸ Likewise, he stresses the need to challenge those sinful structures of the global economy that perpetuate poverty and inequality:

[O]ne must denounce the existence of economic, financial, and social mechanisms which, although they are manipulated by people, often function almost automatically, thus accelerating the situation of wealth for some and poverty for the rest. These mechanisms, which are maneuvered directly or indirectly by the more developed countries, by their very functioning favor the interests of the people manipulating them.²⁹

ECONOMIC RIGHTS AND NEOLIBERAL GLOBALIZATION

What implications does this emphasis of Catholic Social Teaching on economic rights and economic democracy have in our contemporary context of economic globalization? Current forms of globalization, generally termed “neoliberal,” center upon practices of “free trade” and IMF/World Bank–designed “structural adjustment policies,” policies that many Third World nations have been required to implement as a result of their accumulation of external debt. Catholic Social Teaching has expressed serious concerns about both free trade and structural adjustment, arguing that these policies have contributed to a widening of the gap between rich and poor, an undermining of the rights of workers, increased social conflict, and increased ecological damage.

CST has long expressed concern that free trade can contribute to the creation of an “economic dictatorship” by fostering sweatshop conditions for workers and harming the interests of small farmers, small businesses, and the local industries of poor nations. “[T]he rule of free trade, taken by itself,” said Pope Paul VI,

is no longer able to govern international relations. . . . [P]rices which are “freely” set in the market can produce unfair results. . . . [A]n economy of exchange can no longer be based solely on the law of free competition, a law which, in its turn, too often creates an economic dictatorship. Freedom of trade is fair only if it is subject to the demands of social justice.^{30,31}

Similarly, CST has been critical of the impact of structural adjustment policies. These policies typically include measures that favor production for export over production to meet local need. Such policies, combined with the provisions of free trade treaties, have seriously hurt small farmers and have contributed in many cases to rising levels of hunger and malnutrition. Reductions in government spending have also been required as part of structural adjustment. This reduced spending has contributed to increased unemployment and has often resulted in decreased funding for education and health care. Many Third World governments spend much more on debt payment than on basic services for their own population. Governmental subsidies and price controls have also typically been eliminated in the name of “free markets,” often resulting in major increases in the cost of basic items such as food and public transportation. Privatization of basic services such as health care has often increased costs and reduced accessibility.³²

The consequences of these policies have been increased suffering, especially for children. In each year of the debt crisis, reports the United Nations Children’s Fund (UNICEF), “Hundreds of thousands of the developing world’s children have given their lives to pay their countries’ debts.” Many millions more, UNICEF laments, “are still paying the interest with their malnourished minds and bodies.” In one of the most powerful and strongly worded statements ever issued by a United Nations agency, UNICEF declares:

[Several] years ago former Tanzanian President Julius Nyerere asked the question: “Must we starve our children to pay our debts?” That question has now been answered in practice. And the answer has been “Yes.” . . . The fact that so much of today’s staggering debt was irresponsibly lent and irresponsibly borrowed would matter less if the consequences of such folly were falling on its perpetrators. Yet now, when the party is over and the bills are coming in, it is the poor who are being asked to pay. . . . In short, it is hardly too brutal an oversimplification to say that the rich got the loans and the poor got the debts. And when the impact becomes visible in rising death rates among children, rising percentages of low-birth-weight babies, falling figures for the average weight-for-height of the under-5s, and lower school enrollment ratios among the 6-11 year olds, then it is essential to strip away the niceties of economic parlance and say that what has happened is simply an outrage against a large section of humanity. . . . Allowing world economic problems to be taken out on the growing minds and bodies of young children is the antithesis of all civilized behavior. Nothing can justify it. And it shames and diminishes us all.³³

While there is widespread acknowledgment that many Third World countries do indeed need to reform their economic policies, critics argue that the specific reforms required by the IMF and World Bank have been designed

more to foster the interests of First World governments and corporations and Third World elites rather than the interests of local populations. Pope John Paul II is among these critics. Speaking of the impact of structural adjustment and related neoliberal economic policies, John Paul states:

[V]arious places are witnessing a resurgence of a certain capitalist neoliberalism that subordinates the human person to blind market forces. . . . From its centers of power, such neoliberalism often places unbearable burdens on less favored countries. . . . In the international community, we thus see a small number of countries growing exceedingly rich at the cost of the increasing impoverishment of a great number of other countries; as a result the wealthy grow ever wealthier, while the poor grow ever poorer.³⁴

While expressing hope that economic globalization conducted according to ethical standards could have positive impacts, John Paul expresses deep concern about globalization that is guided primarily by market forces:

[I]f globalization is ruled merely by the laws of the market applied to suit the powerful, the consequences cannot but be negative. These are, for example, the absolutizing of the economy, unemployment, the reduction and deterioration of public services, the destruction of the environment and natural resources, the growing distance between rich and poor, unfair competition which puts the poor nations in a situation of ever increasing inferiority.³⁵

What kinds of policy changes does CST call for with respect to economic globalization? One of the primary reforms called for is substantive debt relief for Third World nations. “It is not right,” Pope John Paul II says, “to demand or expect repayment when the effect would be the imposition of political choices leading to hunger and despair for entire peoples. It cannot be expected that the debts which have been contracted should be paid at the price of unbearable sacrifice.”³⁶

Other specific policy suggestions made by CST include the need for trade rules that protect the rights of workers and the environment, mechanisms to ensure fair prices for Third World commodities, land reform, more progressive systems of taxation, measures to protect and support small and medium-sized farms and businesses, decreased military spending, increased spending on basic education and health care, and increased levels of thoughtfully designed aid meant to empower grassroots efforts for change.³⁷

Rather than the prevailing “trickle-down” model of economic development that is based on prioritizing the interests of local elites and foreign corporations, CST emphasizes what could be termed a “bubble-up” model.³⁸ This approach emphasizes the need to build upon local skills and resources and stresses the importance of a more equitable distribution of wealth.³⁹

Development that includes attention to equitable distribution, ecological sustainability, and other values beyond economic growth is referred to in CST as “integral development.”⁴⁰ These policy changes favoring greater equity and placing a priority upon the interests of the poor would of course meet significant resistance from entrenched economic interests. Implementation of CST therefore also implies the need for broad-based, grassroots, nonviolent struggle to create the conditions under which such policies could be enacted.

“In order to achieve social justice,” says John Paul II, “there is a need for ever new movements of solidarity of the workers and with the workers. This solidarity must be present whenever it is called for by the social degrading of the subject of work, by exploitation of the workers, and by the growing areas of poverty and even hunger. The Church is firmly committed to this cause, for she considers it her mission, her service, a proof of her fidelity to Christ, so that she can truly be the ‘Church of the poor.’”⁴¹

CONCLUSION

One of the most important debates currently underway worldwide concerns the shaping of our global economic order. What framework or set of basic legal guidelines is necessary so that increased economic globalization will have a constructive rather than detrimental impact, particularly on the world’s vast numbers of impoverished people? Catholic Social Teaching has much to contribute to this discussion. These contributions of CST are both on the level of social theory (e.g., its communitarian conception of human rights, its affirmation of economic democracy, its understanding of integral development), as well as concrete policy recommendations that flow from this conceptual framework. Central among these policy suggestions are substantive debt relief for Third World nations and fundamental rethinking of structural adjustment policies so that the needs of the poor and protection of the environment are prioritized. CST also asserts the need for a significantly reformed set of rules to govern global trade. These new rules must guarantee basic protections for workers, small farmers, and the environment. To make such an alternative vision a reality will require that those influenced by CST join with others throughout the world in grassroots nonviolent movements for social change.

NOTES

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6. John Howard Yoder, *The Politics of Jesus*, 2nd ed. (Grand Rapids, MI: Eerdmans, 1994). Gloria Kinsler and Ross Kinsler, *The Biblical Jubilee and the Struggle for Life* (Maryknoll, NY: Orbis Books, 1999).
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25. Pius XI, *Quadragesimo Anno*, Vatican, 1931.

26. Paul VI, *Octogesima Adveniens*, Vatican, 1971.
27. Synod of Bishops, *Justice in the World*, Vatican, 1971. no. 9.
28. John Paul II, "Is Liberal Capitalism the Only Path?" *Origins* 20 (May 24, 1990): 17–21.
29. John Paul II, *Sollicitudo Rei Socialis*, Vatican, 1987, no. 16.
30. Paul VI, *Populorum Progressio*, Vatican, 1967, 58–59.
31. For good discussions of free trade, see John Madeley, *Hungry for Trade: How the Poor Pay for Free Trade* (London: Zed Books, 2000); Greg Buckman, *Global Trade: Past Mistakes, Future Choices* (London: Zed Books, 2005). For discussion of the impacts of free trade and other neoliberal policies on small farmers, see Jerry Buckland, *Ploughing Up the Farm: Neoliberalism, Modern Technology, and the State of the World's Farmers* (London: Zed Books, 2004).
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34. This homily of John Paul II (delivered in Cuba in 1998) is included in *We Make the Road by Walking: Central America, Mexico, and the Caribbean in the New Millennium*, ed. Ann Butwell, Kathy Ogle, and Scott Wright (Washington, DC: EPICA, 1998), 176–80. The cited passage can be found on page 177. John Paul also critiques neoliberalism in his 1999 document *Ecclesia in America*: "More and more, in many countries of America, a system known as 'neoliberalism' prevails; based on a purely economic conception of man, this system considers profit and the law of the market as its only parameters, to the detriment of the dignity of and the respect due to individuals and peoples. At times this system has become the ideological justification for certain attitudes and behavior in the social and political spheres leading to the neglect of the weaker members of society. Indeed, the poor are becoming ever more numerous, victims of specific policies and structures which are often unjust" (no. 56).
35. John Paul II, *Ecclesia in America*, Vatican, 1999, no. 20.
36. John Paul II, *Centesimus Annus*, no. 35.
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Chapter Eleven

Rights, Capabilities, and Human Flourishing

Jonathan Warner

It has become the norm among Christian (and Deist) writers on the subject to ground Human Rights in the way God created the world. Humankind was made in the image of God; it is this feature of human beings that makes them worthy of the highest respect, and bestows upon them certain kinds of rights. For example, the American Declaration of Independence claims that it is self-evident that all men are endowed by God with certain inalienable rights, to life, liberty, and the pursuit of happiness.

In this chapter, I sketch out a complementary approach, grounding human rights in the nature of creation in a slightly different way. God's mandate to humankind in Genesis 1:27–28 was to develop creation—to expand in numbers, and to rule over the rest of creation. Rights, then, could be grounded in the cultural mandate. My argument proceeds as follows: the world was created with certain aspects of harmony and with an enduring peace (*shalom*). The Fall disrupted relationships, but God's work of redemption through Jesus Christ also re-authorizes Christians to work to reconcile the world, to work toward restoring *shalom*. *Shalom* implies human flourishing, that is, that human beings develop the gifts and talents with which God has endowed them. The necessary conditions to accomplish this are the basis of rights. A recent advance in development theory, the capabilities approach pioneered by Amartya Sen and Martha Nussbaum, provides a useful and insightful link between human flourishing and rights.

The next section describes the vision of *shalom*. I then examine the nature of human flourishing. Next, I explain the background and significance of the capabilities approach, before considering the links between capabilities and rights. The short conclusion attempts to summarize the advantages of the capabilities approach to the development of a theory of human rights.

THE VISION OF SHALOM

When God finished creating the heavens and the earth, He pronounced His handiwork to be very good¹ (Genesis 1:31). All aspects of His creation were in perfect harmony with each other. That state of creation in perfect harmony is summarized in the Hebrew word *shalom*. This word is generally translated as “peace,” but the concept is broader. Cornelius Plantinga writes:

In the Bible, *shalom* means *universal flourishing, wholeness, and delight*—a rich state of affairs in which natural needs are satisfied and natural gifts fruitfully employed, a state of affairs that inspires joyful wonder as its Creator and Savior opens doors and welcomes the creatures in whom he delights. *Shalom*, in other words, is the way things ought to be.²

Nicholas Wolterstorff puts it this way:

“*Shalom*” is the human being dwelling at peace in all his or her relationships: with God, with self, with fellows, with nature. . . . But the peace which is *shalom* is not merely the absence of hostility, not merely being in right relationship. *Shalom* at its highest is *enjoyment* in one’s relationships. A nation may be at peace with all its neighbors and yet be miserable in its poverty. . . . Justice, the enjoyment of one’s rights, is indispensable to *shalom*. . . . If individuals are not granted what is due them, if their claim on others is not acknowledged by those others, if others do not carry out their obligations to them, then *shalom* is wounded.³

Sin ruins *shalom*, as human history since the Fall all too clearly demonstrates. Things now are not the way they are supposed to be. Yet humankind realizes that there is something better than strife and conflict and pain and suffering. Creation is frustrated: we yearn for things to be different, to be the way they are supposed to be. Grace is the way God puts his world right again. It’s how God makes the world “the way it’s supposed to be.”⁴

Old Testament prophets dreamed of a day when all wrongs would be made right. They dreamed of a day when toddlers would share a sandbox with rattlesnakes and joy would overtake all people.⁵ The lion, wolf, and leopard lie down with the lamb, calf, and goat⁶; in the city of God there is no more sickness and death.⁷ Life in the New Jerusalem will be a life where sin, disease, sorrow, and death have been eradicated. Despite the warping effects of sin, the yearning of human hearts is for something better than the vale of tears in which we now reside.

At one level, *shalom* is individualistic—the result of peace with God.⁸ The peace of God that passes all understanding is the inner *shalom*, the inner joy

a believer can experience regardless of what the world throws at her. But *shalom* is more than this, encompassing a world of peace for everyone, without the outrageous effects of sin. The modern secularized goal of personal peace and prosperity⁹ is a distortion of what *shalom* implies, as it focuses solely and selfishly on the person as an individual. There is no concern that others might enjoy the same benefit.

Redemption starts with God's elect from among the rebellious human race. Their role is to take the Gospel message to the ends of the earth, a message of repentance, of the coming of God's kingdom and the new age of *shalom*. Dordt College puts it this way:

As God's people, the church, we are called to be agents of reconciliation. Under the leading of the Holy Spirit and in communion with God and one another, we are to summon sinners to repentance and strive to advance God's rule in all areas of life. We seek to transform culture and bring *shalom* to a broken world.¹⁰

Shalom encompasses all parts of human culture. In the sphere of economics the vision of the Old Testament is that of all families having their own allotment of land and resources, and the ability to enjoy it in peace. The prophet Micah foresaw "in the last days" a time when "every man will sit under his own vine and under his own fig tree, and no one will make them afraid" (Micah 4:4). The vision of *shalom* includes a situation where material and security needs are met, a sustainable state of dwelling giving the opportunity for economic, societal, and culture advances.

The kingly psalm of Solomon¹¹ captures a vision of *shalom* in the political realm. Under God, the king will reign righteously, doing justice and mercy, ushering in a Golden Age of peace and prosperity for all.

Endow the king with your justice, O God, the royal son with your righteousness. He will judge your people in righteousness, your afflicted ones with justice. The mountains will bring prosperity to the people, the hills the fruit of righteousness.

He will defend the afflicted among the people and save the children of the needy; he will crush the oppressor.

In his days the righteous will flourish; prosperity will abound till the moon is no more.

All kings will bow down to him and all nations will serve him, for he will deliver the needy who cry out, the afflicted who have no one to help.

He will take pity on the weak and the needy and save the needy from death.

He will rescue them from oppression and violence, for precious is their blood in his sight.

May his name endure forever; may it continue as long as the sun. All nations will be blessed through him, and they will call him blessed.

Praise be to the LORD God, the God of Israel, who alone does marvellous deeds.
 Praise be to his glorious name forever; may the whole earth be filled with his glory. Amen and Amen.¹²

SHALOM AND FLOURISHING

In Psalm 52, David writes of the time when his life was in danger after Doeg the Edomite, a spy for King Saul, had revealed David's whereabouts to Saul. The psalm is one of victory—although evil seems to triumph temporarily, in the longer run those established by God will be the ones who truly prosper and flourish.

Why do you boast of evil, you mighty man? Why do you boast all day long, you who are a disgrace in the eyes of God?

Your tongue plots destruction; it is like a sharpened razor, you who practice deceit.

You love evil rather than good, falsehood rather than speaking the truth. But I am like an olive tree flourishing in the house of God; I trust in God's unfailing love for ever and ever.

I will praise you forever for what you have done; in your name I will hope, for your name is good. I will praise you in the presence of your saints.¹³

Shalom, everything-as-it-ought-to-be, implies flourishing: that everything will be fulfilling its God-given purpose, growing and developing in the way that it should.

For a tree or other plant, flourishing implies growing to its full potential, and producing copious amounts of fruit in due season. A sickly tree, one planted in the wrong soil, or without access to appropriate amounts of sunlight and water, may produce some fruit, but it does not flourish; it does not produce fruit abundantly. Philosopher Philippa Foot calls norms such as these for plants and animals, natural norms—she goes on to argue that similar natural norms (the virtues) exist for human beings. Flourishing, then, requires that human virtue flourished.¹⁴

"I have come that they might have life, and have it to the full," said Jesus.¹⁵ The sheep within His pasture are kept safe and secure, and are thus able to flourish. Human flourishing requires living life to the full—to grow physically, emotionally, mentally, and spiritually. It implies the use and development of the gifts and talents with which each person has been endowed to fulfil the God-given mandate to fill, rule over, and care for and bless the earth.¹⁶

To be able to develop and flourish, certain prerequisites are necessary. If thieves and robbers or wolves enter the sheepfold, the sheep will not flourish. If the physical conditions of life are so awful as to reduce life to drudgery and work to continual toilsome labour, then it is not possible for a person to flourish. Slavery, for example, so greatly reduces the opportunities to develop his talents that it denies the slave the ability to flourish. As Karl Marx pointed out, the long hours worked by people in the new factories of the nineteenth century, the low pay they received, and the unhygienic and unattractive conditions in which they lived added up to a miserable existence.

Flourishing also requires engagement with others, forming part of a community. Living alone without friendship, without people to share one's sorrows and joys, is a bleak prospect. God noted that it was not good for Adam to be alone: even knowing Yahweh intimately was not enough for him to flourish.¹⁷ The importance of assembling together is stressed in both the old and new testaments. Without engagement with others, life loses much of its meaning.

FLOURISHING AND CAPABILITIES

In order to be able to flourish, then, certain preconditions are necessary. Without basic needs being satisfied, when the search for food and shelter consumes all one's waking hours, it is impossible to flourish. Mere survival, the keeping of body and soul together, is not the same as flourishing. Nor, on the other hand, is having everything done for you, and so obviating the need for real choice. The dystopic vision of Huxley's *Brave New World*, for example, is of a society that is trivialized in its decision-making.

Instead, flourishing requires having real opportunities and valuable (and significant) choices in the development of the gifts and talents one has, so as to fulfill God's purposes and unfold creation. Bennie Van der Walt defines development thus:

Development is the balanced opening up (unfolding or disclosure) of all the potential of the human being and the possibilities of the rest of creation, according to God's purpose with it, and his will for it, so that man is able in his own culture to fulfill his vocation as a responsible steward in freedom in society to the glory of God.¹⁸

This would also be an appropriate definition of at least part of what flourishing entails.

In what type of space, by what parameters, is development or flourishing of this type to be measured? Clearly, development-to-flourishing is more than

just maximizing Gross Domestic Product, which measures only the output of goods and services in an economy.

In the 1990s, the United Nations Development Program began using the Human Development Index as a way of supplementing GDP data. This is a cheap and dirty way of trying to broaden the concept of development. While levels of income are important, increasing incomes themselves are not sufficient to allow for increased flourishing. The quality of a person's life is also heavily impacted by his health status (disease and low life expectancy make it more difficult to develop the talents one has), and also by his education. Without basic literacy skills, people are almost certain to be impoverished culturally and unable to participate fully in society. The HDI was constructed as a weighted index of three elements—per capita income, health (as measured by life expectancy), and education (as measured by literacy levels, and average years of schooling). Poor countries that have put resources into health care and education, such as Sri Lanka and Cuba, score more highly on the HDI measure than richer countries where these areas are not seen as priorities.

But the HDI, while superior to GDP, is also inadequate as a measure of flourishing. The freedom to develop your skills is severely restricted in Cuba, for example, if your talents are in the area of business or political journalism.

In 1998 the Nobel prizewinner, Amartya Sen, gave a series of lectures to the World Bank staff, later published as *Development as Freedom*, which assembles an impressive set of evidence to suggest that giving people the ability to make decisions that affect their own lives tended to lead to higher economic growth, better conditions for the poor, etc. His analysis

treats the freedom of individuals as the basic building blocks [of development]. Attention is thus paid particularly to the “capabilities” of persons to lead the kind of lives they value—and have reason to value.¹⁹

Sen argues that “capabilities to functionings” is the most appropriate way of answering questions about the level of development of society. What do people actually have the ability to do and to be? What real choices about their own lives are they able to make? “Functionings” measures the “doings and beings” that people end up achieving, whereas capabilities measure the potentials, the real opportunities that people have, that they can freely choose to use. Thus a person who has plenty of food available but decides to fast achieves the same functioning as a person who is living in a famine-stricken land, and has nothing to eat, but their capabilities are very different. Fasting is a choice, starving isn't.

What matters for development in its broadest sense is providing the pre-conditions, the space, for people to live as God has called them to do and to

be. The capabilities approach does not (generally) demand that people actually use the capabilities they have—it is the ability, the potential, to develop their lives in the way that they wish that is ultimately of first importance. As Martha Nussbaum puts it,

The central question asked by the capabilities approach is not, “How satisfied is Vasanti?” or even “How much in the way of resources is she able to command?” It is, instead, “What is Vasanti actually able to do and to be?”²⁰

Sen stresses the importance of what he calls “agency freedom”—the ability of people to initiate change, to decide for themselves what goals they wish to pursue, and the means by which they want to pursue them. What matters is what opportunities are available to Vasanti, not that she avails herself of this or that particular option. Sen’s approach to capabilities produces a theory of society that is pluralistic, in several senses. He does not wish to decide between different life aims that people might have, and for this reason, is happy to leave the content of capabilities underdetermined. People with different goals will value various capabilities differently: someone who is a libertarian, for instance, will see access to political and economic resources differently from someone who prefers more communal goals.

By contrast, Martha Nussbaum has produced a substantive list of what she believes to be basic human capabilities. The list is open ended, and provisional, but this list, Nussbaum believes, constitutes the universal preconditions for human flourishing. Nussbaum’s inspiration comes from Aristotle’s account of flourishing.²¹ While possessing the capabilities on her list allows individuals freedom to pursue their own ends, agency freedom is not Nussbaum’s primary consideration. In fact, she argues that certain capabilities can exist only if they are actually used. A decision to commit suicide, for example, is an exercise of capabilities—I have the means and ability to take my own life. But suicide destroys my ability to function in the future; it is not only a bad choice, but such a bad choice that it is something I should be prevented from doing.

Martha Nussbaum’s list of central human functional capabilities is as follows:

1. *Life*. Being able to live to the end of a human life of normal length; not dying prematurely, or before one’s life is so reduced as to be not worth living.
2. *Bodily Health*. Being able to have good health, including reproductive health; to be adequately nourished; to have adequate shelter.
3. *Bodily Integrity*. Being able to move freely from place to place; having one’s bodily boundaries treated as sovereign, that is, being able to be

secure against assault, including sexual assault, child sexual abuse, and domestic violence; having opportunities for sexual satisfaction and for choice in matters of reproduction.

4. *Senses, Imagination, and Thought.* Being able to use the senses, to imagine, think, and reason—and to do these things in a “truly human” way, a way informed and cultivated by an adequate education, including, but by no means limited to, literacy and basic mathematical and scientific training. Being able to use imagination and thought in connection with experiencing and producing self-expressive works and events of one’s own choice, religious, literary, musical, and so forth. Being able to use one’s mind in ways protected by guarantees of freedom of expression with respect to both political and artistic speech, and freedom of religious exercise. Being able to search for the ultimate meaning of life in one’s own way. Being able to have pleasurable experiences, and to avoid unnecessary pain.
5. *Emotions.* Being able to have attachments to things and people outside ourselves; to love those who love and care for us, to grieve at their absence; in general, to love, to grieve, to experience longing, gratitude, and justified anger. Not having one’s emotional development blighted by overwhelming fear and anxiety, or by traumatic events of abuse or neglect. (Supporting this capability means supporting forms of human association that can be shown to be crucial in their development.)
6. *Practical Reason.* Being able to form a conception of the good and to engage in critical reflection about the planning of one’s life. (This entails protection for the liberty of conscience.)
7. *Affiliation.* A. Being able to live with and toward others, to recognize and show concern for other human beings, to engage in various forms of social interaction; to be able to imagine the situation of another and to have compassion for that situation: to have the capability for both justice and friendship. (Protecting this capability means protecting institutions that constitute and nourish such forms of affiliation, and also protecting the freedom of assembly and political speech.)
B. Having the social bases of self-respect and nonhumiliation; being able to be treated as a dignified being whose worth is equal to that of others. This entails, at a minimum, protections against discrimination on the basis of race, sex, sexual orientation, religion, caste, ethnicity, or national origin. In work, being able to work as a human being, exercising practical reason, and entering into meaningful relationships of mutual recognition with other workers.
8. *Other species.* Being able to live with concern for and in relation to animals, plants, and the world of nature.

9. *Play*. Being able to laugh, to play, to enjoy recreational activities
10. *Control over One's Environment*. *A. Political*. Being able to participate effectively in political choices that govern one's life; having the right of political participation, protections of free speech and association.
- B. Material*. Being able to hold property (both land and movable goods), not just formally but in terms of real opportunity; and having property rights on an equal basis with others; having the right to seek employment on an equal basis with others; having the freedom from unwarranted search and seizure.

According to Nussbaum, to live a fulfilled life, to flourish, it is necessary that people have these capabilities.

A number of criticisms of Nussbaum's list have been made. Although not all of the capabilities are of equal status, Nussbaum rejects any notion of trade-offs or of a Utilitarianism of capabilities; her account of what constitutes flourishing is strictly deontological. Although some items on her list are necessary for mere existence, in the absence of others (such as being able to play and recreate) life is possible, but badly impoverished. True flourishing life requires all of them.

Some might argue that the list is paternalistic and that it really reflects only Western, rather than universal, values, and will be used to criticize other cultures that see things differently. Nussbaum argues for the universal nature of these capabilities. She has no objection to a culture that would abrogate one or more of them, providing people have the right of exit—that is, to leave the culture.

There is no specific “religious capability.” Capability number 6, “practical reason,” suggests that each person should have the opportunity to choose her own conception of the good (which may include a religious conception). Nussbaum certainly thinks that religion is an important part of the fabric of human life—she devotes a whole chapter of her book to its significance—but she sees religion as a choice that a person could make, rather than as having any transcendent good.

Nussbaum sees the capabilities approach as a powerful tool to critique repressive governments. The evil of such governments is that in denying certain freedoms they compromise the ability of their citizens to flourish.

Not all societies do, and, perhaps, some are not able to, ensure that all capabilities are fulfilled. If a country is very poor, for example, it may be unable to provide more than rudimentary health care and only the most basic of educations to its members. Nussbaum talks of a “threshold effect”—while not everyone, always, can be in possession of all the capabilities (tragedies happen, and people die; some babies never develop the ability to talk), societies

should have as a primary goal the achievement of at least some basic level of capability-fulfillment, in order that the way is open for as many people as possible to flourish.

CAPABILITIES AND RIGHTS

It would be tempting simply to equate capabilities with rights: to say that certain basic human capabilities, those that really are preconditions for flourishing, are, or at least should be, human rights. In this view, everyone has a God-given right to what is necessary for him to flourish, and both capabilities and (at least some) rights can be viewed as prerequisites for *shalom*. A government that denies rights of this type to its subjects harms their ability to flourish. But to equate rights and capabilities is to proceed too quickly, even if they are closely related. Both are claims of some kind; but the precise nature of the link between them requires examination. And if capabilities are a species of right, what kind of species are they?

The concept of rights is a contested one. People disagree over the basis of rights; over who can possess them; their relationship to societal goals; their relationship to duties; and what precisely a right is a right *to*.²² The language of capabilities can, perhaps, help shed light on some of these disputes. Nussbaum herself sees rights as a subset of capabilities—political rights such as free speech and participation in selecting a government are examples of what she calls “combined capabilities” (where a basic capacity requires certain external conditions to exist to become a reality). Other rights, though, such as the right not to be arbitrarily killed, or the right to religious freedom, are more akin to basic capabilities, possessed by all as part of being human, made in the image of God.²³ Given the contested nature of the language of rights, one advantage of talking about capabilities is rhetorical: the language of rights comes with much (Western) cultural and traditional baggage, which has yet to attach itself to the concept of capabilities. Thus an appeal to capabilities might gain a more sympathetic hearing than an appeal to rights, where, for example, the listener doubts the basis of economic and social rights. If it can be shown that a particular capability is necessary to bring about flourishing, then there is an obligation on the part of others (the community, society, government, international organizations) to see that the capability is respected.

Like rights, capabilities could be justified on instrumental grounds that they lead toward some overall good. Other people see rights as fundamental, as overriding constraints on collective goals, things that “trump”²⁴ considerations of the good. The first view takes rights to be part of a consequentialist (often utilitarian) theory of the good; the latter implies a deontological theory

of the good. Nussbaum is in the second camp here—capabilities generally cannot be abridged or abrogated for some greater good (such as a greater enhancement of capabilities elsewhere)—which is why she resists the idea of any trade-off between the various capabilities. The advantage of the constraints view is that it takes claims seriously: rights cannot be traded away in order to further some public policy goal. One drawback, though, is that it cannot help in what Nussbaum calls “tragic” cases—where it is impossible to resolve a problem without compromising someone’s capabilities. Avoiding being committed to a “utilitarianism of rights” (or of capabilities) is important, but to refuse all trade-offs is to overstate the nature of the various capabilities, and to sacrifice some of the flexibility of the capabilities approach. If capabilities are to form the basis of a political program for action, to insist that no trade-offs can be made between them offers little guidance to policy-makers.

Ronald Dworkin’s distinction between abstract rights and concrete rights is helpful here. An abstract right is a general aim of society, which says nothing about how it is to be weighted or implemented. By contrast, a concrete right is enforceable and implementable—its priority within the framework of rights has been decided. The need for trade-offs, and decisions concerning the ordering of rights are necessary when, for example, a resource constraint prevents all rights being implemented fully. The link between capabilities and flourishing could, alternatively, provide the means by which trade-offs can be made. If capabilities are necessary for human flourishing, and flourishing for *shalom*, then when there is a shortage of resources (or if for some other reason not all capabilities can be guaranteed), then an appeal to what is most necessary for flourishing will determine the issue. For example, preservation of life and bodily integrity will trump being able to play. The resolution of conflicts between economic security and political participation will produce more difficult questions, the resolution of which will most likely depend on the particular circumstances of the case.

Sen offers the suggestion that rights are neither constraints nor (purely) instrumental. Instead, he sees rights within a teleological framework—but where part of the description of the *telos* is the rights-situation that exists.²⁵ Rights are goals in the sense that their implementation needs to be part of the design of the social and political structure of a state or community. This approach accords with the way I have been developing the argument—that capabilities are necessary for flourishing, and human flourishing is necessary for *shalom*. *Shalom* is a situation where capabilities are endorsed in their fullness: part of the description of everything-as-it-ought-to-be is the existence of conditions that nurture the development of our gifts and talents to the glory of God. It is this view of rights, I think, that links rights and capabilities most

closely together. A capability-right is a claim to the prerequisites for flourishing, in order that *shalom* be built, and creation developed.

The relationship between capabilities and rights is now this: rights are grounded in capabilities—the justification for a particular right being that it serves as a proxy to ensure the achievement of a particular set of capabilities. This would allow the debate about substantive rights to be informed by something more than just deontology; rights can be ranked according to their ability to work as effective proxies for capabilities. Also, the capabilities-rights approach creates space for third generation, or community, rights. Rights have traditionally been seen as individualistic—classical liberal rights pertain to people as individuals, not people as members of community. Community rights, on this view, are at best derived (non-fundamental) rights that are instrumental in guaranteeing certain more basic individual rights. Thus if there is a right to be defended from military attack, the right derives from consideration of individuals' rights to life, rather than the right of the community itself. But as certain capabilities (such as Nussbaum's affiliation) can be expressed only in community, some community rights, at least, can also be grounded in capabilities.

Thus capability-rights would include all first-, many second-, and some third-generation rights.²⁶ For example, a capability-right to life requires the negative right of not being deprived of life, by murder, or being shot at. The capability-right of bodily health requires some socioeconomic rights. The capability-right to have control over one's environment could require certain community rights (such as education in the preferred language of one's ethnic group). At the very least, this approach provides a new way of informing the debate on rights.

CONCLUSION

The Capabilities Approach presents a useful way forward in thinking about the purpose of rights. Like rights, capabilities are claims to entitlement, and, like rights (and unlike wants, for example), there is something important and urgent about them. Seeing rights as grounded in capabilities, or as proxies for capabilities, opens up a fruitful new way to look at questions of the nature and content of rights.

Speaking of capabilities rather than rights also removes much of the baggage that comes along with the concept of rights, while still capturing essential features of the claim. In addition, the linking of rights more closely to flourishing and *shalom* by means of an appeal to capabilities has the benefit of making explicit the thrust of the capabilities approach, and its value in discourse about *shalom*.

The relationship between capabilities and rights is best captured by Sen's goal-rights approach, with *shalom* being the *telos*, the overall situation for which we are aiming. Not only will this require the realization of negative individual human rights, but also the achievement of positive individual human rights and certain community rights as well.

The capabilities approach, then, provides a helpful framework for the analysis of rights, and for the evaluation of rights claims. Claims that are inimical to the achievement of peace and justice, which cannot be grounded in a vision of *shalom*, do not have the status of rights. Sorting out which rights are really conducive of human flourishing would be a fruitful area for future research.

NOTES

1. Genesis 1.31.
2. Cornelius Plantinga, *Not the Way it's Supposed to Be* (Grand Rapids, MI: Eerdmans, 1995), 10.
3. Nicholas Wolterstorff, *Until Justice and Peace Embrace* (Grand Rapids: Eerdmans 1983), 69–71.
4. Kevin Adams, *Today the Family Altar*, meditation for 22nd September (Palos Heights, IL: Back to God Hour, 2004).
5. Adams, *Today the Family Altar*.
6. Isaiah 11.6.
7. Revelation 21.4.
8. Billy Graham, *Peace with God* (New York: Doubleday 1953).
9. Francis Schaeffer, *How Should We Then Live?* (Old Tappan, NJ: Fleming H. Revell Company, 1976), 205.
10. Dordt College, *Educational Framework*. October 4, 2007, www.dordt.edu/publications/faculty_handbook/faculty_handbook.pdf, 19–24.
11. Psalm 72.
12. Psalm 72.1–4, 7, 11–14, 17–19.
13. Psalm 52.1–3, 8–9.
14. Foot, though, thinks that “flourishing” as applied to human beings has too restrictive a meaning, suggesting untroubled success. Thus, she says, Wittgenstein, tortured soul that he was, did not flourish, despite his great contributions to philosophy. She therefore prefers the term “benefit”—what benefits a person is what is good for him. But this language, too, has problems—benefit seems to me to be too allied to “interest,” which Brian Barry ties to wants, which is also not necessarily the same thing as virtue!
15. John 10.10.
16. Genesis 1.28, 2.15.
17. Genesis 2.18.

18. Bennie Van der Walt, *Kultuur, lewensvisie en ontwikkeling; 'n ontmaskering van die gode van die onderontwikkelde Afrika en die oorontwikkelde Weste* (Potchefstroom, RSA: Instituut vir Reformatoriese Studie, 1999), 46.
19. Amartya Sen, *Development as Freedom* (New York: Knopf, 1999), 18.
20. Martha Nussbaum, *Women and Human Development* (Cambridge, England: Cambridge University Press, 2000), 70.
21. Nussbaum, *Women and Human Development*, 13, 76–77.
22. Nussbaum, *Women and Human Development*, 97.
23. Nussbaum, *Women and Human Development*, 98.
24. Ronald Dworkin, *Taking Rights Seriously* (Boston: Harvard University Press 1978).
25. John Abrahams, “Capabilities, Human Rights and Moral Pluralism,” *The International Journal of Human Rights* 8, no. 3 (2004).
26. See Abrahams for a discussion of the distinctions between generations of rights.

Part Four

CASE STUDIES

Chapter Twelve

The Rights of the Poor

Christian Theology and Human Rights Practices in Latin America's Andean Region

Thomas Bamat

In seeking reliable ethical bearings in today's world, argues Ian Linden, "we have only the resources of the past and the traditions of our different communities."¹ According to this former director of the Catholic Institute for International Relations, while *human rights* language is "the nearest we get to the framework of a shared and popular ethics in a plural world," it provides a woefully narrow, secular view of the world and a "diminished account of ethics." Linden proposes that more is needed, that Christian theology and tradition in particular still have something important and specific to contribute to "genuine political discourse and dialogue leading to action for justice."²

Christianity does indeed have something important and specific to contribute to such discourse and action, but there are different strands of human rights theory and practice in our world. Not all are narrow or secular. Latin American Christians have been among those helping to forge a human rights tradition with foundations in faith. This is distinct from and broader than the prevailing secular and liberal tradition emphasizing individual claims to rights vis-à-vis the nation state. It merits attention.

Human rights can be defined as claims of moral and/or legal entitlement rooted in people's historical experiences of deprivation and injustice, and linked to their struggles to overcome such conditions. These struggles can lead to the establishment of new cultural norms, and the adoption of specific legal standards. While the Christian approach that has emerged in Latin America in recent decades does not yet constitute a tradition comparable to the long liberal tradition, this enterprise in social ethics and action provides an approach to human rights with deep historical and religious roots, and a notable record of achievement. The approach has been marked by "logics" that Richard Falk has termed "naturalist" (certain rights inhering in human

nature) and “populist” (people challenging state actors).³ It encompasses a full range of claims to justice—civil and political, socioeconomic, and cultural rights. It grounds them in Scripture and Christian social teaching. And it prioritizes the plight and the protagonism of the poor and the marginalized.

In affirming the above I recognize both historical and existing tensions between and among Latin American Christians with regard to human rights, as well as tragic experiences of ecclesial indifference to suffering, and collusion with repression, such as that of the Catholic Church in Argentina under military dictatorship. I recognize in addition that I am in the company of many accomplished Christian scholars and theologians who have made the same basic argument.

I begin this brief article by reviewing major elements of the theological discourse presenting this overall Christian approach to human rights. I then relate it to the appearance and development of Christian or church-based human rights organizations that came to the fore in Latin America especially in the 1970s. Finally, I examine the approaches and practices of three prominent faith-based nongovernmental organizations in the central Andes today: Peru’s Episcopal Social Action Commission (CEAS), Ecuador’s Ecumenical Commission for Human Rights (CEDHU), and Colombia’s Center for Research and Popular Education (CINEP). I seek to explain their Christian specificity within a largely secular human rights environment, and to highlight the particular contributions they are making to the overall defense and promotion of human rights in those countries.

THEOLOGICAL DISCOURSE ON HUMAN RIGHTS

One of the earliest scholarly efforts to come to terms with issues of Christianity and human rights in Latin America was an interdisciplinary project launched in 1977 by the Woodstock Theological Center. It resulted in two significant volumes of work.⁴ In the first of them, Jesuit theologian David Hollenbach noted the growth of grassroots advocacy by Catholic organizations in Latin America and elsewhere. He noted as well that the Vatican had come to adopt the cause of human rights “as the prime focus of its ethical teaching and pastoral strategy in the domain of international justice and peace.”⁵

In his historical review and commentary, Hollenbach observed that Pope John XXIII’s encyclical *Pacem in Terris* and the documents of the Second Vatican Council had included “both the civil and political rights generally associated with Western democracies and the social and economic rights emphasized in socialist societies.”⁶ The foundation of this *inclusive* “Catholic

rights theory,” he argued, resided in a recognition of *human dignity* and the belief that all persons are created in the image of God, redeemed by Jesus Christ and called by God to “a destiny beyond history.”⁷ Hollenbach noted a development of this ethical stance in the assertions by the global 1971 Synod of Bishops of peoples’ “right to development” and “right to participation,” calling them “shorthand ways of affirming the interconnected rights of those deprived of development and excluded from economic and political participation.”⁸ The theologian concluded his essay by recognizing the church’s weakness in actually practicing what it was now preaching. In complex and conflicted contexts, he asserted, there is a need for choices. But the fundamental ethical choice is not between freedom (civil and political rights) and bread (social and economic rights), but rather between merely including or clearly favoring the poor and the oppressed. Policies should be oriented around a “preferential concern for the rights of those who have neither bread nor freedom.”⁹

A more recent, joint theological effort to treat Christianity and human rights in Latin America took a similar position. In *Dereitos Humanos, Dereitos dos Pobres*, Chilean theologian José Aldunate, S.J., affirmed that “human rights are concretely the rights of the poor.”¹⁰ Aldunate argued, moreover, that a conscientious, authentic Christian commitment to human rights should integrate five elements. These include: (1) a prophetic denunciation of injustice (God hears the cry of the poor and calls believers to speak and act), (2) an understanding of work for human rights as within the vision of the coming Reign of God, (3) historical and personal discernment under the inspiration of God’s Spirit, (4) a lived solidarity with the oppressed, and (5) struggle against the structural injustices (social-economic and legal-political) that derive from sin.¹¹

Some of Latin America’s most prominent theologians have contributed additional approaches and considerations. Leonardo Boff has suggested at least two ways of legitimately presenting a biblical-theological perspective on human rights.¹² Gustavo Gutiérrez has highlighted the subjectivity of the poor in human history, not merely their victimization. And Jon Sobrino¹³ has suggested the presence of a mystical dimension, perceiving the struggle for the rights of the poor as an arena of privileged encounter with the Divine.

Theological discourse on human rights in Latin America over the past few decades has not been homogeneous¹⁴ or exclusively Roman Catholic of course. Pentecostals, whose numbers grew dramatically for a time, have tended to espouse subservience to government authorities, and at any rate produced relatively little theology in the process. But ecumenical Protestant thought has converged to a considerable degree with that of these Catholic theologians. José Míguez Bonino, for example, has declared that the “meaning

and content” of the churches’ commitment to human rights is to be found “in the defense of a humane life for the humblest people in society.”¹⁵

INSTITUTIONAL STATEMENTS AND ORGANIZATIONAL FERMENT

Much of the theological reflection on human rights presented here has been part of what sociologist Christian Smith has called Latin America’s “liberation theology movement.” As this well-known (and sometimes much maligned) church movement emerged in the 1960s and 1970s, it was itself responding to historical changes and popular mobilization in the continent, and seeking to reposition the church as an institutional advocate of human rights, social justice, and grassroots political participation. At least at the level of abstract principles, it has had some success. When the Latin American Bishops’ Conference¹⁶ gathered in Medellin, Colombia, in 1968, the church hierarchy “accepted key aspects of this view.”¹⁷ They did so again, though more cautiously, in Puebla, Mexico, in 1979.

In the Medellin conference’s concluding document on Peace,¹⁸ the continent’s Roman Catholic bishops stated that Christians could not help but see a situation of injustice that should be called “institutionalized violence,” when whole populations live in poverty and a dependence that impedes every possibility of cultural advancement and participation, “violating in this way their fundamental rights.”¹⁹ In their pastoral conclusions in the same document, they affirmed the need “to defend according to the Gospel mandate the rights of the poor and the oppressed.”²⁰

At Puebla, the assembled bishops opposed the doctrine of national security then being promoted by military regimes throughout the continent.²¹ They ratified the “clear and prophetic option expressing preference for, and solidarity with, the poor” that they had declared at Medellin.²² And they proclaimed that “enunciating the basic rights of the human person today and in the future is an indispensable part of the Church’s evangelizing mission, and it will ever remain so.”²³ The specific groups of rights that were stressed included *individual* rights such as physical integrity and religious liberty,²⁴ and *social* rights such as education, work, housing, health, social justice, and political participation.^{25, 26}

Admittedly, these Episcopal statements of the late 1960s and 1970s were abstract and frequently ambiguous, and were often reflected in practice only by more progressive pastoral agents, or only insofar as they did not seem to put at undue risk the institutional interests of the church. Furthermore, as constitutional democracies replaced dictatorships in many countries since the

1980s, and as liberation theology came under more systematic attack from conservative sectors in the church, official emphasis on the promotion and defense of human rights has diminished. Nonetheless, the option for the poor and the defense of human rights have been incorporated into the social teaching of the Roman Catholic Church both globally and within Latin America. At the 1992 CELAM meeting the bishops again stated that human rights are violated “by the existence of conditions of extreme poverty and unjust economic structures that give rise to vast inequalities”; and held that violence against the rights of children, women, and the poorest are “worthy of special condemnation.”²⁷ The prelates declared the need to “Promote human rights more effectively and courageously on the basis of the gospel and the Church’s social teaching, through word, action, and collaboration, by becoming committed to the defense of individual and social rights of the human being, of peoples, of cultures, and of the marginal sectors, as well as those who are vulnerable or imprisoned.”²⁸

Latin American Protestant voices have by no means been silent when it comes to speaking about human rights and the poor, and Protestant hands by no means idle. The final statement of a 2003 assembly convened by the World Council of Churches and the Foundation for Social Assistance of the Christian Churches (FASIC) is a good example. Participants expressed their conviction that “dignity and life can be wounded not only by the violation of civil and political rights, but also by the denial of economic, social, and cultural rights.” They proclaimed faith in “a God who opts for the poor and for men and women who are excluded,” and they pledged “to continue to respond to the call made by the critical reality of our region in the arena of dignity and human rights.”²⁹

HUMAN RIGHTS ORGANIZATIONS

Numerous church organizations with a practical focus on the defense and promotion of human rights came to the fore in South America especially in the 1970s. Known for their valiant opposition to the repression and abuses of military dictatorships, they emerged in the wake of a series of right-wing coups that began in Brazil in 1964 and continued through 1976. Perhaps the best known of the organizations was the *Vicaría de la Solidaridad* in Chile.

As Brian Smith has indicated, while the work of these church organizations emerged in reaction to new and extreme conditions in the continent, and did not in itself result in bringing about fundamental social change, the organizations supported victims of repression and their families. They also created greater public awareness of the abuses, helped to delegitimize the dictatorships and to

undermine their ideological foundations, questioned the underlying social structures that the regimes were defending, contributed to the development of critical social consciousness, and promoted grassroots participation in and beyond the churches.

Where in this significant effort, one might ask, however, were social and economic rights and the defense of the poorest? Was this human rights effort in Latin America not marked by the kind of “liberal” focus on civil and political rights that Livezey encountered in his 1980s survey of U.S. religious organizations working for human rights? Was there a preferential option for the poor and their rights, or were the churches defending in words the poor, and in practice mostly the civil and political rights of persecuted labor leaders, student activists, or professionals?

In the first place, it is important to recall that military repression in Latin America was not unconnected to social and political movements there that challenged traditional patterns of domination, poverty, and inequality. Latin America’s military regimes of the 1960s and 1970s were imposed in response to movements aimed at changing the status quo, and favoring the rural and urban populations that had been relegated historically to exploitation and oppression. The 1964 coup in Brazil was a reaction to growing social movements and policies perceived as threats to the interests of the dominant classes. The 1971 and 1975 coups in Bolivia and Peru respectively came against reformist military governments, and the 1973 coup in Chile against a leftist government that had been elected with the aim of opening a “democratic road to socialism.” To oppose these military dictatorships was, even if indirectly, to challenge the ruling elite that those regimes were defending and the social structures that had historically kept the poor down.

In the second place, the majority of those who were directly assisted by these human rights organizations or who stood to benefit socially from their actions were poor at least to some degree. Clearly there were labor and peasant leaders, and political and student activists, who could be described as middle or in some cases even upper class. Many others were of very limited means. There seems, however, to be insufficient data for a reliable analysis of the income levels or class status of those who benefited from the work.

Next, one should note a certain evolution in the work of some human rights organizations that had initially given almost all of their attention to civil and political rights. As Tergel notes, Chile’s *Vicaría de la Solidaridad* first documented and protested torture, disappearances, and arbitrary arrest, but later turned to economic issues as well. It provided food for the hungry and workshops to teach skills to the unemployed.³⁰ In Brazil, as it became clearer to most that the deeper causes of violations of civil and political rights resided

in socioeconomic realities, there was an apparent “shift in the axis of the commitment to human rights” (Boff et al., 81). The new perspective was perceptible in justice and peace organizations, Christian base communities, pastoral ministry offices, church-related research and documentation centers, and the Catholic bishops’ annual Lenten campaigns.³¹

Finally, it should be remembered that the rights of the poor were and have been defended and promoted by many church or faith-based organizations that have focused on social justice but not specialized in human rights *per se*, nor always used the term itself prominently. Brazil’s Pastoral Land Commission (CPT) and its Children’s Pastoral Office (*Pastoral do Menor*) are good examples. As Daniel Levine³² has noted:

The church as *voice of the voiceless* has become a familiar metaphor in contemporary Latin America. The phrase carries with it images of fearless advocacy for the marginal and for those without power or position. Across the region, church leaders and activists have taken up the cause of human rights, promoted and empowered grass-roots groups, and helped stake out legitimate new fields for religiously inspired criticism and collective action: housing, land, jobs, unions, to name only a few.

As the period of military dictatorships receded in the past two decades to one of limited democratic rule, the promotion of social and economic—and cultural—rights has become somewhat more visible. The rights of blacks and of indigenous peoples have become more prominent, as have those of children and of women. Some major human rights organizations like the *Vicaría* have ceased to exist. Others are simply not the center of attention that they once were. But the number of human rights organizations, large and small, has actually mushroomed in Latin America; Cleary³³ estimated that there were at least 3,000 in existence in the mid- to late 1990s.

Human rights work continues to be sustained and fortified by dense networks of international linkages and solidarity. As illuminated by analysts like Brysk, Cleary, and Keck and Sikkink, the influence of external actors has been crucial to the promotion and defense of human rights for decades. New developments in communication have provided the means for more rapid and detailed exchanges of information, as well as more effective efforts to channel resources, mobilize public opinion, and lobby for changes in laws and policies. International NGOs, exile and refugee groups, professional associations, intergovernmental bodies, transnational religious communities, and the mass media all play a role in this.

Faith-based human rights organizations continue to carry out an important and painstaking labor throughout Latin America, utilizing such networks and

giving attention to the full range of human rights. In the final section of this chapter, I turn my attention to three such organizations that have gained a degree of prominence in the Andean region.

CEAS, CEDHU, CINEP

A brief examination of Peru's Episcopal Social Action Committee (CEAS), Ecuador's Ecumenical Commission for Human Rights (CEDHU), and Colombia's Center for Research and Popular Education (CINEP) will help to illustrate the currency of the Latin American approach to human rights I have been describing. Their work encompasses a full range of claims to justice—civil and political, social, economic, and cultural rights. It is grounded in Christian faith. And it is concerned in a special way with both the plight and the protagonism of the poor and the marginalized.

CEAS, CEDHU, and CINEP are not necessarily representative of Christian human rights organizations in the continent. Throughout Latin America each country and every organization has its own specificity. But as prominent and highly respected nongovernmental institutions in the Andes, they provide excellent, concrete examples of the contributions currently being made to the overall defense and promotion of human rights.

Peru, Ecuador, and Colombia are marked by numerous similarities as well as stark differences in their history, demography, economy, politics, and cultural and religious life. Suffice it to say here that all three have been plagued by widespread and even growing poverty in recent years, especially in rural areas. Ethnic and racial dynamics quite literally color their poverty and inequality; Peru and Ecuador have very large indigenous populations, and Colombia a sizeable population of African descent. All three countries fall into the medium range of "human development" elaborated by the United Nation's Development Program, though Colombia has the relatively highest country ranking of the three (#73), and Ecuador (#100) the lowest.³⁴ Out migration has increased dramatically in recent years, and internal displacement is rampant in Colombia. War in Colombia has induced some three million people to flee their homes in the past two decades³⁵ (see *Secretariado Nacional de Pastoral Social* 13).

CEAS, CEDHU, and CINEP emerged in somewhat different circumstances, but in all three cases their human rights work *as such* was initiated in the brief three-year period between 1977 and 1980. While not at all unrelated to social and economic realities, the work was undertaken in direct response to repression. CEAS had been founded in 1965 as an official arm of the Catholic Bishops' Conference of Peru, to animate and coordinate the social outreach of the church. It was concerned specifically with the poor and their needs, but un-

der the right-wing military regime of Morales Bermúdez in 1977, CEAS felt compelled to open an office for human rights. A nationwide strike had been called in July of that year to protest badly deteriorating living standards, and government reaction had been harsh. There were more than a dozen deaths, massive detentions, and dismissals of thousands who had been absent from their workplace on the day of the strike. CEAS provided material and legal assistance to detained workers and their families, promoted the creation of local, church-related human rights organizations, documented abuses, and informed and educated people about their rights.³⁶

CEDHU was formed in Ecuador one year later, in 1978. The country was emerging from a decade of military rule but a strike by sugar workers resulted in a violent police and military assault on the workplace. Striking laborers and family members who had joined them there were massacred. Through the leadership of Lutheran pastor Washington Padilla and Catholic auxiliary bishop Alberto Luna Tobar in Quito, CEDHU was born as an ecumenical human rights organization.

CINEP, like CEAS, was initially founded to concentrate on poverty and “integral human development.” It aimed to transform Colombian society through research, education, and action inspired by a Christian vision of humanity.³⁷ A human rights office by that name was not established until 1980. This occurred when the government of Turbay Ayala imposed a repressive Security Statute and began justifying its actions with the doctrine of national security. CINEP helped organize Colombia’s Association of Family Members of the Disappeared. Then, from the mid-1980s onward it focussed on developing a systematic database of human rights violations and on providing grassroots education around human rights, evolving toward the inclusion of international humanitarian law, and people’s social and economic rights.³⁸

In the decades since the founding of these three human rights organizations, much has occurred of course. The numbers of the poor have increased. The external debts of the countries have grown. In Ecuador a popular and indigenous uprising forced out a corrupt civilian government, while the “dollarization” of the economy has fueled impoverishment among those in the lower income strata. Two decades of armed insurgency and rights violations in Peru resulted in the deaths of nearly 70,000 people according to the 2003 report of that country’s Commission of Truth and Reconciliation.³⁹ The complex, many-layered conflict in Colombia, fed in part by U.S. military aid and an appetite for illegal drugs, has led to an estimated 60,000 deaths, massive displacements, and unspeakable acts of brutality.⁴⁰ The violence in Colombia shows few signs of abating despite a plethora of peace initiatives at both the grassroots and official institutional levels.⁴¹

What are CEAS, CEDHU, and CINEP doing today in the field of human rights? Which are their priorities? What makes them distinct as Christian

human rights organizations and what concrete contributions are they making? In an effort to help determine this, I interviewed their respective directors in October and early November of 2004. Two rounds of detailed written responses were received from Laura Vargas of CEAS and Elsie Monge of CEDHU. I was able to interview Alejandro Angulo of CINEP personally in Bogota.

THE CURRENT PRIORITIES

When asked to indicate their organizations' current priorities, each of the directors tellingly named areas of action that included *both* social and economic rights, and civil and political ones. Vargas pointed to the need to disseminate the recent findings of Peru's Truth and Reconciliation Commission, to work with victims of the country's political violence in the pursuit of appropriate sanctions and reparations, and to strive for national reconciliation. The latter has an important social component because for CEAS, reconciliation is "understood as the necessary establishment of more equitable relations among all Peruvians, seeking to reduce the profound gaps that currently exist." CEAS is also working for reforms in the nation's legal and penal systems.⁴²

Elsie Monge stated that CEDHU has consistently sought to "unmask the State's repressive system and to promote social justice." Currently, she noted, the organization is dealing with the negative impact of government policies like the dollarization of the economy and the country's large foreign debt, as well as the impact of Plan Colombia and a proposed free trade agreement (TLC). A campaign is being prepared about the potential effects of the TLC on health, especially the price of medicines. This year CEDHU created a Human Rights Observatory aimed at getting civil society more involved in vigilance, analysis, and communication about human rights.⁴³

Angulo indicated that CINEP's priorities are the strengthening of grassroots organizations through education on economic and social rights (a means of working toward an "alternative social pact" in the country), and the continued maintenance of a reliable database (*Banco de Datos de Derechos Humanos y Violencia Política en Colombia*). The former is carried out through workshops aimed at parish, peasant, labor, and civic organizations in five different regions of Colombia; the latter in conjunction with the church organization Justice and Peace.⁴⁴

Opting for the Poor

Educational activity is important for all three of these human rights organizations. Frequently it is aimed at fostering the capacities and the protagonism of

the poor. CEAS seeks to elaborate educational materials that are understandable to all. CEDHU functions with “the conviction that the people need to know their rights in order to defend them, as well as to respect those of others,” and carries out formation programs with high school students, leaders of grassroots organizations, and members of rural communities in the highlands. CINEP provides workshops that analyze the country’s social reality, seek to enhance personal and collective awareness and responsibility, and promote people’s capacity to demand their rights from the State. CINEP prefers to work with “the dispossessed and the marginalized,” as Fr. Angulo puts it, rather than with students in well-to-do Catholic schools.

An option for the poor is at the heart of all three of these organizations. CEAS works with “peasants, miners, workers who have been fired or are involved in labor disputes, victims of violence and their families, those imprisoned for economic reasons [. . .] innocent prisoners who have been accused of terrorism, cases of extreme need, support for popular organizations [. . .].” Vargas stated that “CEAS can only be understood from the option for the poor.” Monge, for her part, said this about CEDHU:

The influence of the Commission is based on qualities that are identified with Christian principles: solidarity, courage, respect for the dignity of all, truth. Another characteristic demonstrated in its work is its dedication to the impoverished and the excluded of society. This presupposes a communion of ideals, vocation, and commitment.⁴⁵

Christian Identities

In a human rights environment that is largely secular and sometimes very partisan, CEAS, CEDHU, and CINEP are organizations with Christian roots and identity. Their values and the motivations of their leadership tend to set them apart. CEAS is organically connected to the Catholic Bishops Conference in Peru. CEDHU is broadly ecumenical and CINEP is a Jesuit institution, though not a confessional one. Each organization works through the local structures of the churches, especially the dioceses and the parishes, the schools, and the religious communities. They benefit greatly from the backing and financial support of international Christian organizations and foundations, particularly in Europe, and from international networking within and beyond Latin America.

These Andean organizations draw on the resources of their religious heritage, including ritual and sacrament. In the years of the worst violence in Peru CEAS regularly organized National Days of Prayer and Fasting for Peace. Its leadership affirms that the Gospel is the “deep root” of human

rights. CEDHU works with a variety of faith communities to organize a Cry of the Excluded each October 12. It helps to organize occasional Eucharistic celebrations, as well as a public “Way of the Cross” during Holy Week, and joins with the Lutheran church for an ecumenical service on International Human Rights Day. Faith, said Monge, is the Christian’s motivation for promoting respect for human rights; it’s a matter of “putting into practice the liberating message of Christ.” CINEP works with people of diverse political and religious tendencies, and chooses not to disseminate official church teaching, but it sponsors a yearly ecumenical liturgy in commemoration of martyred staff members Mario Calderón and Elsa Alvarado, murdered in 1997. CINEP, in the words of Angulo, “translates the Gospel into work for social justice.” Christianity and human rights are connected above all through the Incarnation and Jesus’ command to “love one another.”

CREDIBILITY AND CAPACITIES

As organizations with religious identities, do CEAS, CEDHU, and/or CINEP have greater credibility than other human rights organizations, a greater ability to call diverse individuals and organizations together (*poder de convocatoria*)? Vargas’ response to the first question is that credibility is really not theirs to judge. As for calling others together, CEAS had been most effective, she said, in coalitions around economic and social rights such as national initiatives on the foreign debt and fair trade.

CEDHU, according to Monge, has gained credibility from its long and serious commitment in defending human rights, identification with Christian principles, ecumenism, and pluralism. The fact that two religious women have helped direct it has been important, together with a commitment that transcends particular or institutional interests. Its attempt to provide “a space of convergence for social organizations” and to “act transparently, without hidden cards,” she believes, has given the organization a greater *poder de convocatoria* than others.

CINEP, Angulo declared, has tremendous credibility in Colombia. One reason is its applied research (it won two national social science awards in 2004). Another is its excellent database. Its local staff members also inspire great confidence among people because of their “honesty, lack of opportunism, and closeness to the community.” Angulo believes that the organization has a greater ability than others to call people together on many issues. CINEP’s approach is seen as different, nonpolitical in the narrow sense. It seems to take the rough political edge off discussions about and work for human rights.

While religious, it is welcoming to all and nonsectarian. Finally, it shares in the prestige of the Catholic Church as a good mediator within the Colombian conflict.

Human rights organizations like CEAS, CEDHU, and CINEP face daunting challenges, but they are making a distinctive and significant mark in Latin America's social and political development. So have organizations like the *Vicaría de la Solidaridad* before them. While socially committed Christians are not the only ones there to seek justice for the poor and the oppressed, or recognition and respect for a full range of human rights, specifically Christian thought and actions have contributed much to the region's overall movement for human rights in recent decades. For a committed sector of Latin American Christians, as Cleary put it, "human rights activity is an expression of their faith, as surely as Mother Teresa expresses her belief through caring for the sick."⁴⁶ Despite dangers and difficulties, and with less visibility than in the past, such a witness for justice seems to be enduring.

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Chapter Thirteen

Christianity and Human Rights in Vietnam

The Case of the Ethnic Minorities, 1975–2007

James F. Lewis

“Those who protest injustice are people of true merit.”—Ho Chi Minh¹

The Socialist Republic of Vietnam (SRV) is a signatory of the Universal Declaration of Human Rights and has constitutional articles regarding freedom of religion. Since reunification of the two Vietnams in 1976, religious bodies of all kinds have seen some progress in relaxation of government controls on the practice of religion. Without doubt, this progress has been minuscule in the experience of Montagnard Christians in the southern Central Highlands and nearly nonexistent for newer ethnic minority evangelicals, such as the *Hmông* of northwest Vietnam.²

A variety of extra-legal measures have been regularly applied to these and other religious communities, such as physical abuse and incarceration of religious leaders, destruction and appropriation of private and religious community property, and threats to loss of land and livelihood. Among reasons for this are charges by officials that they violate laws on how religion may be adopted and practiced, perceived threats against the state’s internal security and cultural values, social destabilization, and disloyalty to national identity. When aggrieved Christians have sought to claim their constitutional rights by appeals to Vietnam’s local, district, and national officials, they have typically been ignored, deflected, or punished. Documentation of this is ample.

Efforts by coreligionist ethnic Vietnamese, international secular and Christian advocacy groups and NGOs, as well as United Nations, United States, and other nation-state human rights agencies have sought to ameliorate known human rights abuses. Some onlookers dispute that putative state offenses are anything more than the excesses of local officials.³

It is clear that part of the problem is a clash of values leading to dissonance between the sociopolitical understanding of human rights held by the SRV

and that of affected Christian minorities and their sympathizers in international, secular, and religious contexts. But it is also true that in the view of the state, religion is perceived to give loyalty to something higher than the state and thus undermines the absolute control which the Communist party demands over its citizens.

This paper will focus primarily on recent religious freedom violations against ethnic minorities in the Central Highlands of the south and their *Hmông* coreligionists in the north. It will also evaluate the effect of changes in the legal structure since 2004, and its impact upon these religious communities, and reciprocally on the state itself.

EVANGELICAL CHRISTIANITY IN VIETNAM: A BRIEF HISTORY

Evangelical Christianity was first introduced into Vietnam in 1911 by missionaries of the North American-based Christian and Missionary Alliance (CMA). Their earliest success was among the lowland Kinh (ethnic Vietnamese), but by the 1930s, the CMA missionaries and their Vietnamese coworkers saw conversions among some of the fifty-four highland minorities in the Northern Mountains and the Central Highlands.⁴ In the North, a few hundred converts were gained among the *Dao*, *Tày*, and *Muong* by the mid-1950s.⁵ By then, missionaries in the Central Highlands had established congregations among the *Êđê* near Buon Ma Thuot, among the *Gia-rai* and *Ba-na* near Pleiku, and among the *Co-ho* and their mountain neighbors near Dalat. No expatriate religious workers were permitted in North Vietnam after 1954, though during the 1950s and 1960s in the south many additional Christian (mostly evangelical) denominations began churches, some of which continue until now with varying degrees of state opposition.

In 1975, when Evangelicals nationwide numbered about 200,000, it is estimated that one-third of all Evangelicals were mountain minorities, primarily in the Central Highlands.⁶ By 2000, the number of evangelicals nationwide had dramatically grown to an estimated 1.2 million. About one-third of these are in two bodies formerly associated with the CMA, each recognized separately by the government.⁷ Two other sectors of Evangelicals have shown remarkable advances but are unrecognized. House churches among the Kinh have attracted tens of thousands of new followers, but because they are unrecognized, they are often harassed by the government.⁸ The second sector, and one that has seen the most remarkable growth, has taken place in the Central Highlands and in the northern mountain provinces. Conversions among the Montagnards of the Central Highlands have doubled or tripled from their

1975 levels. Even more impressive is a mass movement among the *Hmông* in the northern provinces of Lao Cai, Lai Chau, Son La, and Ha Giang.⁹ Whereas in 1989 there were only a handful of *Hmông* Evangelicals, by 2000 an estimated 150,000 to 250,000 had converted out of a total population of 558,000 in those four provinces. The total size of the combined ethnic minority Evangelicals across the country is now believed to make up about two-thirds (800,000) or more of all Protestants.¹⁰

RELIGION AND THE SOCIALIST REPUBLIC OF VIETNAM: 1976–2007

Beginning in 1976, when the two Vietnams were reunified, the government's stance toward religion was often one of repression, taking measures such as suspending religious services, confiscating property, and harassing or arresting religious leaders. Controls over religion, which had been firmly in place in the North since 1954, were now applied against religion in the South. Opposition was most severe among the ethnic minorities in the Central Highlands where local authorities took an especially hard line.¹¹

Circumstances for the then six legally recognized religions improved somewhat after 1986, when the glasnost-like measures of *doi moi* (Renovation), promulgated to reform the economy, were accompanied by occasional limited relaxation of some restrictions on religion.¹² However, the effect was quite uneven, as Catholics, Buddhists, Evangelicals, and others continued to experience regular setbacks whenever the state deemed actions of believers and their organizations to be subversive. The state had absolute power to decide when an act was truly religious and when it was not.

Though some moderation took place after 1995, serious problems remained. Stephen Denney characterized government policy through the early 1990s as one of repression, restriction, and co-optation.¹³ Believer participation in religious activities increased, yet the government maintained broad legal and policy restrictions on organizations and clergy. Key to government control was its use of legislative enactments and decrees such as Resolution 297, which was promulgated in 1977 (later replaced in 1991 by Decree 69), and the 1985 Criminal Code. These decrees brought all aspects of religious life under the control and restriction of the state. Formal guarantees of religious freedom were qualified by vague stipulations such as those found in Article 5 of Decree 69, which forbids "any activity using religion to sabotage national independence, oppose the State, sabotage the policy of uniting the whole people, undermine the healthy culture of our nation or prevent the faithful from carrying out their civic duties."¹⁴ Article 70 of the 1992 revised

Constitution states: “The citizen has the right to freedom of belief, of religion, to embrace or not to embrace any denomination. . . . It is forbidden to violate freedom of belief, of religion, or to take advantage of it to act against the law or the policies of the State.”¹⁵ Though the first part of Article 70 appears to grant religious freedom, the second restricts that freedom because, according to policy, freedom of worship effectively extends only to those who are followers of six government-sanctioned religions. Citizens who, for conscience or other reason, choose to follow unapproved religions or unrecognized bodies of the official religions fall outside the guarantees of religious freedom.¹⁶

Religion and the State: The Montagnards of the Central Highlands—Phase One

After reunification in 1976, Montagnard Evangelicals in the Central Highlands suffered severe and unrelenting religious repression.¹⁷ In 1976 virtually all the 398 church buildings used by ethnic minorities in the Central Highlands were closed. Their properties were appropriated, activities suspended, and leaders “re-educated” in detention camps.¹⁸ Until very recently they have been the target of brutal, extra-judicial measures, in part because most of the older generation had been converted by American missionaries.¹⁹

The growth rate of new converts since 1976 has been staggering. For example, solely among the *E-de* ethnicity of Dak-Lak the numbers increased from 15,000 in 1975 to 150,000 by 2000.²⁰ Increases also occurred among the *Mnong*, *Gia-rai*, *Ba-na*, and *Xtieng* tribes. Oskar Salemink quotes Oskar Weggel as saying Evangelical ranks in the Central Highlands doubled between 1975 and 1987 constituting a “success story of religious conversion.”²¹ The sizeable and rapid growth of Evangelicals who are willing to act in unison to express their dissatisfaction with government mistreatment of their fellow Evangelicals partially accounts for the massive, swift, and brutal measures taken against them in 2001.

In February 2001 thousands of ethnic minorities in three provinces demonstrated against oppressive policies of the state.²² Government accounts indicate that on February 2, about 1,000 demonstrators marched before provincial offices in Dak-Lak’s capital Pleiku protesting the arrest and jailing of two Gia-Rai men on January 29.²³ The charges were “violating the law” and “inciting division among the national-unity bloc.”²⁴ Petitions were presented to officials demanding resolution of conflicts over Kinh encroachment on tribal lands. Demonstrations elsewhere continued on February 3–6 in the nearby provincial capitals Buon Ma Thuot and Kon-Tum and surrounding villages. In the ensuing melee, property was destroyed and arrests made. It was the beginning of a year-long deployment of army and security forces to deal with

widespread unrest. Members of military security police took up positions in virtually every hamlet across the affected provinces. All foreign personnel were evacuated; tourism stopped.

Initial response by state-run media was to cast the event as the result of legitimate grievances over land rights exacerbated by local mismanagement and general economic underdevelopment.²⁵ This soon changed when official media reinterpreted it as the result of agitation by an anticommunist exile group in the United States which allegedly instigated secessionism among the Montagnards. Further, state-run media blamed evil elements which “abused religion” and threatened national unity. They identified “Dega Religion” as an illegal movement aimed to stir locals to seek an independent ethnic state.²⁶

Information received by outside observers and human rights advocates tell a somewhat different story. While land grabbing of ancestral lands is indeed a smoldering issue, religious persecution by government cadres and officials in all three of the provinces had become intolerable. Mistreatment of the Evangelical population was at the heart of the unrest. Except for a handful of Montagnard churches in provincial capitals, almost all Evangelicals had been angered by the breakup of their services and the continuous injustices of extra-judicial acts.

In April 2002 Human Rights Watch published a thoroughly documented 200-page report on the crisis based upon research conducted from February 2001 to February 2002. More than one hundred highlanders were interviewed, all of whom were witnesses to the disturbance and the state’s handling of it. The front cover of their publication is a photo of police and soldiers using force to break up an all-night prayer meeting in Plei Lao village in Gia Lai province on March 10, 2001. Three chapters recount in detail a church burning, killing by police, forced participation in the animistic ritual drinking of goat’s blood, arrests, beatings, and torture.²⁷

Long before the crisis of 2001, religious freedom advocates had received repeated and credible reports of acts of religious oppression. One example is a December 1998 complaint sent by *Ba-na* Christians to eighteen local, provincial, and national offices, including that of the Prime Minister in Hanoi. Signed by eleven Evangelical believers from De A Lao Hamlet, Lo Pang village, Mang Yang district in Gai-Lai, the complaint detailed how officers of the Peoples Committee and Fatherland Front destroyed their property, seized fields, stole rice and cattle, and forced them to do labor for the government. In the petition they cited published promises of Party General Secretary Le Kha Phieu concerning religious freedom. This did nothing to effect redress. In fact, all signatories were subsequently arrested by the police, taken to prison, and beaten severely.²⁸ While abuses may sometimes be the work of

rogue officials, incontrovertible evidence shows many of these incidents are government-directed, from highest echelons of the state and provincial apparatus.

Religion and the State: The Montagnards of the Central Highlands—Phase Two

A second wave of disruptive demonstrations by an estimated 10,000 to 30,000 Montagnards occurred in the Central Highlands from April 9 to 18, 2004. Unlike the demonstrations of 2001, this wave was well organized and occurred in at least thirty separate locations in the provinces of Gia Lai, Dak Lak, and Dak Nong and their capitals Pleiku and Buon Ma Thuot. Though the demonstrations were peaceful in intent, security and military police, apparently alerted in advance, brought strong countermeasures to quickly and brutally quash them while at the same time disguising their presence by wearing civilian clothes. Several thousand demonstrators suffered severe injuries and an unknown number were killed.

The concerns of the demonstrators were largely the same as those expressed in the February 2001 demonstrations: land theft, denial of social services and economic aid, and intensifying religious persecution. It is clear that residual issues from the 2001 uprising had deepened. What is unclear is the role the Montagnard Foundation Inc. (MFI), a U.S.-based advocate for fair treatment of highlanders led by one formerly their own, Kok K'sor, who resides in the United States. Official Vietnamese sources accuse the MFI of organizing among their Dega followers support for a separatist and independent state.²⁹ The MFI counters that while supporting the grievances of the Montagnards, they actually counseled against a coordinated and widespread demonstration.

The government has found it convenient to blame Montagnard Evangelical Christians as a whole for what may well be the illegal acts of some who embrace the name "Dega" Christians. The MFI supports these Dega who mix their religious commitment with separatist aspirations. Many observers say, however, that no more than 5 percent of the local Montagnard Christians are supportive of the Dega religio-political agenda. The government appears to be using the Dega faction as an excuse to label all Evangelicals as subversives and bring every possible measure to bear on their elimination.

After April 2004, the government continued to withhold permission for most churches in the Central Highlands to hold public meetings. In the pre-1975 period more than 750 churches were once open, but by late 2004 only sixteen were considered "legal" in the provinces of Dak Lak and Gai Lai.³⁰ Of these sixteen, four are open primarily to Kinh or ethnic Vietnamese who live in the capital cities of the Highlands.³¹ What is astonishing is that well

over 500,000 Evangelical Christian Montagnards were treated as engaging illegally in religion.

Religion and the State: The *Hmông* of the Northern Mountains

In 1991 the Communist daily paper, *Nhân Dân*, acknowledged that a religious movement was underway in heavily populated *Hmông* provinces bordering China and Laos. This was the first time the world had heard of the mass conversions to Evangelical Christianity among the *Hmông*. Several countermeasures were suggested such as *Hmông*-language radio and television programs, which in fact were launched in 1994. At the local level the article proposed recruiting *Hmông* cadres who had demonstrated their commitment to state policies and programs in order to root out “bad elements or enemies among their relatives.” *Nhân Dân* warned that unless steps were taken immediately to force the *Hmông* to conform to state lines and Party policies, the situation might get more serious.³² As a matter of fact, action was already underway to suppress the *Hmông* movement. The Politburo itself issued directive NQ24 on October 16, 1990, followed up by directive #69 HDBT on March 21, 1991, to deal with *Hmông* Evangelicals. The latter directive called for immediate action to quash “any activity using religion to sabotage national independence, oppose the State, sabotage the policy of uniting the whole people, undermine the healthy culture of our nation, or prevent the faithful from carrying out their civic duties.”³³ Almost from the beginning of the movement, which was stimulated by the Gospel radio broadcasts of U.S.-based Far East Broadcasting Company (FEBC), *Hmông* claim that officials began to apply pressure against them. Letters to FEBC containing incriminating documents, recount beatings, fines, forced labor, interdiction of farming and harvesting, imprisonment, threats of death, forced emigrations, and confiscation of property (cows, chickens, rice, radios, and cassette recorders).³⁴

Hmông Christians lodged complaints with various government offices and detailed abuses by local officials, some of whom were members of the “Peoples Committee” (*Nhị Ban Nhân Dân*) while others were local police. They list the names of those who were abused, dates and locations, and the names of the village and hamlet officers, mostly *Hmông*, who perpetrated these abuses. It is clear that *Hmông* Christians believe these actions were known and approved by the Vietnamese officials. *Hmông* letters and tapes to FEBC seem to indicate abuses reached new heights in 1992. Mr. P. C. reported the following:

They (government) came and took my brother-in-law and myself and put us in a dungeon (literally, “dark house”) for about 31 days. Then they released us for

about two months to work, but then put us back for another month and a day. We were in the dungeon for a total of three months and then were released. They persecuted us severely while we were in prison.³⁵

In some cases *Hmông* took their grievances beyond local and provincial offices to Hanoi itself. In February 1993 a *Hmông* delegation presented their plea to an officer of the Ministry of Interior in Hanoi. He acknowledged their complaint in a "Record of Evidence," a copy of which was retained by the delegation.³⁶ Some of the *Hmông* in the delegation were also plaintiffs in a separate complaint on file in Hanoi. In this complaint they expressed confusion about the government's policy of religious freedom since it was their understanding that their religious beliefs were not against the state. Apparently article 70 of the 1992 Constitution concerning freedom of religion was on their mind when they wrote the following statement.

We are followers of Jesus. We do not steal. We do nothing against the government or state. We are supposed to have religious freedom. Why are we prohibited to be converted? Why did the authorities of Lai Chau province allow the district police to persecute and beat us, some to the point of death?³⁷

Other desperate *Hmông* sought relief through international intervention. They were able to get a copy of their complaint into the hands of a group of Viet Kieu Canadians who were visiting relatives in Hanoi in early 1993. Upon return to Canada, and in an attempt to help the *Hmông*, a delegation of interested and concerned Canadians presented their complaint, through a Member of Parliament, to the Vietnamese Ambassador in Ottawa in May 1993. The Ambassador expressed willingness to communicate with his government about the problem. In a few weeks, letters from *Hmông* to the West told how their situation had deteriorated with increased persecution in July and August 1993. So intense was it that in an attempt to avoid detection, letters written by *Hmông* to FEBC for several months contained no return addresses. In these letters they told of their plight and requested that no more Bibles, hymnbooks, literature, or packages of any kind be sent to them. It is clear that this attempt to pressure the Vietnamese government resulted in stiffening opposition rather than alleviation. *Hmông* have learned by painful experience that religious freedom is limited to beliefs and practices that the state approves and that support socialism and the goals of national unity. Religious freedom Article 70 of the 1992 Constitution warns the citizens "not to take advantage of belief or religion to act contrary to state laws and policies."³⁸

Government pressure caused some *Hmông* to lapse from practicing Christianity while others resorted to compromise. One letter from 1995 states that:

This month our local government persecuted all the Christians hard again. It happened because they accused us of having contact with the outside world and having three pastors visit us. The government fined us, jailed us, and made us work very hard without food and water. All these events will not stop our faith. Unfortunately, government officials forced us to disclaim Christ on videotape and promise to stop worshiping him. Some of us no longer worship Christ while others still strongly believe in him. We have done nothing wrong. So, we lied to the government about trying not to worship Christ again but when we got home, we got our Bibles and still encouraged others to believe in Him. We know it is wrong to lie but it is the only way to protect our fellow believers.³⁹

In June 1997, eleven *Hmông* families in Bac Me district of Ha Giang province presented a written petition asking permission to follow the Evangelical religion. The Chairman of the Ha Giang Provisional Peoples Committee responded on June 27 by denying permission. The grounds for the denial were that since the *Hmông* “traditionally did not follow any religion” they did not have permission to choose one since “such religions are not the custom of our *Hmông* people.”⁴⁰

As a follow-up to his letter the Ha Giang District Peoples committee drafted an affidavit that required *Hmông* to abandon their Evangelical religion and join in the fight to eradicate it. Hamlet by hamlet, officials gathered *Hmông* Christians and forced them to sit through educational sessions to study the correct meaning of religious liberty and learn to recognize “bad people” who promote Evangelical religion. The statement of promise reads:

I promise to implement the following: (1) neither my family nor I will take part in any Christian [*Tin Lành*] practices or study of the Christian [*Tin Lành*] religion and we will return to the traditional practices of our H’mong people. (2) I accept that I have the responsibility to tell family, friends and neighbors in our hamlet and village not to listen to nor follow the Christian [*Tin Lành*] religion, and not to go elsewhere to do it. (3) I accept that I have the responsibility of informing the authorities of our local government the names of people who continue to follow the religion, and the names of any people who come from elsewhere to teach the religion. (4) If I should in any way not abide by these promises, I please request that I be held accountable to the laws and legal authorities.⁴¹

In neighboring Lai Chau province, which has the third largest *Hmông* population in the North, a 1997 directive entitled *Huong Dan* [Guidance] was issued to local cadres by officers. Its purpose was to implement more thoroughly an earlier directive of 1990. The subject is as follows: “Concerning the measures needed to enforce dealings with religion in the new situation.” In the text it refers to the need to “solve the problem, push back and advance

the eradication of [the new] religion in order to consolidate the political cause to develop the social and economic life of the country.”⁴²

The severity of these and other measures applied against the *Hmông* testifies to the seriousness with which the Vietnamese government has taken the spread of the Evangelical movement, as well as its determination to bring the movement under control. However, the repressive measures seem not to have achieved the effect desired, as seen in an article titled “Opposing Illegal Religion,” which appeared in the January 15, 1999, issue of *Pháp Luật* [Law], the official organ of the Ministry of Justice. The article complained that while there had been some propaganda successes in turning *Hmông* from the *Vang Chù* religion, “it’s easier said than done,” since the Justice Department “encounters many difficulties.”⁴³ Le Quang Trieu, Yen Minh district party chief in Ha Giang province, admitted in 1999 that after a full year of propaganda, only 37 out of the 1,112 Evangelicals in his district could be reconverted.⁴⁴

Religious Freedom and the Evolving Legal Framework 2004–2007

2004 signaled a new development in the structure of the state’s official pronouncements on religion. For the first time, a constitutive legislative assembly enacted a promulgation on religion signaling the introduction of public dialogue about religious freedom and national interests. All previous enactments came from Communist Party directives, the Constitution, and various bureaucratic decrees assuring freedom of belief and nonbelief. The 2004 Vietnamese National Assembly’s “Phap Lenh” (Ordinance Regarding Religious Beliefs and Religious Organizations) superseded while largely continuing previous policy decrees and enactments. Consisting of six chapters and forty-one articles, it became effective November 15, 2004.⁴⁵ It succeeded “Decree on Religion #26,” in force since 1999, which amended the 1992 Constitution’s religious provisions.

The logic of the ordinance consists of three parts. The first is found in Article One which restates the constitutional guarantee: “Citizens have the right to freedom of belief and religion and freedom of non-belief and non-religion. The State ensures freedom of belief and religion. Nobody is permitted to violate these freedoms.” The second part containing the majority of the Articles, delimits these freedoms. Articles Eight and Sixteen will serve to illustrate this point. The third part consists of the final four Articles, and refers to administrative issues about the date and time of implementation.

Article One grants to all Vietnamese “freedom of belief and religion, and freedom of non-belief and non-religion.”⁴⁶ It calls for those with religion and without religion to respect each other and to avoid violation of religious freedom. This is nothing new since it essentially affirms the statements in the

1992 Constitution and echoes pledges the state has long ago given in international conventions and covenants. Eighty-four-year-old Fr. Chan Tin, well known and long-time religious freedom activist, rightly notes that in article one “there is not a single word that limits the freedom of religion at all.”⁴⁷

Articles Two through Thirty-Seven deal with activities that are forbidden, giving cause to the observation that the ordinance is prohibitive rather than protective of religious freedom. Activities not permitted are criminalized and punishable by law. It says:

The abuse of the right to freedom of belief and religions to undermine peace, independence and national unity; incite violence or to wage war; disseminate information against prevailing State’s law and policies; sow division among the people, ethnic groups, and religions; cause public disorder; do harm to other people’s lives, health, dignity, honor, and property; hinder people from exercising their rights and public obligations; spread superstitious practices and commit acts to breach the law, are not allowed.

Concerning this issue, Fr. Chan Tin and others have the following concerns. First, these provisos are too vague to offer meaningful distinctions between acts which believers regard as intrinsic to their faith, and those the state may arbitrarily deem illegal. Second, because of this, it opens the door to local officials who for personal gain may suppress religious actors or be selective in the way it permits or prohibits religious actions and beliefs. Third, it makes the practice of religion subject to the state’s view of what is permissible. And the recent history of the state’s application of its decrees, directives, and policy statements, as seen in this chapter, clearly demonstrates that it is too often used in egregious and unjustifiable ways. Catholic Fr. Tin, many Buddhists, and Evangelicals deeply resent general provisions to restrict, arrest, and punish what they believe are legitimate expressions of their faith. The restrictions are used merely to effect the absolute authority of the Communist party.

Article Eight warns against “abuse of the right to freedom of belief and religion” but provides no definition of what those abuses might be. In many states, such articles are expanded to give definitional substatements which help to distinguish between the duties owed to the state and the freedoms enjoyed by a religious body or a believer. Where there is the rule of law mediated by a court system open to all litigants, there may be cases heard and decided which provide precedents and further clarity in these matters. Such has not yet emerged in Vietnam.

The Phap Lenh Ordinance is suffused with a vocabulary of restrictive terms. These include the following words: “register” is used eighteen times; the words “approval,” “recognized,” “allowed,” “permitted” altogether are used

twenty-one times.⁴⁸ The freedom the document provides is the freedom of the state to restrict and control, *not* the freedom of religionists to believe and practice. Its prejudice against the free exercise of religion is abundantly clear. It is so comprehensively restrictive that “there is no article in the Ordinance which does not require” either registration or permission.⁴⁹

Officials state that Phap Lenh ensures the lawful operation of the religions “without affecting religious tenets.”⁵⁰ But beliefs are as controlled as practices. For example, *Hmông* evangelicals use the words “Vang Chu” to refer to the Biblical God. But belief in Vang Chu has officially been designated as a “heresy” in a state radio commentary on August 10, 2004.⁵¹ Evangelicals of the Central Highlands believe that participating in certain rituals associated with their previous pagan practices is a sin to them. But according to the state, rejection of the ritual is illegal since, in the view of the state, this is to “denounce” a traditional cultural activity with “extremist thought.” What evangelicals abhor has been declared by the state to be a valued part of the rich cultural heritage of the minorities.⁵² *Hmông* and Evangelicals of the Central Highlands are charged with holding beliefs that “no genuine religions would encourage.” The question here has to do with what constitutes legitimate religious belief. This matter is unlikely to be settled until concerned parties have access to courts. Such a development seems, at this point, a long way off.⁵³

CONCLUSION

From 2004 to the present, the state’s treatment of religion has moved noticeably from a stance of combined repression and regulation to a mostly rigid regulatory style. Yet the international community was so alarmed at Vietnam’s overall record that on July 19, 2004, the U.S. House of Representatives passed the “Vietnam Human Rights Act of 2004,” on a vote of 328 to 45, to block any increases in nonhumanitarian aid until there was “significant progress” made in human rights. Then on September 15, 2004, the U.S. State Department named Vietnam a “Country of Particular Concern” reserved for the world’s worst offenders of religious freedom.⁵⁴ This prompted Vietnamese officials to blame enemies of the state for slander and misinformation. Yet it seems to have propelled officials to undertake new steps to respond to these charges.

These included the 2005 Prime Minister’s “Special Instructions Regarding Protestantism” which mainly called for authorities at all levels to facilitate registering unrecognized denominations with special reference to ethnic minority Christians of the Central Highlands and Northwest provinces.

Hard on its heels was the March 2005 “Decree 22” providing implementing guidance to the 2004 Phap Lenh Ordinance on Religion and Belief. It called for a ban on “forced renunciations,” which religious freedom observers noted implicitly recognized the reality of the very practice which authorities vehemently denied had ever occurred. Additional provisions include highly restrictive criteria by which religious groups could be registered, including a test of longevity and stability. Only those congregations of twenty years’ existence and deemed to be a “stable religious operation” (a highly subjective decision rendered by often unsympathetic local officials) could be offered registration.

The Central Bureau of Religious Affairs (CBRA) published in November 2006 a fifty-plus page manual of instruction to officials at commune-, village-, district-, and provincial-level officials in the Northern provinces on how to deal with the ethnic minority Evangelicals.⁵⁵ Entitled “Concerning the task of the Protestant Religion in the Northern Mountainous Region” it called on officials to assess the influence of Protestantism at the village and commune level then divide congregations into three categories. The first is those who have followed the faith “a relatively long time” and “have a genuine need to practice their religion.” The second covers those whose “faith is not yet firmly established.” The third includes those who have only recently begun to follow the Protestant religion. Detailed instructions follow. Those in category 1, having practiced a longer time, are to be guided to follow a densely bureaucratized registration process for successful government recognition. The second category is disturbing as it contradicts the formal rejection of forced renunciation found in Decree 22. The manual says: “urgently and continuously mobilize these citizens to return to their traditional beliefs.”⁵⁶ It continues: “In the event that this has been tried many times in the past and they have not returned to their traditional believers, guide . . . these people to practice . . . in the context of their private homes.”

Amidst these countervailing and cross-cutting currents at a local level, a significant positive development took place at apparently the highest levels of government through the work of the American-based Institute for Global Engagement (IGE). In cooperation with Hanoi’s “Vietnam-USA Society” (VUS), IGE was permitted to freely visit locations of their preference in a ten-day trip visiting Evangelical ethnic minorities in the Central and Northern Highlands. These visits were judged by the IGE delegation to merit the conclusion that some real advances had been made. For the first time, Vietnamese authorities approved and assisted free access to areas known for religious abuses by any nonstate entity.⁵⁷ IGE subsequently cosponsored with Vietnam’s Institute for the Study of Religion the first ever conference on religion and the rule of law in Vietnam attended by Asian and international scholars. This “provided the

first ever face-to-face exposure for a number of Vietnamese officials in Hanoi to consider models other than their own repressive one. At the end of the meeting, IGE and the VUS signed a Memorandum of Understanding (MOU) on further engagement in promoting constructive dialogue in the area of religious freedom. These are, according to IGE, ‘small steps in the right directions.’⁵⁸ When IGE President Chris Seiple reported his observations before the House of Representatives, it convinced many that the time had come to rescind the CPC which the U.S. State Department did in mid-November 2006 after which Permanent Normal Trading Relationship status with the United States was granted and admittance to the World Trade Organization (WTO) ensued.

Hopes that Vietnam would not backslide into old ways have been brought into doubt. In early 2007 a crackdown on human rights defenders and more evidence of religious repression led to the U.S. House of Representatives approving the highly critical September 18, 2007, “Vietnam Human Rights Act,” resulting in cancellation by Vietnam of a scheduled visit of the United States Commission on International Religious Freedom (USCIRF).⁵⁹

In spite of halting progress in religious freedoms for ethnic minorities, progress in registration of churches has proceeded, though at a glacial pace. Among the Northwest ethnic minorities consisting of some 1,250 congregations with 200,000 or more believers, as of midyear 2007 only eighteen (or a paltry 1.5 percent) have legal status.⁶⁰ Congregations of ethnic minority Evangelicals in the Central Highlands consist of 5.5 percent registered bodies (70 out of 1,300). The process of registration seems to be moving ahead more quickly among the Kinh Evangelicals.⁶¹ But across Vietnam, counting all Evangelicals, less than 20 percent of all congregations have official status in the multi-tiered registration system.

Catholic Archbishop of Hanoi, Ngo Quang Kiet accurately summarizes the current situation for religious freedom in Vietnam, saying it is better than before. But in his remarks to high government officials he expresses the views of many from North to South: “You have allowed changes, improvements only because of international pressure. But in your hearts you have not yet accepted that religion is a benefit to society. You still can’t keep your hands off of religion and just let it flourish.”⁶²

NOTES

1. From “Word Play” in *Ho Chi Minh on Revolution: Selected Writings, 1920–1966*, ed. Bernard B. Fall (New York: The New American Library, 1967), 137.

2. Montagnard is the name given by French journalists and is commonly used in popular publications. The Vietnamese officially call them *Dan Toc Thieu So* (Ethnic

minorities). “Dega” is a name taken by some Montagnards in the Central Highlands though one which most strongly reject.

3. This was an interpretation recently offered by Vietnam’s Vice-chair of the Foreign Relations committee of the National Assembly in a conversation with the author on December 15, 2004.

4. For an early history of the Evangelical church, see Le Hoang Phu, *A Short History of the Evangelical Church of Viet Nam (1911–1965)*, Ph.D. dissertation, New York University, 1972.

5. Some other ethnonyms for these groups are as follows: *Dao (Man, Mien, or Dìu-Mien), Tày (Tho, Phén), Muong (Mol)*.

6. Conversation May 3, 2001, with Vietnam researcher Reg Reimer.

7. These are the Evangelical Church of Vietnam–North (ECV-N) with about fifteen to twenty churches and the Evangelical Church of Vietnam–South (ECV-S) consisting mostly of Kinh (ethnic Vietnamese) with several hundred churches.

8. The number of house churches across Vietnam, including those among the ethnic minorities (15 percent) may number 1,600 or more.

9. For a full account of this see James F. Lewis, “The Evangelical Religious Movement among the *Hmông* of Northern Vietnam and the Government’s Response: 1989–2000,” in *Crossroads: An Interdisciplinary Journal of Southeast Asian Studies* 16, no. 2 (2002): 79–112.

10. U.S. Department of State, International Religious Freedom Report 2007. Nisid Hajari had said earlier that ethnic minorities make up three-fourths of the total Evangelicals; see Nisid Hajari, “God vs. the Cadres,” *Time* (Asia), September 13, 1999, 21.

11. United Nations Economic and Social Council: Commission on Human Rights, 1999, 16.

12. The six are Catholics, Protestants (in two bodies: Evangelicals/North and Evangelicals/South; many smaller but important ones are not registered), Buddhists (not all), Cao Dai (several sects), Hoa Hao, and Muslims.

13. Stephen R. Denney, “Religion and State in the Socialist Republic of Vietnam,” in *Render Unto Caesar: The Religious Sphere in World Politics*, ed. Sabrina Petra Ramet and Donald W. Treadgold (Washington, DC: The American University Press, 1995), 358.

14. United Nations Economic and Social Council, Commission on Human Rights, 1999, 3.

15. These restrictions are reiterated in Article 5, Decree No. 26, signed into effect by the Prime Minister in 1999.

16. Some Buddhist “denominations” are outlawed, such as the United Buddhist Church of Vietnam. See: U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, *Annual Report on International Religious Freedom: Vietnam* (Washington, DC, 2000), 3.

17. The largest concentration of Vietnam’s Evangelical Christians today is in the four Central Highlands provinces where the disturbances occurred. It is estimated that in 2000 up to half of the nation’s 1.2 million Evangelicals reside there.

18. Freedom House, “*Directions*,” Document 2, “Program 184A—Development of Policy on Protestantism in Some Provinces and Cities,” 2–3, www.freedomhouse.org.

19. For an account of Evangelical missionary work in the Central Highlands, read Homer S. Dowdy, *The Bamboo Cross* (Harrisburg, PA: Christian Publications, 1964).

20. Director Vo Tan Tai of the Dac-Lac Provincial Religion Department indicates there are 260,000 followers of the various religions in the province making up 29 percent of the total population. Further, Evangelicals increased ten-fold to 117,000 in the past twenty years. Source: email communication from activist Mike Bengé to the author, February 27, 2002.

21. Oscar Salemink, “The King of Fire and Vietnamese Ethnic Policy in the Central Highlands,” in *Development or Domestication? Indigenous Peoples of Southeast Asia*, ed. Don McCaskill and Ken Kampe (Bangkok: Silkworm Publications, 1994), 521–22.

22. The uprisings initially took place in Pleiku (Gia-Lai), Buon Ma Thuot (Dak-Lak), and later spread to Kon-Tum (Kon Tum) and are estimated to have involved as many as 30,000 people.

23. Reports say the demonstrators in the provincial capitals in the first few days numbered close to 20,000. See *South China Morning Post*, Saturday, February 10, 2001.

24. Press release of the Embassy of the Social Republic of Vietnam in the United States, February 8, 2001.

25. Acknowledged in letter of Vietnam’s Press attaché, Embassy of Vietnam, in letter to the *Washington Times*, January 23, 2002.

26. Kay Reibald’s letter to the Editor in the February 17, 2002 *Washington Times*.

27. Human Rights Watch, *Repression of Montagnards: Conflict over Land and Religion in Vietnam’s Central Highlands* (2002).

28. Copies of all documents are in the author’s files.

29. MFI phoned international journalists in Hanoi in advance of the demonstrations, opening them up to charges that they fomented the action.

30. These sixteen church buildings constitute only 2 percent of the number open in pre-unified Vietnam.

31. The situation in 2007 has improved in the Central Highlands as approximately 5.5 percent of the 1,300 Montagnard churches have received some level of official recognition.

32. Nguyen Xuan Yem, 1991, 2.

33. Quoted in United Nations Economic and Social Council: Commission On Human Rights, 1999, 16.

34. FEBC, Document 1, Audiotape from Mr. P. C., 1992; FEBC letters V-0495-2-P, V-0595-1-P, V-0496-2-P.

35. FEBC, Document 1, Audiotape from Mr. P. C. to FEBC (1992). All documents with FEBC.

36. FEBC, Document 2, record of evidence of a *Hông* Delegation (1993).

37. FEBC, Document 2.

38. Quoted in United Nations Economic and Social Council: Commission On Human Rights, 1999, 3.

39. FEBC letter V-0595-1-P.

40. Religious Liberty Commission—World Evangelical Fellowship, *On the Cruel Edges of the World*, “Ha Giang Province letter to *Hông* Christians denying their request for permission to become Christians,” www.worldevangelical.org/rlc.html.

41. Religious Liberty Commission, *On the Cruel Edges*, “Ha Giang Province affidavit not to propagate religion illegally,” Exhibit 1 (1999).

42. Lai Chau Province Directive 03/HD-DV, *Huong Dan* [Guidance], January 14 (1997). Translation by author. Copy in author’s files.

43. Thanh Luong-Duc Hanh, “Chong Truyen Giao Trai Phep,” *Pháp Luật*, January 15, 1999, 7.

44. Hajari, 1991, 21.

45. The National Assembly’s Resolution is No. 21/2004PL-UBTVQH11.

46. Website source for this and other quotes: www.freedomhouse.org/religion/country/vietnam/Ordinance.

47. From “Vietnam’s New Ordinance on Religion: A Method of Oppressing Religion by Means of Law,” co-authored with Fr. Nguyen Huu Giai and Fr. Phan Van Loi. Statement released to international advocates on August 15, 2004. Author’s copy.

48. Tin, Vietnam’s New Ordinance.

49. Tin, Vietnam’s New Ordinance.

50. Commenting on “Phap Lenh,” Dr. Nguyen Than Xuan, deputy head of the Government Religion Committee, made this claim in *Quan Doi Nhan Dan* (People’s Army Daily), September 28, 2004. VNA news agency website, Hanoi, English.

51. Voice of Vietnam Radio text web site, Hanoi, in Vietnamese. Reported by BBC Monitoring.

52. This is especially ironic since for decades the party has tried to eliminate as “superstitious” many traditional animistic rites they now seek to preserve as “culturally” valuable.

53. A recent development, received too early for analysis, is a September 2007 publication of the CBRA “Questions and Answers on How the Law Relates to Religious Belief and Religion” suggesting the possibility citizen petitions of abuse may get an official hearing. Though “kilos” of petitions have been submitted in the past, the most common response has been none at all. “A Slowdown and New Complications: The Protestant Experience with Religious Freedom in Vietnam—October 2007,” report of Evangelical Fellowship of Canada/Religious Liberty Commission, Ottawa, Ontario, Canada.

54. U.S. Department of State, International Religious Freedom Report 2007.

55. Translated and published by Christian Solidarity Worldwide (New Malden, Surrey, UK).

56. When this was pointed out through indirect channels the CBRA agreed to edit it out but it had not been by July 2007 and was still applicable.

57. The delegation was made up of six American delegates; the author is one of two who spoke Vietnamese.

58. “Update on Religious Freedom in Vietnam—September 2006,” report of Evangelical Fellowship of Canada/Religious Liberty Commission, Ottawa, Ontario, Canada.

59. Vietnam’s cancellation was followed by a comment saying the timing was “not convenient.”

60. Reportedly, after Northwest ethnic Evangelicals had submitted 534 registration requests, they were ordered by officials to stop. “Update on Religious Freedom in Vietnam—October 2007,” report of Evangelical Fellowship of Canada/Religious Liberty Commission, Ottawa, Ontario, Canada.

61. Throughout 2007 unregistered bodies have been added to one of several levels of official recognition including the Hoi Co Doc Truyen Giao (Christian Mission Church), one faction of the Mennonite Church, and the 135 congregations of the Baptist Churches in Vietnam (BCV).

62. “A Slowdown and New Complications: The Protestant Experience with Religious Freedom in Vietnam—October 2007,” report of Evangelical Fellowship of Canada/Religious Liberty Commission, Ottawa, Ontario, Canada.

Chapter Fourteen

From Human Rights to Human Wrongs

The Dramatic Turn-About of the South African Pentecostal Movement

Nico Horn

The international Pentecostal movement is a young movement. If one of the pre-1910 Pentecostals had taken a ninety-year-long sleep only to wake up in 2004, he or she would probably condemn the modern Pentecostal movement. All the “religious” practices that they left in their old churches and opposed vigorously are back: big buildings called churches, churches participating in the war efforts of their countries, and assemblies with a homogenous ethnic and racial composition. This study is about these changes as they occurred in the movement in South Africa.

The Pentecostal Movement took root in a black church in Los Angeles, United States. One of its first leaders was William Joseph Seymour, the son of liberated slaves. He had no education, yet drew literally thousands to his meetings in an old deserted AME building situated at 312 Azusa Street in downtown Los Angeles. Despite severe Jim Crow segregation laws, white and black worshipped together. One of the early observers of the movement commented that “the color line was washed away in the blood.”¹ Even more miraculous, the whites came to be prayed for by Seymour and his black coworkers. In the same radical way, the American Pentecostals were pacifists. And their pacifism was not of the otherworldly, highly spiritual type. Frank Bartleman called World War I “the result of pride, greed, jealousy, hatred, hypocrisy, etc. kings and leaders, capitalists are chess men.”²

When the break with the past came, it was sudden and just as radical. Within a decade nearly the whole movement rejected pacifism. Nonracialism did not fare much better. Seymour, the father of almost all Pentecostal denominations around the world, was soon rejected by the movement which he placed on the map. By the time the first major denomination was formed out of the Pentecostal revival in 1914, Seymour was not even invited. Neither were most of the other black leaders. And those who were invited were eventually ostracised

during the Jesus Only controversy four years later.³ By then the North American Pentecostal church was fully segregated.

The South African Pentecostals have a similar history. The movement started as a multicultural one (coincidentally also in a black church) but it soon divided along color lines. In apartheid South Africa the white Pentecostals took racial segregation a step further than their American and European counterparts.⁴

THE BIRTH OF THE PENTECOSTAL MOVEMENT IN SOUTH AFRICA

South African apartheid was introduced while the second generation Pentecostals worldwide were starting to climb the social and economic ladder. The results of the co-option of the movement into mainstream society are more visible in South Africa than elsewhere in the world, such as in the United States, where the period of integration into society coincided with the civil rights movement and the social integration of African-Americans.

John Lake arrived in Cape Town on his South African Mission with a team, including his coworker Tom Hezmalhalch. When Lake arrived in Johannesburg, the Apostolic Catholic Church in Zion was already well established in South Africa.⁵ The black Zionist church in Doornfontein, Johannesburg, invited Lake and his team and he started his first meetings there. The meetings were not restricted to blacks, and the white Zionists soon started flocking to the church. When the hall in Doornfontein became too small, Lake and his group moved to a white Zionist church at 88 Bree Street, Johannesburg.

JOHN LAKE AND APARTHEID

John Lake's position on racial issues was ambiguous. He is both praised as the proclaimer of a nonracial historical Pentecostal gospel⁶ and the father of segregation policy in South Africa.⁷ There seems to be some truth in both views. Gordon Lindsay, author of a book based on interviews with John Lake, claims that Lake was the brains behind the segregation laws of the Union of South Africa. Lake gained influence with the Prime Minister General Louis Botha, after he had assisted him during a national crisis. General Botha later invited Lake to address the parliament on the racial issue.

I outlined a native policy and submitted it to the Government. On receipt of this I was invited to come to Cape Town and address the Parliament on this is-

sue This policy, as outlined by me was practically adopted by the Boer party in toto.⁸

De Wet⁹ concludes from this that Lake was a proponent of racial segregation. However, a more balanced view would be that Lake supported political segregation but not necessarily church segregation. There is ample evidence that Lake did not conduct segregated meetings. He started his ministry in Johannesburg in a black Zionist church in Doornfontein. At Lake's second meeting, the first whites already attended¹⁰ and after moving to the white Zionist church in Bree Street, Lake did not tolerate discrimination against blacks in his church.¹¹

Lake was paternalistic, and possibly a proponent of political segregation, but he was not completely racist. In one of his early letters to the Upper Room Mission in Los Angeles, Lake complained that the Afrikaner has, like the Southerner, a strong prejudice against blacks, but added that God has changed the hearts of many white workers and caused them "to love the natives."¹² One has to agree with De Wet that "never in his wildest dreams would Lake have foreseen that the practical arrangement he advocated would change into the rigid apartheid ideology."¹³

RACE POLICIES AFTER LAKE

P. L. Le Roux, who succeeded Lake as president of the AFM in 1913, was a missionary all his life. He studied at the feet of Andrew Murray, a well-known Scottish dominee who made a tremendous impact on the church life and theological direction of the Dutch Reformed Church (DRC).¹⁴ The issue of divine healing and baptism, but also the "liberal" way in which Le Roux dealt with the black people in his congregation, made him a target for the church board of the local white Dutch Reformed Church. He and his black congregation left the DRC and initially joined the Apostolic Catholic Church in Zion of John Dowie.¹⁵ When Le Roux heard Lake and Hezmalhalch, he left the Zionist movement, joined the AFM, and soon became one of the leaders of the movement. When Lake left South Africa in 1913 a Brother Greeff acted as president for a while before Le Roux became president, a position he held until 1943.

The foundation for a segregated church was already laid under the leadership of Lake shortly after the formation of the AFM when they decided to separate the baptism of blacks and whites. Burger,¹⁶ historian and president of the AFM, sees a sociopolitical reason for this decision:

during the first few months White and non-White (sic) were even baptised together. At the end of 1908 some Afrikaans speaking brothers came on the

executive council. The fact that they understood the history and the nature of the racial feelings in South Africa better, possibly contributed to the gradual separation of the races.¹⁷

Neither the pioneers nor Burger tried to give a theological reason for the separation or even question its validity. The pioneers may have deviated from nonracialism because of white racist pressure rather than theological conviction.

At an executive council meeting of 1917 it was decided, "White, Colored and Native peoples have their separate places of worship. Further that in the case of certain worthy colored families attending at the Central Tabernacle the matter be left in the hands of the Spiritual Committee."¹⁸ The term "worthy colored families" is not defined. At the same meeting, it was also decided "that we do not teach or encourage social equality between Whites and Natives."¹⁹ While the AFM did not follow the political route of the big Dutch Reformed Church in developing the political ideology of apartheid, decisions like the above placed the church in a position where they found it easy to plug into the policies when apartheid was introduced after World War II.

EARLY ATTITUDES TOWARD PACIFISM: 1908 THROUGH WORLD WAR I

Social issues were almost completely absent in the early minutes of the AFM. The first reference to any political issue is probably to be found in the minutes of the executive council on August 19, 1914. The executive noted that one of its members was to visit General Koos De La Rey.²⁰ No reason is given for the visit to De la Rey, a Boer general during the Anglo/Boer War. With other generals, they led a rebellion against the government of the Prime Minister, General Louis Botha, who declared war against Germany in solidarity with Britain in 1914. The council also appointed a delegation to attend the "Union," probably a reference to the government.²¹ It seems as if the executive wanted to be in contact with both the government and the rebels. At the same meeting the executive moved that the church should send a circular on the subject of war to the members and a letter to the government, noting their objection to taking up arms, but "willing to serve in other capacities if it becomes imperative."²²

From the minister's answer²³ and from the standard declaration that members submitted to the government, it is clear that the AFM did not only want exemption from service in a combatant unit, but "exemption from military service." The "willingness to serve in other capacities" seems to mean that the

AFM considered alternative extra-military duties, and not service, in a non-combatant unit. According to Burger, the executive council decided that young men could join the forces in noncombatant units.²⁴ However, he gives no reason why the “other capacities” should be interpreted in such a way. The initial AFM position was rather one of total nonparticipation in war.

WORLD WARS I AND II

The pacifist stand remained the official position of the AFM after the war. In December 1923, after the government had changed the Defence Act, the executive for the first time accepted noncombatant service in a memorandum to the minister.²⁵ However, the memorandum states that the church accepts “our obligation to assist in bearing (the government’s) burdens in times of peace and war and not object to do so, but only in a non-combatant capacity.”²⁶ Although total exemption from military service is still ideal, the church accepts the possibility of noncombatant service in the army.

When war in Europe became an acute possibility at the end of 1938, the executive decided to endorse the position taken in an article printed in a publication of the Assemblies of God in the United States, *Pentecostal Evangel*.²⁷ In the “Comforter” of November 15, 1938, an article written by E. S. Williams was published in paraphrased form as the official position of the AFM on war. Like the earlier position of P. L. Le Roux, Williams rejects war because the AFM “as followers of the Lord Jesus Christ, the Prince of Peace believes in unconditional obedience to His Godly commands and instruction.”²⁸

But the Mission also states its “unswerving faithfulness” to the government and assures it that the church will be subjected and “assist wherever it is humanly possible in accordance with our Faith.”²⁹ More significant is the fact that the church states that it does not see it as the right of a Christian church to dominate the conscience of the individual, but only wants to give its members guidelines in connection with military service.³⁰ This article marks an important change of course for the AFM. Noncombatant service is no longer just a possibility under extreme circumstances, but has become the official position and members are even allowed to go to war if their conscience allows them to do so. In August/September 1939 an anonymous article on war and military service, claiming to be the view of the AFM, appeared in the “Comforter.”³¹ The article was a restatement of the radical noninvolvement position of the AFM. It concludes by saying that Christians are commanded to love their enemies and not to seek revenge.³² Therefore, the choice is clear: The World or Christ?

It seems as if the executive did not approve of the article. At a meeting on September 12, 1939, it was decided to reprint the Williams' moderate article and the consequent declaration of the executive, and to forward a copy to the minister of defense. However, the "classical" Pentecostal position was not to be suppressed so easily. In January/February 1940 the "Comforter" reprinted an article by A. L. Heywood from the official publication of the Assemblies of God in the UK.³³ In the March/April 1940 issue of the "Comforter," another article, written by Donald Gee, the British Pentecostal leader, was reprinted from *Redemption Tidings*.³⁴ Gee also expressed the antiparticipation sentiments. He points to the inconsistency of making shells, bombs, aeroplanes, etc., and then objects later to personal military service.³⁵

With the war escalating, the "Comforter" published another article by a British Pentecostal, Fred Squire, in September/October 1940.³⁶ This article is the first attack on total pacifism that ever appeared in AFM literature. Squire finally opts for noncombatant service, but he questions the morals and wisdom of many conscientious objectors,³⁷ and he explicitly states that nobody has the right to condemn those who wish to join the forces.³⁸ Although Squire still maintains a preference for noncombatant service, the movement toward the approval of direct combatant military service is clear. The article caused a stir in the AFM. On December 3, 1940, the executive decided to publish a statement in the "Comforter," claiming that the article was not published with any political motives.³⁹ The statement was published in the "Comforter," November/December, 1940.⁴⁰ The general secretary also appealed to "God's people not to associate themselves with any political movement."

However, it was not Squire's article, but rather the practical war situation that moved the AFM toward a militarized position. Many members joined the forces not only in noncombatant units, but also in combatant capacity. Since the middle of the war, testimonies of soldiers started to appear in the "Comforter."⁴¹ In the executive meeting of January 5, 1942, it was decided to approach the government "for the appointment of full time chaplains in the army."⁴² In the "Comforter" of February, 1942, the general secretary reported that brother H. A. De Vries of Pretoria volunteered to be the first chaplain to the troops in the North and was on the point of leaving.⁴³

During the rest of the war, the question of pacifism or noncombatant participation was never raised again. P. J. van den Berg, the second chaplain, died after only a few months in North Africa. Although the AFM remained theologically faithful to the pacifist tradition in the 1930s and 1940s, it is ob-

vious that several radical changes appeared in the practices of the church. The church moved away from pacifism.

RACE POLICIES BETWEEN THE WARS

While politics was not high on the agenda between 1920 and 1948, the political sentiments in the church favored the more liberal ruling United Party to the right wing National Party. When G. R. Wessels, who later became vice-president and Nationalist senator, was elected on the executive council in 1927, he was the only pro-Nationalist on the council.⁴⁴

Afrikaner nationalism flourished in the 1940s. The centenary celebrations of the Great Trek⁴⁵ in 1938 gave rise to a new enthusiasm. The link between nationalism and the memory of the Great Trek inevitably brought an amount of racism with it. Pentecostals were not impressed by Afrikaner nationalism. In his Christmas message of 1938, P. L. Le Roux compares the enthusiasm for the Trek centenary with Christian attitudes.⁴⁶ His message is clear: Pentecostal Christians should not share their loyalty to the gospel with a national loyalty.

Two months later, in the face of growing Afrikaner nationalism, Le Roux wrote a second article. He dedicates the first section of the article to the threat of Nazism and Fascism to the world and South Africa.⁴⁷ Le Roux sees a clear relationship between “the spirit of the time” and the policy of some great Afrikaners. He mourns the fact that Christians fail to see the dangers in this policy and do not understand that this message is contrary to the gospel. Le Roux rejects the Hitler worship of the Germans, anti-Semitism, and fascist policies before addressing the South African situation.⁴⁸

There can be no doubt that the Afrikaner leaders—whom Le Roux saw as proponents of the “spirit of the time”—were in his mind also connected to Nazism. He says that the enemy (Satan) knows that South Africa is a Christian nation and it is a sign of his shrewdness that he uses former ministers (probably Dr. D. F. Malan, then leader of the Afrikaner nationalist National Party) to spread this spirit. Le Roux concludes that many churchgoers amongst the Afrikaner nation are clearly ripe for the deceit of the Antichrist. They are only waiting for a strong leader.⁴⁹

One would expect that this anti-National Party attitude would have led to support for the war efforts of General Smuts in 1939. However, the executive maintained a pacifist position despite strong pressure from the international Pentecostal movement. One can only conclude that President Le Roux and the executive opposed both the pro-German, pro-Nazi sentiments of the

National Party and the pro-war sentiments of the government from a Pentecostal, theological perspective. When President Le Roux retired in April 1943, an era came to an end.

THE POST-WAR PERIOD: THE END OF PACIFISM

During the first two decades after World War II very little was said about war. Initially the church maintained its noncombatant stance. In 1949 the general secretary A. Schoeman wrote a letter to inform the congregations that members of the AFM could get exemption from military service in a combatant unit.⁵⁰ However, in 1955, Pastor J. T. du Plessis, minister of Krugersdorp and member of the executive council circulated a “provisional” viewpoint on several issues on behalf of the spiritual committee. According to Du Plessis the state has the right to command his subjects to do military training because God gave the power of the sword to the King⁵¹: “Military service is not against Scripture: Soldiers who came to the Lord, were not commanded to leave the army, but only to be good Christian soldiers.”⁵² This statement is the first example of partial pacifism in the AFM. The church, or the individual, can only refuse military service if the government is unjust. Both total pacifism and noncombatant pacifism are rejected, and the critical attitude toward the state is almost completely lost.

The next step was to appoint a full-time military chaplain. In 1961 the AFM requested the government to appoint an AFM pastor as chaplain.⁵³ And in January 1964, commandant Pastor W. J. Rheeders, a former police sergeant, was appointed as the first full-time military chaplain of the AFM.⁵⁴ Pastor Rheeders did not write much, but from what he wrote in the “Comforter” and from what was written by and about him, he seems to have been a chaplain in the mould of Pastor De Vries, rejoicing in the salvation of soldiers rather than encouraging them to be good soldiers.⁵⁵

After the death of Pastor Rheeders, Pastor J. J. Liebenberg succeeded him in Pretoria, while Pastor S. F. du Plessis became chaplain in the Cape.⁵⁶ Liebenberg wrote several articles for the “Comforter.” Shortly after he took up his new position, he wrote an article, in the *Trooster* / “Comforter.”⁵⁷ His article is an apology for the Defence Force. He claimed that instructors have a good knowledge of people, they are not hard people, they want the best for the servicemen, and only people without discipline who do not want to bow will have trouble in the forces.⁵⁸ Liebenberg wrote several other pro-war articles in which he propagated a right-wing, anti-communist, pro-apartheid militarism. Although these articles were not official statements of the AFM, it was nevertheless printed in the official organ of the church.

The roundabout turn of the AFM is nowhere better illustrated than in an article by F. P. Möller.⁵⁹ This is not an official statement by the AFM, but nevertheless portrays an important viewpoint in the church. Möller was a member of the influential Committee for Doctrine Ethics and Liturgy and vice-rector of the theological college of the AFM. Möller rejects the idea that aggression and violence can never be legitimate for a Christian. He identifies a pacifist (wrongly spelled as a passifist) as a person with “hang shoulders and a halo over his head.”

This ignorance of someone as influential as Möller is a clear indication of the full turn of the wheel in Pentecostal attitudes and ethics. Pacifism or a nonviolent lifestyle is not only completely unknown to one of the most prominent and influential theologians. He even describes it as a false doctrine.

THE AFM AND AFRIKANER NATIONALISM AFTER THE WAR: THE RISE OF THE NEW ORDER

In the period immediately after the war the AFM underwent several drastic changes, its attitude toward war and politics among the most important. The changes were spearheaded by an unofficial group of young Pastors, commonly called the *New Order*, who wanted to improve the image of the AFM in society. The *New Order* was personified by two prominent Pastors, G. R. Wessels, who became vice-president of the AFM in 1943 at the young age of thirty, and J. T. Du Plessis, who became Pastor of Krugersdorp in 1946 and member of the executive in 1949. The *New Order* quickly gained momentum under the leadership of Vice-President G. R. Wessels, General Secretary, A. J. Schoeman, and J. T. Du Plessis. In a letter to Prime Minister J. G. Strydom in 1956 asking him to appoint G. R. Wessels as a senator, Pastor Du Plessis states that the AFM has not been the bearer of Afrikaner culture. He adds that G. R. Wessels, his brother David du Plessis, and others have done important work to incorporate the AFM into the national life of the Afrikaner, and concludes: “Today, thank God, the AFM is a pure Afrikaner church.”⁶⁰

The influence of the *New Order* can be seen very clearly in the drastic changes that took place in both the attitudes and the practices of the church since 1946. Burger⁶¹ does not subscribe the changes to the influence of the *New Order*. He nevertheless calls it a time “of many changes.” It was in the attitude of the church toward the government that the biggest changes took place. While the AFM has never been a reactionary church, and while it supported the old United Party, it nevertheless kept a critical distance.

Therefore, the church was able to maintain its own opinion on important matters like military service and insemination. Burger⁶² correctly links the acceptance of combatant service with this new attitude toward government.

The *New Order* did not stay clear of party politics. On the contrary, it soon became evident that they had a definite political agenda. They soon involved the church very deeply in the political ideology of the National Party. In as early as 1952 Pastor G. R. Wessels joined forces with the government in their then popular fight against communism. He preached advertised sermons against communism in halls all over the country. These meetings drew big crowds and Pastor Wessels became a well-known figure.⁶³ Although the AFM still had a strong English-speaking contingent in the late 1940s, the *New Order* concentrated mainly on the Afrikaners. The *New Order* wanted to change the church on two fronts: they wanted to bring the liturgy and worship of the church more in line with Reformed liturgy, and they wanted to link the church closely to Afrikaner culture.⁶⁴

The election of G. R. Wessels as a Nationalist senator in 1955 gave the good intentions of the “New Order” a fatal blow. His election was both politically and spiritually controversial. The National Party gained power in 1948 with the election promise to implement “apartheid.” One of their first aims was to remove the so-called coloreds from the common voter’s roll. The removal could only be done by changing the constitution of the Union of South Africa, and in order to change the specific article, a two-thirds majority was needed in a joint sitting of both Houses of Parliament. After several unsuccessful attempts to change the constitution, the National Party decided to extend the senate in order to give them the necessary majority. G. R. Wessels was one of the new appointed senators.

The heartbreaking stories of the influence of apartheid on the people come from the assemblies. In the early 1950s the general secretary sent a circular to all assemblies, both white and so-called colored, asking them to see to it that white members worshipping in so-called colored assemblies should be encouraged to join white assemblies, since joint worship was neither the policy of the government (it was the time of the implementation of the Group Areas Act and the hated Separate Amenities Act) nor socially acceptable.⁶⁵ The spirit of the letter soon gained its own momentum and colored believers worshipping in white congregations became the target. Goodwood, today one of the biggest assemblies in the so-called single or white section, is a good example of how apartheid was enforced in the assemblies. At a special church board meeting on July 20, 1956, the color issue was recorded for the first time in the minutes.⁶⁶ A so-called colored sister wrote a letter requesting an audience with the church board. She felt that she was pushed aside by the assembly because of her color.

It was decided that we notify Sister Willemse officially that she is no longer a member of this assembly, and as far as the color issue is concerned, it was she who raised the idea, which was never mentioned by the Pastor or the church board.⁶⁷

On September 7, 1956, it was decided to seek the face of the Lord for guidance on the color issue.⁶⁸

This pattern was followed in several other assemblies. To my knowledge, Potchefstroom (Bezuidenhout) and Oudtshoorn (Isaacs) were among the assemblies which soon followed the example of Goodwood. The attempts of the New Order were not without success. The AFM was invited to conduct short devotions on the radio, the church gained a good image in the white society, and it built good relations with the government. But the price was very high. Du Plessis laments the close relations that developed between the church and the National Party, which he feels is paralyzing the church today.⁶⁹ He has since confessed his own participation in this process.

Throughout the years of Verwoerdian apartheid, the AFM never raised its voice against the crude oppression of the vast majority of the people. The forced removals of 3.5 million people, the banning of hundreds, if not thousands, without a chance to defend themselves, the detentions of thousands without trial and the vulgar implementation of the dehumanizing Mixed Marriages Act and Article 16 of the Immorality Act, never even raised an eyebrow amongst white Pentecostals. On the contrary, there are indications that the white section of the AFM actively supported the system.

The clearest sign of the church's insensitive political approach of those years is to be found in the new constitution of 1961, which stated that members are white baptized members, while the church also has "non-white (sic), that is Indian, colored and Bantu followers."⁷⁰ The AFM never had these pressures from the international world. On the contrary, in 1955 G. R. Wessels, vice-president of the AFM of SA, was one of the key speakers at the International Pentecostal Conference in Stockholm.⁷¹ However, in the same year Pastor Wessels was also elected as a National Party member of the extended senate on the South African Parliament with the blessing of the AFM.

The international Pentecostal community remained silent. According to Hollenweger there were some delegates in Stockholm who were disturbed by Wessels' involvement in politics, but the issue was never raised in the open sessions because "we did not want to quench the Spirit."⁷²

CONCLUSION

It was only when the era of reform started in South Africa that the AFM took a second look at itself. In September 1990 the three black sections (colored,

African, and Indian) gave expression to the declaration by merging. After the democratization in South Africa, the African National Congress won the first democratic elections in 1994. The change of power and the end of minority rule changed the attitudes in the white church. Within two years they merged with the black churches and prepared a confession for the Truth and Reconciliation Commissions sittings on the churches and apartheid. This second round-about turn requires a study on its own. Suffice it to say perhaps the realities of Nelson Mandela as the first black president, and his conciliatory attitude, was the real reason for the changes in the AFM. Or it might be that the church did not want to be marginalized.

Developments in South Africa can only partially explain the paradigm shift of Pentecostals worldwide. The AFM and other white Pentecostal churches were clearly influenced by the rise of Afrikaner nationalism, the policies of apartheid, and the general political atmosphere in South Africa after World War II. However, South African internal politics do not explain a similar move from pacifism to supporters of war efforts in the United Kingdom, which did not experience a nationalist revival comparable with that of the Afrikaners. Neither does it explain the almost ideological racism of the white American Pentecostal movement after the war. Even when the civil rights movement under Martin Luther King and others transformed American society in the 1960s, the Pentecostals were some of the last to come to the party.

One tends to accept Tinney's theory that Pentecostalism is racist by definition.⁷³ This theory, however, ignores the fact that Pentecostalism started as a nonracialist and multiethnic movement. Similarly, rival theologies (especially Calvinism) look at Pentecostalism as an otherworldly spiritual movement with its head in the clouds. There is of course evidence to support this view. The emphasis on *saving the soul*, the money and effort that go into evangelism, and the almost total rejection of social action define Pentecostals as a politically irrelevant movement. Since heaven is the final objective and destiny of Pentecostals defined in this way, human rights and human dignity stand in the back row.

NOTES

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2. Bartleman, *How Pentecost Came to Los Angeles*. "The European War."

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6. W. Burton, *When God Makes a Pastor* (London: Victory Press, 1934).
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9. C. De Wet, *The Apostolic Faith Mission in Africa: 1908–1980. A Case Study in Church Growth in a Segregated Society*. Unpublished Ph.D. dissertation (Cape Town: University of Cape Town, 1989).
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20. AFM, *Minutes of the Executive Council* (Lyndhurst: AFM Archives, December 21, 1923; September 29, 1938, 2045; September 12, 1939 2138; December 3, 1940; January 5, 1942; August 14, 1944; January 6, 1945, 2657; August 14, 1964, 5757).
21. AFM, *Minutes of the Executive Council*, 162.
22. AFM, *Minutes of the Executive Council*, 163.
23. AFM, *Minutes of the Executive Council*, 165.
24. Burger, *van die Apostoliese Geloofsending van Suid-Afrika*, 269.
25. AFM, *Minutes of the Executive Council* (Lyndhurst: AFM Archives, July 7, 1917).
26. AFM, *Minutes of the Executive Council*, 709.
27. AFM, *Minutes of the Executive Council*, 2045.
28. E. S. Williams, *In Geval van Oorlog*, in Trooster/“Comforter,” November 15, 1938, AFM, Johannesburg. According to the editor it is a translation of an article that originally appeared in the American Pentecostal magazine, *Pentecostal Evangel*.
29. E. S. Williams, *In Geval van Oorlog*, 4.
30. E. S. Williams, *In Geval van Oorlog*, 4.
31. AFM (author unknown), *In die Weermag [In the Army]*, in “Comforter,” May 1970.
32. AFM, *Minutes of the Executive Council* (Lyndhurst: AFM Archives), December 21, 1923; September 29, 1938, 2045; September 12, 1939, 2138; December 3,

1940; January 5, 1942; August 14, 1944; January 6, 1945, 2657; August 14, 1964, 5757).

33. A. L. Heywood, *A Pressing Question: Should a Christian Fight?* in "Comforter," January/February 1940, 9.

34. D. Gee, *Conscientious Objection*, in "Comforter," March/April, 1940, 18–19.

35. Heywood, *A Pressing Question*, 18.

36. F. Squire, *Christene en Oorlog*, in Trooster/"Comforter," September/October, 1940, 3–5. Indicated as a translation, but no information is given of the original place of publication. Since Squire was a British Pentecostal leader, one can assume that the article originated in the UK.

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56. AFM (author unknown), *In die Weermag [In the Army]*, in "Comforter," May, 1970, 24.

57. J. J. Liebenberg, *Dienspligtiges in die Weermag [The Serviceman in the Army]*, Trooster, September, 1990, 19–20.

58. Liebenberg, *Dienspligtiges in die Weermag*, 19.
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62. Burger, *van die Apostoliese Geloofsending van Suid-Afrika*, 310.
63. Burger, *van die Apostoliese Geloofsending van Suid-Afrika*, 326.
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Concluding Remarks on Christianity and Human Rights

Frederick M. Shepherd

I began my introductory chapter to this book by mentioning two compelling cases involving religion and human rights during World War II. As I noted, the work of Jan Karski and the success of villagers in Le Chambon demonstrated the opportunities and obstacles faced by those who would preserve genuine human rights. Just as significant was the distance these efforts showed between the work of principled individuals and the Christian institutions which either failed to act against or explicitly sided with the perpetrators of the Holocaust. Yet, in the wake of these atrocities, the world did eventually respond to the lessons of World War II and the Holocaust. On an abstract level, philosophers, theologians, and political theorists undertook a fundamental re-examination of the meaning of human rights. On a more concrete level, the global political and legal community came up with the transformative phenomena of the Nuremberg trials and the United Nations' Universal Declaration of Human Rights.

Many of the chapters in this book have explored the first, more abstract development. Different authors have focused on the seminal contributions of thinkers such as Bernard Lonergan, Božena Komárková, Martin Luther King, Jr., Henri de Lubac, Pope John Paul II, and Michael Novak, and on the institutional stance of the Second Vatican Council. The volume focuses on the work of less explicitly religious thinkers such as John Locke, Immanuel Kant, and, more recently, John Rawls, Amartya Sen, and Martha Nussbaum, assessing their contributions to Christian human rights theory and practice. Contributors reinterpret these figures in several ways in this volume: they do so from a Christian perspective; and they do so in light of recent transformations in our understanding of human rights. What emerges out of these endeavors is a deeper understanding of the rich variety of theological and philosophical traditions animating human rights discourse. Human rights as an

abstract principle has been the subject of the kind of fruitful collaboration across disciplines, and across the vast gulf of religious and secular thinking, which frequently derail similar efforts in other areas of inquiry.

In this final portion of the book I will focus, first, on an explicitly political phenomenon, known as the “boomerang effect,” which has bolstered Christians and other activists involved in human rights campaigns. I will refer specifically to the Latin American case as I describe this phenomenon, and the progress and setbacks in Christian efforts to defend and buttress human rights which it describes. I will then move to an issue which demonstrates the need for Christians in the United States to focus on events far closer to home: the treatment of alleged terrorists in U.S.-controlled prisons. The urgency of this issue demonstrates that the issue of human rights presses on Christians not only in the remote corners of the world, but in the United States. This discussion will, in turn, lead to the final remarks in this volume, which will stress the importance of not only focusing on Christianity when discussing human rights, but broadening the discussion to all religious traditions—a broad and robust dialogue concerning religion and human rights.

A MODEL FOR UNDERSTANDING THE POLITICS OF HUMAN RIGHTS

I would like to use this image of multiple traditions and religious-secular collaboration to begin my concluding remarks on more concrete political developments in the area of human rights. There is little question that those pushing for human rights were bolstered profoundly by the largely secular phenomena of the Nuremberg trials and the United Nations’ Declaration of Human Rights. But it is also worth making several points in regard to the continuing role of religion in the political and legal struggle for human rights. First, as noted in the Introduction and other chapters, religious actors played a central role in several extremely effective human rights campaigns prior to World War II. Those taking part in Nuremberg and forging the U.N. Declaration of Human Rights were building on previous human rights campaigns pushed by a mixture of Christian and secular actors. Second, it is worth noting that, especially in the case of the U.N. Declaration, explicitly Christian actors played a significant role in influencing and implementing its formulation.¹

The third, and most important point in regard to the politics of Christianity and human rights, is that Nuremberg and the U.N. Declaration simply established legal and theoretical bases for human rights. Genuine understanding of these movements comes only from studying the ongoing struggle to meet the lofty goals set in the years immediately after World War II. It is undeniable

that Christians have played a central role in this struggle, and that they have often worked effectively with secular actors in doing so. It thus makes sense not only to explore declarations in global legal proceedings and international organizations, but to also look at the courageous actions of individuals whose basic rights are threatened by unresponsive or hostile institutions. Christian organizations have often played a significant, at times decisive, role in this area.²

It is in this regard that Christian activists (and their secular collaborators) have helped create, and been empowered by, an emerging transnational human rights network. This network has bolstered groups in their interactions with national governments. One of the concepts which is most helpful in understanding the distinctiveness of current conditions is the “boomerang effect,” first coined in this context by Margaret Keck and Kathryn Sikkink in the late 1990s, and then refined by numerous scholars and activists in ensuing years (Keck and Sikkink, 1998; see endnote 2). It focuses on citizens in a particular nation who attempt to prod their government into action, and are either ignored or repressed in response—Keck and Sikkink refer to this phenomenon as “blockage” between citizen and state (*ibid.*, p. 13). The “boomerang effect” is the process through which these activists, having been rebuffed by their national governments, look outside of their national political community. In doing so, they establish links with transnational organizations, which serve as their advocates. This effect, then, is based on the growing strength of transnational organizations, and, at a more systemic level, a changing international context in which these organizations can exert leverage over nation-states.

Collaboration between local and transnational organizations can then lead to attempts to directly influence the threatened citizens’ government into more responsive and humane policies. In a slightly different scenario, a different government can become the target—because it is either more open and susceptible to influence, or because it is perhaps disproportionately powerful in the international arena. This government would then be enlisted to change the citizens’ government’s behavior. In some cases, also, this collaboration can lead to the external transnational organization intervening directly on behalf of the citizens, effectively bypassing their government and performing quasigovernmental functions.³ The implications of this concept are obvious for Christianity. Large religious organizations are in some ways the consummate transnational political actor. The “boomerang effect” has been part of the Christian repertoire for centuries (not always to humane ends). This trend has as much to do with politics and economics as with religion, and the transformation is perhaps more evident recently among secular than religious groups. Yet I would argue that it helps to clarify the more politically focused chapters in this volume.

Lewis' chapter on Vietnam and Bamat's on three Latin American countries provide excellent examples of the "boomerang effect." I would argue more generally that the extent to which societal groupings, within a particular nation, are able to forge links with transnational groups is a central part of the narrative of success in the area of preserving human rights around the world. And Christianity plays a central role in the process for two reasons. First, Christianity has always been a transnational actor; many Christians' loyalties transcend their government and national community. To be sure, there is no shortage of examples of Christians blindly following national pressures. Nico Horn provides just such a case in his chapter on the Pentecostals in South Africa. Latin American history is littered with flagrant cases of the Church hierarchy showing excessive obedience and even zeal in supporting repressive governments—the most recent example emerging in the prosecution of priests who participated in torture during Argentina's "dirty war." Yet a sense of universality and transcendence of national boundaries is an important part of many Christian perspectives. This was the case with the Catholic Church up until the rise of nation-states in Europe, and this notion of universality remains an important part of many Christian traditions. Second, and especially important for this discussion, is the grassroots presence of Christianity in many communities in which human rights are under threat.

The "boomerang effect" has no real meaning unless transnational actors working to defend human rights can establish links downward; often the most dedicated individuals and the most effective local institutions are, very simply, Christian. It is perhaps more accurate to say that partially secular social justice movements have emerged in response to political repression and that these movements would likely thrive without religious collaborators; but the reality is that Christians have from the start, in most regions of the world, played a central role in these movements because of their presence as a previously existing civil actor. In his contribution to this volume, John Witte notes that Christians have been central to a culture of human rights. I would argue that they have played an equally important political role, not least in performing this indispensable function in facilitating the "boomerang effect." In an almost simultaneous process, these groups have looked upward just as transnational actors have looked downward. The result has been extremely effective collaboration toward gaining human rights.

LATIN AMERICA AND EUROPE

Latin America's brutal history of conquest, colonialism, and political strife has had the ironic outcome of making it a rich source for insight on human

rights.⁴ On a more technical level, Latin America has become in recent decades the region with the second strongest (behind only Europe) international human rights regime in the world. This outcome has come about through the workings of national and international political actors, most notably national governments, the Organization of American States, and the United Nations. Perhaps the most distinctive regionwide accomplishment is the 1991 “Declaration of Santiago,” in which member states pledged to respond collectively to a threat to constitutional rule in any specific nation. At the same time, a series of legal cases and regionwide agreements have led several national governments to formally empower the Inter-American Commission on Human Rights to try selected human rights cases. On the whole, according to one account, the regional human rights regime has “saved lives, influenced the return to democracy in several countries, and condemned dictatorial regimes.”⁵ Another study describes a “human rights norms cascade” in Latin America during the 1980s and 1990s.⁶

Yet, as any observer of recent Latin American history knows, the region has been marked by brutal and widespread human rights violations over the past thirty years. Groups on the ground in Latin America have been crucial in providing the political pressure which has forced national and international actors, both secular and religious, to respect human rights. On occasion, this support has come from the highest levels of the Catholic Church, as was the case in Brazil in the 1970s. Cardinal Paulo Evaristo Arns played an early and central role in the antidictatorial movement, working with transnational groups such as the World Council of Churches, and supporting domestic human rights organizations, often in defiance of many within the Catholic hierarchy. Cardinal Arns was as influential as any individual in helping to bring two decades of repression to an end in Brazil.⁷

With some variations, a similar series of events took place in El Salvador. The much-heralded work of Archbishop Oscar Romero was symbolic of the Church’s support for social justice in the late 1970s and early 1980s. Yet in this case, the Catholic hierarchy was far more deeply split, reflecting a society divided by the civil war. Figures such as Romero engaged the human rights issue reluctantly and only after tremendous pressure from grassroots actors inspired by Liberation Theology. Many of these actors, in turn, had strong ties with secular and religious transnational human rights activists. The local Catholic human rights organization Tutela Legal, for example, was absolutely instrumental in protecting Salvadorans. But it clashed repeatedly with more conservative members of the hierarchy (especially after Romero’s assassination in 1980).

A different scenario played out in Guatemala at roughly the same time. The Guatemalan government’s repression in the early 1980s was perhaps the

fiercest in the entire region, and has been labeled “acts of genocide” by the United Nations. At the height of the repression, Guatemala was led by General Efraín Ríos Montt, a member of the El Verbo Church, a neo-Pentacostal group with strong ties to Californian fundamentalists. The high levels of violence forced the Catholic Church to abandon its human rights work in the areas of greatest conflict; it was only through prodding from secular local organizations working with the organization Peace Brigades International (PBI) that the Catholic authorities again mobilized to defend human rights. In another example of complex and fruitful collaboration, PBI was an avowedly secular organization, yet most of its founders were inspired by their Christian beliefs. And one of PBI’s greatest accomplishments was to work with the Catholic authorities and prod them into action in the mid-1980s.⁸ Catholics, most notably the late Bishop Juan Gerardi, subsequently played a central role in Guatemala’s move toward peace and democracy in the 1990s.

Virtually all of Latin America has moved in the direction of democracy over the past several decades. Many astute observers have noted that this trend has not led governments to address pressing social issues, and many of the most marginalized Latin Americans have remained so even as Latin American nations have adopted the trappings of democracy. Yet, as the above survey (and the chapter by Thomas Bamat) demonstrates, the trend toward democracy was bolstered by collaboration between a complex mixture of local and transnational, religious and secular actors pushing not only for democracy but for human rights. Dictators and their associates, from Peru to Chile to Guatemala to Argentina (to name a few) have been recently held to account as a result of this movement’s work.

The event which, for many, links the human rights struggle in Latin America with Europe is the sustained effort to hold Chilean dictator Augusto Pinochet accountable for his murderous reign. An underappreciated element of this effort is that it was the work of a Spanish magistrate, Baltazar Garzón, who was pursuing a foreign leader for his mistreatment of Spanish citizens.⁹ The subject of Christianity and human rights in Europe is ably discussed in Van der Ven’s chapter in this volume. What is worth restating is that Europe is the region of the world that is farthest along in respecting global human rights, and that this progress has occurred in recent years mainly as the result of secular, political trends originating both in national capitals and in Brussels.

Europe’s transnational human rights regime dwarfs that of Latin America; it influences (and enhances) government behavior at the most mundane levels, such as gender equity in the workplace, and also at the more lofty level of war, peace, and international justice. The European Union’s ability to use

its leverage to pressure Turkey to forego the death penalty as one requirement for admission is testimony to this trend. Europe has made tremendous progress in the area of human rights; the stakes remain high, however, as the memories of the conflicts in the former Yugoslavia, and even the Holocaust, remain fresh for many Europeans.

In this regard, as Van der Ven notes in his calls for increased vigilance in ensuring separation of church and state, the appropriate approach to Christianity and human rights in Europe is one that encourages Christians to support these developments and, just as importantly, not stand in the way of them. This approach is especially necessary because it will assist European leaders in addressing what is probably their primary continuing human rights-related problem: what Ven der Ven describes as “the crisis of multiculturalism.” Perhaps the fundamental dilemma facing European leaders is the absorption of non-Christian groups—intent on maintaining their non-Christian culture and religion—into the political and cultural systems of Europe. Until religious groups from all traditions adopt policies of respect and equality toward their counterparts, they fall short in comprehensively supporting human rights.

These words apply to a region which has made unparalleled progress in pushing for human rights, yet which is also scarred by recent bloodshed and ethnic cleansing in the former Yugoslavia, and not-so-recent but still vivid genocide during the Holocaust. These cautionary cases and the larger crisis of multiculturalism point to the need for dialogue not only about Christianity and human rights, but for an even more wide-ranging discussion of religion and human rights. I will make a similar point about an issue more immediate and pressing to a North American audience, and then, in this volume’s final paragraphs, return to the topic of human rights and religion, in way that emphasizes collaboration among Christians and non-Christians.

GUANTANAMO, TORTURE, AND THE WAR ON TERROR AS A CHALLENGE TO CHRISTIANS IN THE UNITED STATES

The events of September 11, 2001, represented a military and political challenge to the United States; they also provided a singular spiritual and ethical test for the nation. The attacks brought out both the best and the worst from Christians, prompting some to work even harder for reconciliation and human rights, and others to engage in the kind of punitive and ethnocentric thinking that has too often marred Christians’ engagement with the world. The Bush administration, on occasion claiming a mandate from God, moved quickly to take advantage of these conditions. Intelligence and military officials rushed

to round up alleged terrorists in the United States and in various “fronts” in the war on terror. The result was that, within months of the global outpouring of support brought on by the September 11 attacks, the Bush administration was becoming an international outlaw. International condemnations, first, in early 2002, grew as the administration labeled the Geneva Conventions “quaint” and “obsolete,” and then in early 2003, began the run-up to the unilateral and ill-conceived invasion of Iraq.¹⁰

The indiscriminate arrests inspired by the war on terror were followed by torture and systematic abuse of prisoners at Bagram Air Base in Afghanistan, Abu Ghraib prison in Iraq, and in CIA “black sites” around the world.¹¹ The administration also practiced the policy of “extraordinary rendition,” handing terrorism suspects over to nations known as some of the worst human rights violators in the world. Many of these practices and policies remain shrouded in secrecy; yet, due to the work of the media and human rights activists, vivid images of torture, including sexual abuse, sadistic violence, “waterboarding,” and, on several occasions, outright murder of prisoners, have emerged.

President Bush responded to this evidence by simply stating that “we don’t torture.” The Christian community’s response has been more complex. President Bush’s initial reference to the war on terror as a “crusade” perhaps encouraged certain elements of the Christian community, influenced by nationalism and support for their president, to view any kind of behavior as acceptable for the United States. David Gushee, writing of negative responses to his explicitly Christian call to oppose torture, notes that “there is indeed an evangelical constituency for torture” (Gushee, 2008, p. 122). The low moment among evangelicals may have come when an audience at a Republican primary debate in January 2008 heckled John McCain as he stated his principled opposition to torture, and enthusiastically applauded as Mitt Romney called for “more Guantánamos.”

But the encouraging news for Christians committed to human rights is that this vocal element represents a shrinking portion of the Christian community. This trend is obvious in the broad field of Christian human rights activism: the brave work of activists such as International Justice Mission Founder Gary Haugen has become far more typical than that of those activists who, for example, supported the genocidal policies of Rios Montt in Guatemala during the 1980s.¹² In the more specific area of torture, Christians from a wide variety of traditions spoke out against torture and other excesses of the war against terror. Pope John Paul II opposed the war in Iraq, and repeatedly voiced, in the strongest possible language, his opposition to torture, a stance repeated by his more conservative successor Pope Benedict XVI. This outrage was echoed in the U.S. by prominent Catholics such as Robert Drinan and Gary Wills. Among Protestants, Tony Campolo and Jim Wallis were

equally vehement in their denunciations.¹³ These positions reflect a perennial conflict between two different “wings”—and worldviews—within the Christian community.

What has been unprecedented in recent years is the emergence of what scholar David Gushee has labeled the “evangelical center.” This group has arisen in opposition to what it sees as the disproportionate influence of the Christian right, and has focused its work on a host of issues related to social justice. Nowhere has its profile been higher than in the area of torture and human rights, as groups such as the National Religious Campaign Against Torture (NRCAT) and Evangelicals for Human Rights have taken high-profile stances against torture. It is worth noting that both of these groups were created since September 2001 specifically to counter the harshest aspects of the war against terror. They crafted, in March 2007, “An Evangelical Declaration against Torture: Protecting Human Rights in an Age of Terror” (which was subsequently endorsed by the National Association of Evangelicals), and created a website as a resource for those in the religious community who would join the campaign against torture and for human rights. Gushee, one of the authors of the Declaration, can thus claim that “the evangelical left and center are coalescing around a total rejection of torture and of the other human rights violations . . . that have occurred in the war on terror.”¹⁴

The great irony here is that the international religious community was well ahead of much of the U.S. Christian community in calling for a more humane approach to the war on terror, or in questioning the very existence of such a war. In the past, the powerful and respected Christian community in the United States was often called on to either act, or to prod our government into acting, on behalf of human rights. It remains to be seen if these efforts will help to craft a new set of policies that would atone for torture and the shame of Guantanamo.

CONCLUDING THOUGHTS ON CHRISTIANITY, RELIGION, AND HUMAN RIGHTS

The U.S. elections of 2008 put in power an Obama administration which seems poised to embark on a comprehensive policy shift, in both the specific area of torture and a more general approach to human rights. In the language of the first portion of this Conclusion, the U.S. political system is responsive enough that it is unlikely that the “boomerang effect” will be a needed part of efforts to end U.S. torture. The high stakes of the debate over Guantanamo should make all Christians aware of the even higher stakes in other parts of the world; in nations marked by widespread human rights violations, Christians

continue to play a central role in applying the “boomerang effect” to intransigent governments. Yet, at the same time, the failure of many Christians to oppose U.S.-sponsored and -directed torture should remind all who would work to support human rights the temptations of religious-based nationalism and ethnocentrism. The unfortunate reality—whether in Central America, North America, or South Africa, to name just a few—is that this strain of Christianity often bolsters governments and groups that deny basic human rights.

It is this awareness of the failings and conflicting tendencies within Christianity which must animate Christian interaction with different faith traditions. This interaction must become a part of the larger human rights repertoire. And it must be done in a spirit of humility, which acknowledges the failings of Christianity and sees the potential strengths of other religions. The opposite approach is what contributed so tragically to catastrophes ranging from the Crusades to the Holocaust to Guantanamo.

In this regard, then, it is in Christians’ long-term interest to form spiritual and political ties with those inspired by other religious traditions to fight for human rights. Every other religion possesses a coherent and historically entrenched commitment to universal human rights. The ancient texts of Hinduism, many of which inspired Gandhi, insist on the universal respect for and sacredness of human life; the Torah, in Leviticus, insists that Jews “love your neighbor as yourself”; Buddhism’s Ten Duties of Kings speak of basic responsibilities to “all beings”; and Muhammed’s declaration of respect for, and protection of, the rights of Jews and Christians is part of a larger Islamic commitment to human rights. The words of Paul Gordon Lauren are worth quoting at length:

[A]ll of the great religious traditions share a universal dissatisfaction with the world as it is and a determination to make it better by addressing the meaning of human life, the worth and dignity of all persons, and, consequently, the duty toward those who suffer.¹⁵

It is not my argument that this human rights language has won the day in these varied religious communities. Indeed, there is a long, and depressing, record of religious authorities conniving with worldly leaders to subvert these humane and inclusive impulses. But this initial commitment to human rights is potent and compelling enough that it has survived, and it continues to inspire activists and thinkers in all major religious communities. What unites these varied human rights approaches is their universality; a universality which calls on their adherents to work enthusiastically with other faith traditions. These universalistic tendencies will be further empowered by this col-

laboration as they vie for influence with fellow believers who do not share a commitment to universal human rights.

On a less abstract level, it is in the long-term interest of Christians in Europe, for instance, to wrestle not only with their own role in an increasingly secular Europe, but also to work with activists from Jewish, Islamic, Hindu, Buddhist, and other communities as these communities struggle to become part of Europe. The issue of multiculturalism in Europe is made all the more interesting and complex by the move toward Union and the simultaneous struggle to incorporate distinct ethnic and religious groups at both national and continent-wide levels. To cite another example, the transcendence of national boundaries is also an unavoidable reality in assessing the most effective and humane Christian response to the war on terror. Christians would also be wise to cultivate ties with the more humane elements of the Islamic community, as they work together to marginalize the intolerant and murderous Islamicists lodged in al-Qaida. Indeed, the more universally inclined elements of these two faith traditions are precisely the kind of force that can most effectively counter al-Qaida's global reach, while at the same time addressing the Islamic community's concerns about excesses in the response to the attacks of September 11, 2001.

A final word on the politics of human rights: it makes sense to return to John Witte's image of a "Dickensian" era, in that the promise for Christian participation has never been so great, and that the cost of failure has never been so steep. On a secular level, national leaders and governments are now being held accountable at supranational levels, in Europe, Latin America, and the International Court of Justice; in many cases, the crime they allegedly committed was violation of human rights. It is often the on-the-ground work of people inspired by the Christian faith who have pressed for this reckoning. There is no denying the increasing effectiveness of this transnational Christian movement as not only a moral but a geopolitical force in global politics. And there is great hope for collaboration among these Christians and their universalistic and tolerant counterparts in other faith traditions. This alliance of sorts would go a long way to addressing the long history of grievances among distinct religions and cultures. The universal concept of human rights, and the actions of those committed to this concept, remain the best means for addressing and overcoming these grievances.

It is in this spirit that much of this book has been written and gathered. The contributors represent a wide variety of political perspectives, academic disciplines, and activist experiences. The content of virtually every chapter draws on varied intellectual traditions, historical periods, regions, and religious perspectives. Each contributor acknowledges the tensions inherent in a subject as rich and variegated as the relationship between Christianity and human rights.

The long-term trend in human rights has been one of great progress as a transnational movement, led at times by Christians, has fundamentally transformed global society. This movement is made up of courageous individuals who will not be deterred. But its work to preserve human rights has grown in importance as global challenges have multiplied. Some theorists maintain that genuine community must precede claims about universal human rights.¹⁶ It is this sense of community—of activists and theorists acting and thinking based on their perception of themselves as global citizens—that emerges as the transnational movement for human rights grows and matures, and as activists inspired by a wide variety of religious faiths and by secular notions of justice work together. It is crucial in the long run that Christians work to ensure that this development trumps a retreat into empty ethnocentrism and nationalism, which in many cases is being tolerated or supported by some elements of the Christian community. Yet more and more global citizens are expanding their circle of moral obligation, and, in this way, either consciously or unconsciously modeling the life of Christ. This movement has become a moral and political force, and Christians would do well to be at the head of it.

NOTES

1. John Nurser, “The ‘Ecumenical Movement’ Churches, ‘Global Order,’ and Human Rights: 1938–1948,” *Human Rights Quarterly* 25 (2003).

2. One telling example of the growing complementarity of these legal/political trends and the world’s religious activists is the recent “Universal Declaration of Human Rights by the World’s Religions,” proposed and described in Frances Adenay and Arvind Sharma, *Christianity and Human Rights: Influences and Issues* (New York: State University of New York Press, 2007).

3. See also Thomas Risse, Stephen Ropp, and Kathryn Sikkink, eds., *The Power of Human Rights: International Norms and Domestic Change* (New York: Cambridge University Press, 1999); Alison Brysk, ed., *Globalization and Human Rights* (Berkeley: University of California Press, 2002); and Sidney Tarrow, *The New Transnational Activism* (New York: Cambridge University Press, 2005). Tarrow provides a more detailed, complex version of the “boomerang effect.”

4. Paolo Wright-Carozza provides a broad account of this history and its implications for human rights in “From Conquest to Constitutions: Retrieving a Latin American Tradition of the Idea of Human Rights,” *Human Rights Quarterly* 25 (2003). He also points to the specific contributions of Latin American jurists and activists to the Universal Declaration of Human Rights.

5. Juan Mendez, “The Inter-American System of Protection: Its Contributions to the International Law of Human Rights,” 136, in *Realizing Human Rights*, ed. Samantha Power and Graham Allison (New York: St. Martins Press, 2000).

6. Stephen C. Ropp and Kathryn Sikkink, "International Norms and Domestic Politics in Chile and Guatemala," 191, in *The Power of Human Rights: International Norms and Domestic Change*, ed. Thomas Risse et al. (New York: Cambridge University Press, 1999).

7. This case is described movingly in Lawrence Weschler's book *A Miracle, A Universe: Settling Accounts with Torturers* (New York: Penguin, 1990).

8. ODHAG (Oficina de Derechos Humanos del Arzobispado de Guatemala), *Guatemala: Nunca Mas*, 4 vols. (Guatemala City: ODHAG, 1998); United Nations Commission for Historical Clarification, *Guatemala: Memory of Silence* (New York: UN, 1999); Liam Mahony and Luis Enrique Eguren, *Unarmed Bodyguards: International Accompaniment for the Protection of Human Rights* (West Hartford, CT: Kumarian Press, 1997); and Tim Steigenga, "Guatemala," in *Religious Freedom and Evangelization in Latin America*, ed. Paul Sigmund (Maryknoll, NY: Orbis, 1999).

9. Naomi Roht-Arriaza, *The Pinochet Effect: Transnational Justice in the Age of Human Rights* (Philadelphia: University of Pennsylvania Press, 2006).

10. Jane Mayer, *The Dark Side: The Inside Story of How the War on Terror Turned Into a War on American Ideals* (New York: Doubleday Press, 2008), provides a riveting account of this process.

11. Vivid descriptions of these practices appear in Mayer, *op cit.*, and in Karen Greenberg and Joshua Dratel, *The Torture Papers: The Road to Abu Ghraib* (Cambridge: Cambridge University Press, 2005).

12. Samantha Power provides a compelling account of Haugen's work in an extended article in *The New Yorker*, January 19, 2009, 52–63.

13. See Jim Wallis, *God's Politics* (San Francisco: Harper Collins, 2005), and Tony Campolo, *Letters to a Young Evangelical* (New York: Basic Books, 2006).

14. David Gushee, *The Future of Faith in American Politics: The Public Witness of the Evangelical Center* (Waco, TX: Baylor University Press, 2008), 123. This volume contains the entire Declaration, 253–70.

15. Paul Gordon Lauren, *The Evolution of International Human Rights* (Philadelphia: University of Pennsylvania Press, 2003), 4.

16. Beth Singer, *Pragmatism, Rights, and Democracy* (New York: Fordham University Press, 1998), and Hannah Arendt, *The Origins of Totalitarianism* (New York: Schocken, 1958/2004).

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Index

- Abu Ghraib, 236
Act of Toleration 1689, 51
African National Congress, 224
Ahmadis, 33
al-Qaida, 240
Aldunate, José, 181
Alvarado, Elsa, 190
American Bar Association, 84
Amnesty International, xiii
Angulo, Alejandro, 188, 189, 190
anti-Semitism, 14, 15, 31, 219
anti-slavery campaign, (U.S. and UK),
xv
Antokoletz, Maria Adela, 92
apartheid, xxii, 31, 48, 214, 215, 216,
220, 222, 223, 224
Apostolic Faith Mission (AFM),
215–18, 220–24
Aquinas, Thomas, 51, 54, 124
Arns, Cardinal Paulo Evaristo, 234
Association of Family Members of the
Disappeared (Colombia), 187
Augustine, xiv, 50, 51, 75, 88, 123, 124,
125, 126, 133, 142
Auschwitz, 13, 14

Bacon, Francis, 67
Baha'i Faith, 22

Baptist, xvi, 11, 69
Bartleman, Frank, 213
beatitudes, xv
Benenson, Peter, xiii
Berman, Harold, 66
Boff, Leonardo, 181, 185
Bonhoeffer, Dietrich, 13
boomerang effect, 230, 231, 232, 233,
238
Bosnia, xvii, xviii, 4, 5, 6, 8, 9, 10, 15,
16, 17
Botha, General Louis, 214, 216
Bouda, Nadjé, 95
Brant, Irving, 69, 70
Buddhism, 21, 27, 31, 85, 197, 205,
209, 239, 260
Buruma, Ian, 47
Bush, George W., 73, 74, 88, 94, 236,
237

Calderón, Mario, 190
Calvinist Reformation, 133
Cantwell v. Connecticut (1940), 36
capabilities, vi, xxi, 165, 167, 168, 169,
171, 172, 173, 174, 175
Catherine the Great, 88
Catholic Church, ix, xiii, xiv, xx, 5, 6,
7, 8, 10, 11, 13, 14, 15, 31, 47, 50,

- 51, 52, 53, 54, 55, 56, 58, 63, 77, 79, 128, 129, 130, 151, 180, 183, 191, 214, 215, 229, 233, 234
- Catholic Social Teaching (CST), vi, xii, xxi, 130, 149–59, 161, 260
- Center for Research and Popular Education (CINEP), Columbia, 180, 186, 187, 188, 189, 190, 191
- Centesimus Annus, 152, 154
- Children's Pastoral Office Brazil, 185
- China, xix, 82, 84, 100, 201
- Christ, xiv, xv, 8, 9, 25, 56, 67, 82, 85, 110, 113, 121–25, 129, 130, 137, 139, 140, 142, 143, 159, 163, 181, 190, 203, 217, 241
- Christian and Missionary Alliance (CMA) (Vietnam), 196, 259
- Christian base communities (CEB), 185
- Christocentrism, 142
- Christoslavism, 8
- Church of England, xvi
- Churchill, Winston, 87
- Cicero, 125
- Civil Rights Act 1964, 114
- Civil Rights Movement, 26, 90, 103, 104, 112, 114, 129, 214, 224
- Comenius, J.A., 140, 141, 143
- Communism, xx, 31, 38, 44, 84, 144, 222
- Comte, Auguste, 136
- Confucianism, 27, 100
- Congo Reform Association (CRA), xv, xvi
- Cosmopolitanism, xvi
- Counter-reformation, 143, 144
- Crusades, xv, 25, 79, 239
- Cyril of Alexandria, 123
- Czech Reformation, 143
- Dalai Lama, 31
- Darfur, 3
- de las Casas, Bartolomé, xv
- de Lubac, Henri, xx, 122, 123, 124, 126, 229
- de Tocqueville, Alex, 71
- Declaration of Independence, U.S., 90
- Declaration of Santiago, 233
- Declaration of the Rights of Man and Citizen 1789, 21, 29
- Declaration on Religious Liberty 1965 (*Dignitatis humanae*), 54, 128
- Dega Christians, 200
- Democracy, v, xii, xix, xxi, 21, 23, 39, 44, 47, 48, 50, 65, 66, 67, 69, 74, 75, 87–95, 153–56, 159, 233, 235, 258, 259
- Denney, Stephen, 197
- Derrida, Jacques, 57
- Dickens, Charles, 21
- Donatists, 50
- Donnelly, Jack, 66
- Dowie, John, 215
- du Plessis, J. T., 220, 221, 223
- Dutch Reformed Church, 215, 216
- Dworkin, Ronald, 173
- East African Revival, 5
- Economic rights, vi, xxi, xxiii, 29, 71, 78, 100, 102, 105, 112, 149, 151–57, 174, 180, 181, 184, 187, 188
- Ecumenical Commission for Human Rights (CEDHU), Ecuador, 180, 186–91, 257
- Edict of Nantes 1598, 51, 52
- Einsatzgruppen, 10
- El Verbo Church, 234
- Emerson, Michael, 16
- Enlightenment, xii, 25, 29, 30, 32, 38, 66, 67, 69, 91, 133, 134, 135
- Episcopal Social Action Commission (CEAS), 180, 186–91
- European Court of Human Rights, 83
- Evangelical Church of Czech Brethren, 144, 259
- Evangelicals for Human Rights, 237
- Falk, Richard, 179
- Far East Broadcasting Company (FEBC), 201
- Fascism, 25, 31, 38, 219

- Fein, Helen, 9
 Fessard, G., 24
 Flourishing, xii, xix, 163–64, 166–69, 171–75
 Folkenberg, Robert S., 15
 Foot, Philippa, 166
 Foundation for Social Assistance of the Christian Churches (FASIC), 182
 Frankfurter, Felix, x
 Free Methodist Church, 11
 Free Prisoners Movement (Iraq), 94
 French Revolution, 21, 29, 52, 67
 Freud, Sigmund, 7

 Gandhi, Mohandas K., 112, 113, 239
 Garzón, Baltazar, 235
 Gaustad, Edwin, 69
 Gee, Donald, 218
 Genocide, v, ix, xvii, xviii, 3, 4, 5, 6, 8–13, 15, 16–17, 236
 Gerardi, Bishop Juan, 234
 Gerstein, Kurt, 13
 Glendon, Mary Ann, 99–100
 Gong, Falun, 82
 Greek Orthodox Church, 71
 Gregory of Nyssa, 123
 Guantanamo Bay, Cuba, xiv, 236–39
 Gushee, David, 16, 237, 238
 Gutiérrez, Gustavo, 181

 Hare Krishnas, 22
 Hasson, Kevin, 75
 Haughey, John, 100
 Havel, Václav, 39
 Hegel, George W. F., 136
 Heywood, AL, 218
 Hinduism, 85, 239
 Hitler, Adolf, 4, 9, 14, 219, 259
Hmông (Vietnamese), 195, 196, 197, 201, 206
 Hobbes, Thomas, 103, 120
 Hollenbach, David, 180, 181
 Holocaust, ix, xi, xviii, 4–5, 7, 9, 10, 12, 13–15, 16, 17, 25, 70, 77, 78, 229, 235, 236, 239

 Homosexuals, 5, 60, 89
 Huguenots, x, 51, 134
 Human Rights Watch, 199
 Huntington, Samuel, 65
 Hus, Jan, 140
 Hussein, Saddam, 72, 73, 94
 Hutu, 5, 8, 12, 17
 Huxley, Aldous, 167

 Ignatieff, Michael, 66
 Impersonalism, xix, xx, 101–4
 Inquisition, 25, 79
 Institute for Global Engagement (IGE)(U.S.), 207–8
 Inter-American Commission on Human Rights, 233
 International Court of Justice, 240
 International Covenant on Civil and Political rights 1966, 26, 35, 54, 71
 International Covenant on Economic, Social, and Cultural Rights 1966, 26
 International Criminal Tribunal for Rwanda, ICTR, 35
 International Criminal Tribunal for the Former Yugoslavia, ICTY, 8
 International Crisis Group, 66
 International Law, v, xix, 77–79, 81–82, 83–84
 International Monetary Fund (IMF), 156–57
 International Red Cross, 138
 Irenaeus, 123
 Islam, xv, xix, 17, 22, 27, 28, 31, 47, 50, 54, 57, 58, 59, 65, 70, 71, 72, 73, 77, 79, 80, 81, 86, 89, 93, 94, 239, 240

 James, William, 67
 Jan Patočka, 143
 Jefferson, Thomas, 67
 Jehovah's Witnesses, 22
 Jellinek, Georg, 27
 Judaism, x, xi, xv, 5, 7, 12, 13, 14, 15, 17, 21, 22, 24, 26, 34, 52, 66, 68, 77, 79, 82, 100, 138, 239, 259

- K'Sor, Kok 200
 Kagame, Paul, 17
 Kar, Maehrangiz, 95
 Kant, Immanuel, xix, xx, 47, 48, 101–3, 115, 134, 229
 Kar, Mehrangiz, 95
 Karski, Jan, x, xvii, 229
 Keck, Margaret, 231
 Keřkovský, Pavel, 138
 Kiet, Ngo Quang, 208
 King, Martin Luther, Jr., xx, 104, 112, 113, 114, 124, 229
 Kisito, Sister Julianne, 11
 Kokkinakis v. Greece (1993), 36
 Kolbe Maximilian, 14
 Komárková, Bořena, vi, xx, 133?48, 229

 Lauren, Paul Gordon, 239
 Lake, John, 214, 215
 Le Chambon, x, xvii, 229
 le Roux, P. L., 215, 217, 219, 220
 League of Nations, 78
 Legate, Bartholomew, 68
 Leopold II, King of Belgium, xvi
 Letter from a Birmingham Jail, 112
 Levine, Daniel, 185
 Liberation Theology, xxi, 182, 183, 234
 Lichtenberg, Bernard, 13
 Liebenberg, J. J., 220
 Lincoln, Abraham, 87, 91
 Linden, Ian, 11, 179
 Lindsay, Gordon, 214
 Little, David, 68
 Lo, Chung-Shu, 100
 Lochman, Jan, 140
 Locke, John, xiii, 52, 67, 103, 115, 120, 135, 229
 Lonergan, Bernard, xii, xx, 104, 105, 106, 107, 108, 109, 110, 111, 112, 114, 229, 257
 Luna Tobar, Alberto, 187
 Luther, Martin, xv, 67, 68, 78
 Lutheran Church, 187, 190

 MacIntyre, Alasdair, xii
 Madison, James, 33, 69, 70, 71
 Malcolm X, 103, 104
 Malik, Charles, 70, 71
 Manichees, 50
 Margalit, Avishai, 47
 Maritain, Jacques, 24, 74, 100
 Marx, Karl, 71, 136, 167
 Maximus, 123
 May, Henry, 67
 McCain, John, 237
 Medellin conference, 182
 Methodism, 85, 260
 Miguez Bonino, José, 181
 Mill, John Stuart, xx, 134, 135, 136
 Miller, William Lee, 68
 Milosevic, Slobodan, 5
 Minh, Ho Chi, 195
 Mohamed, Mariam Hussein, 95
 Möller, F.P., 221
 Monge, Elsie, 188, 189, 190
 Montagnard Foundation Inc. (MFI), 200
 Morel, Edmund, xvi
 Mormons, 22, 33, 82
 Morsink, Johannes, 71
 Mother Teresa, 191
 Mothers of the Disappeared, xix, 92
 Mukangango, Sister Gertrude, 11
 Multiculturalism, xix, 235, 236, 239
 Murray, John Courtney, 127, 128, 215
 Musabyimana, Samuel, 11
 Muslims, 5, 6, 8, 9, 16, 17, 21, 22, 31, 34, 47, 52, 59, 65, 68, 70, 71, 72, 73, 78, 79, 80, 81, 83, 84, 89, 92, 93, 94, 95, 100

 National Democratic Institute, 94
 National Endowment for Democracy, 74, 91, 95
 National Party, South Africa, 219, 220, 222, 223
 National Religious Campaign Against Torture (NRCAT), 237
 Natural law, 30, 133

- Nazism, x, xx, 5, 7, 12, 13, 14, 38, 75, 133, 137, 138, 219
- Nazianzen, Gregory, 123
- Newman, Cardinal John, 78
- Newton, Isaac, 67
- Niebuhr, Reinhold, xiv
- Niemoller, Martin, 13
- non-governmental organizations (NGO), xxi, 26, 84, 180, 185, 195
- Noonan, John, 23
- North American Pentecostal Church, 214
- Novak, Michael, xxi, 151–55, 229
- Nsengimana, Hormisdas, 11
- Ntakirutimana, Elizaphan, 11, 12
- Ntihinyurwa, Archbishop Thaddee, 11
- Ntihinyurwa, Thaddee, 11
- Nuremberg Trials, xi, xvi, 13, 229, 230
- Nussbaum, Martha, xii, 163, 169, 229
- Nyerere, Julius, 157
- Obrecht, Peggy, 15
- Orthodox Church, xiii, 23, 27, 29, 34, 61, 68, 259
- Otis, Pauletta, 65
- Pacem in Terris Encyclical, 150, 180
- Padilla, Washington, 187
- Paine, Thomas, 67
- Palous, Martin, 74
- Pastoral Land Commission (CPT)
Brazil, 185, 257
- Patocka, Jan, 143
- Patriarch Bartholomew, 39
- Peace Brigades International (PBI), 234
- Pelikan, Jaroslav, 37
- Pentecostalism, xi, xxii, 22, 181, 213, 214, 217, 218, 219, 220, 221, 223, 224, 232
- Peric, Bishop Rutko, 9
- Personalism, xii, xx
- Phap Lenh (Ordinance Regarding Religious Beliefs and Religious Organization, Vietnam 2004), 204–7
- Phieu, Le Kha, 199
- Pinochet, Augusto, 235
- Plan Colombia, 188
- Plantinga, Cornelius, 164
- Pope Benedict XVI, 13, 154, 237
- Pope Gregory XVI, 52
- Pope John Paul II, xiii, 10, 14, 15, 79, 93, 119, 152, 154, 156, 158, 159, 229, 237
- Pope John XXIII, 150, 180
- Pope Leo XIII, 53
- Pope Pius IX, 13, 14, 52, 56
- Pope Pius VI, 52
- Pope Pius XII, 13, 14
- Presbyterian Church, 11, 15
- preservationism toward Jews, xv
- Proselytism, xii, 27, 35–37
- Protestant Church, 5, 7, 8, 17
- Protestantism, 66, 69, 91, 206, 207
- Puebla Latin American Bishop's Conference 1979, 182
- Puljic, Vinko, 17
- Quakers, x, xvi
- Raiser, Konrad, 8
- Rawls, John, 102, 103, 121, 229
- Reformation, 66, 68, 134, 142
- Reformed church, 58, 216
- Rey, Koos de la, 216
- Rheeders, W. J., 220
- Ricoeur Paul, 31
- Rios Montt, Efraim, 234, 237
- Roma, gypsies, 5
- Romero, Archbishop Oscar, 234
- Romney, Mitt, 237
- Roosevelt, Eleanor, 99
- Roosevelt, Franklin, 75
- Rousseau, Jean-Jacques, 103, 120
- Rudolph, Susanne, 22
- Ruhumuliza, Bishop Aaron, 11
- Rukundo, Emmanuel, 11
- Rushdie, Salman, 83
- Russia, xix, 23, 36, 82, 88

- Russian Orthodox Church, 36
 Rwanda, xvii, xviii, 4, 5, 7, 8, 10–12, 15, 16, 17, 22
- Santerians, 33
 Saunders, Harold, 73
 Scheer, Gary, 8, 237
 Schoeman, A. J., 220, 221
 Scientologists, 22, 33
 Scipio, 125
 Secularism, 22, 142
 Seiple, Chris, 208
 Sells, Michael, 8–9
 Sen, Amartya, xii, xxi, 163, 168, 169, 173, 175, 229
 Sepúlveda, Juan Ginés de, xv
 Serbian Orthodox Church, 6, 8, 9, 10, 16
 Seroma, Athanase, 11
 Seventh-Day Adventists, 11, 15, 22
 Seymour, William Joseph, 213
 Shah, Timothy, 69
 Shalom, 163, 164–66, 172–75
 Sharia, 73, 79, 80
 Shiasm, 23, 73
 Sikkink, Kathryn, 185, 231, 232
 Simon, William, 152
 Smith, Brian, 183
 Smith, Christian, 16, 182
 Sobrino, Jon, 181
 Squire, Fred, 218
 St. Paul, 67, 109, 110
 Stackhouse, Max, 74
 Stein, Edith, 14
 Strydom, J. G., 221
 Sudan, xvii, 3, 21, 22, 73
 Sunnism, 23, 94
- Taliban, 72
 Tashpoulatova, Muborak, 95
 ten Boom, Corrie, 12, 13
 Tin, Father Chan, 205
 Theunis, Guy, 11
 Tony Campolo, 237
 Trieu, Le Quang, 204
- Trocme, André, x
 Truth and Reconciliation Commissions, 224
 Truth, Sojourner, 95
 Tully, James, 92
 Tutela Legal, 234
 Tutsi, 5, 10–12, 17
 Twagirayesu, Michel, 11
- U.N. World Conference on Human Rights (Vienna, 1933), 84
 U.S. Commission on International Religious Freedom, USCIRF, 72, 73, 208
 UN Declaration on Religious Intolerance and Discrimination Based Upon Religion and Belief (1981), 22
 Unification Church, 22
 United Nations Children's Fund (UNICEF), 157
 United Nations Development Program, 168
 United Nations, xi, xii, xvi, 18, 26, 55, 78, 79, 81, 82, 84, 119, 157, 195, 233, 234
 Universal Declaration of Human Rights, xi, xii, xvi, 25, 29, 54, 70, 71, 78, 79, 80, 90, 99, 129, 195, 229
 US Holocaust Memorial and Museum, 13
 us-them thinking, xviii, 6, 7, 8, 15
- Van der Walt, Bennie, 67,
 Vargas, Laura, 188, 189, 190
 Vasak, Karel, 29
 Vatican. *See* Catholic Church
 Vatican II (Second Vatican Council), xiii, xx, 31, 47, 50, 51, 53, 54, 77, 79, 128, 180, 229
 Vatican Declaration on Religious Freedom (*Dignitatis humanae*), 54, 128
 Vicaría de la Solidaridad (Chile), 183, 184, 191

- Vietnam-USA Society (Hanoi), 207
Vietnam Human Rights Act of 2004, 206
Voter Rights Act (1965), 114
- Wallis, Jim, 237
Weggel, Oskar, 198
Wessels, G. R., 221–23
Williams, E. S., 217, 218
Williams, Roger, 68, 69
Wills, Gary, 237
Winthrop, John, 68
Wolf, Miroslav, 6, 17
Wolterstorff, Nicholas, 164
- Woodberry, Robert, 69
Woodstock Theological Center, 180
World Bank, 156, 157, 168
World Council of Churches, x, 8, 11, 79, 183, 234
World Trade Organization (WTO), 208
World War I, 213, 216
World War II, ix, x, xiv, 23, 25, 26, 68, 81, 84, 89, 99, 119, 138, 216, 220, 224, 229, 230, 231
Wuthe, Paul, 54
Year of Jubilee, 154

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Joseph Loconte serves as senior research fellow at The King’s College in New York City. He is a Ph.D. candidate in history at the University of London, where he is studying the Christian sources of John Locke’s theory of toleration. He previously served as a Distinguished Visiting Professor at Pepperdine University’s School of Public Policy, and as a Senior Fellow at the Ethics and Public Policy Center in Washington, DC. Loconte writes widely on the importance of religion to American democracy, international human rights, and U.S. foreign policy. In 2005, he served as a human rights expert on the Congressional Task Force on the United Nations, and from 2001 to 2003 was an informal advisor to the White House Office of Faith-Based and Community Initiatives. Mr. Loconte is the editor of *The End of Illusions: Religious Leaders Confront Hitler’s Gathering Storm* (2004). His essays have appeared in the nation’s leading magazines and newspapers, including the *Weekly Standard*, the *New Republic*, the *American Interest*, *National Review*, the *New York Times*, the *Washington Post*, the *Wall Street Journal*, and the *Los Angeles*. He has been a guest on major media outlets, including National Public Radio, the *NewsHour with Jim Lehrer*, the BBC’s *World Have Your Say*, Fox News, CBS Morning News, and Aljazeera Television.

Joyce J. Michael has a Ph.D. from Syracuse and is currently appointed by the Presbyterian Church (United States) as an ecumenical assistant within the Evangelical Church of Czech Brethren. Among her other duties, Michael is involved in translating works for the Protestant Theological Faculty of

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Frederick M. Shepherd is chair and professor in the Department of Political Science at Samford University. He is author of “Church and State in Honduras and Nicaragua” (*Sociology of Religion*, 1993) and numerous contributions to volumes on Latin America, religion, and politics. His current work focuses on genocide and human rights, and he has participated in seminars sponsored by the Lilly Foundation, the Holocaust Education Fund, and the Center for Advanced Holocaust Studies at the U.S. Holocaust Memorial and Museum. He was codirector of the 2004 Lilly Fellows National Research Conference on Christianity and Human Rights. He is currently at work on studies of comparative genocide with special focus on Guatemala.

John Sniegocki is assistant professor of Christian ethics and director of the peace studies minor at Xavier University in Cincinnati, Ohio. He received his Ph.D. in Christian ethics from the University of Notre Dame in 1999. His first book, *Catholic Social Teaching and Globalization: The Quest for Alternatives*, is forthcoming from Marquette University Press. Sniegocki has published numerous journal articles and book chapters including “The Social Ethics of Pope John Paul II: A Critique of Neoconservative Interpretations” (in *Horizons: Journal of the College Theology Society*, Spring 2006), which received the 2007 Catholic Press Association award for “Best Feature Essay in a Scholarly Magazine.” In addition to topics of Catholic Social Teaching and globalization, Sniegocki’s writings have also addressed issues of violence and nonviolence, ecology, the ethics of Christian dietary choices, the Catholic worker movement, and dialogue with socially engaged Buddhism.

Johannes A. van der Ven currently occupies the chair of comparative empirical theology, especially religion and human rights, at the Radboud University Nijmegen (Netherlands). He has written thirteen books in Dutch, German, and English, including *Practical Theology: An Empirical Approach*, *Suffering: Why for God’s Sake?*, *Ecclesiology in Context*, *Formation of the Moral Self*, *God Reinvented?*, and *Education for Reflective Ministry*, and *Is There a God of Human Rights?* He has edited seventeen books and published about 300 refereed articles in ten languages. He has been a visit-

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James E. Waller is an affiliated scholar with the Auschwitz Institute for Peace and Reconciliation. He is a widely recognized scholar in the field of Holocaust and genocide studies and he has held international visiting professorships at the Technical University in Berlin and the Catholic University in Eichstatt, Germany. Waller also has been awarded summer fellowships with the Holocaust Educational Foundation at Northwestern University and at the Center for Advanced Holocaust Studies at the U.S. Holocaust Memorial Museum in Washington, DC. Waller's book on perpetrators of genocide, *Becoming Evil: How Ordinary People Commit Genocide and Mass Killing* was short-listed for the biennial Raphael Lemkin Award from the International Association of Genocide Scholars and was released in a revised and updated second edition in Spring 2007.

Jonathan Warner, an economist, is on the faculty at Quest University Canada in Squamish, British Columbia. He has taught economics and related subjects at universities in Cyprus, Poland, Kyrgyzstan, and the United States, including nine years at Dordt College in Iowa. He holds a Ph.D. in welfare economics from the University of Wales, and a BA in philosophy, politics, and economics from Oxford University. Over the past few years, he has explored the relationship between the capabilities approach and the concept of shalom, including presenting papers at several international conferences. His other research interests include the history and role of monetary substitutes in economic policy and development, and the political economy of Cyprus.

John Witte is Jonas Robitscher Professor of Law and Director of the Center for the Study of Law and Religion Center at Emory University. A specialist in legal history, marriage, and religious liberty, he has published 150 articles, 11 journal symposia, and 23 books—including recently *Religion and the American Constitutional Experiment*; *Law and Protestantism: The Legal Teachings of the Lutheran Reformation*; *Sex, Marriage and Family Life in*

John Calvin's Geneva; Modern Christian Teachings on Law, Politics, and Human Nature, 2 vols.; *God's Joust, God's Justice: Law and Religion in the Western Tradition*; *The Reformation of Rights: Law, Religion, and Human Rights in Early Modern Calvinism*; *Christianity and Law: An Introduction*; and *The Sins of the Fathers: The Law and Theology of Illegitimacy Reconsidered*. His writings have appeared in ten languages, and he has lectured throughout North America, Western Europe, Japan, Israel, and South Africa. He has been selected ten times by the Emory law students as Most Outstanding Professor and has won dozens of other awards and prizes for his teaching and research.