

THEOLOGICAL PERSPECTIVES ON HUMAN RIGHTS

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October 2007

ABSTRACT

There are, in each religious and spiritual tradition, indigenous theological perspectives that support the human rights idea, generally, as well as every rights category in international and domestic law. Simultaneously, of course, there are well-defined and well-defended theological positions that are at odds with international, legal understandings about the rights concept and that have the potential to compromise the implementation of rights norms within their religious communities (and beyond). This working paper attempts to explicate some of the basic theological underpinnings of those challenges with regard to theological currents in Islam, Hinduism, and Christianity. Particular reference is made to core understandings of the notion of rights, of the human being, of freedom, and of equality. The resulting problematic areas for rights advocacy include the fact that some religious groups view human rights as a competing and inappropriate moral/ethical system, that some communities or theologians adapt human rights terminology to suit their religious or social agendas, that the right to freedom of religion can be used to exempt oneself from supporting other rights norms, that some societies' governments are not separate from their religious establishment, and that the existing international rights instruments provide significantly more support for those whose rights are threatened by those outside of their religious community than those within. A suggested way forward rests on grassroots theological education within religious communities and strong support for reformers from those without.

Introduction: Theological foundationalisms

What is the “ground” of human rights and the source of their legitimacy? A large (and still growing) body of literature is dedicated to the discussion of whether the human rights idea is, in and of itself, “ineliminably religious” (Perry, 1998: 29) – that is, if human rights can be separated at all from fundamental assumptions that are, at their heart, rooted in religious or spiritual perspectives (such as, “the human being is sacred”). Non-religious writers such as Richard Rorty most often assert that religious/spiritual foundations are neither necessary nor appropriate (Kohen, 2007:109). Meanwhile, some

religiously-identified rights theorists contend that, while it is possible that rights legitimately can be viewed as having a religious foundation, they need not be thus understood and probably should not be in order to make the rights concept as accessible to as many societies and communities as possible (Lerner, 2006; Kohen, 2009). Other religiously-identified writers assert that rights are inescapably religious in origin, a fact that only adds to their conceptual (and practical) power yet does not render them inaccessible to secular theorists and advocates (Perry, 1998). This is an interesting conversation (and is reflected in some of the readings for this meeting), but for the purposes of this paper a subset of the last group requires our particular attention: those who assert that human rights are not only unintelligible but non-existent outside of a specific theological framework.

There are, for instance, conservative Muslim commentators who teach that rights do not belong to human beings but only to God. Allah is understood to be creator – and therefore owner – of all things. As part of the created order, humans do not have rights against but rather duties toward the creator (“Islam” means “submission”). Some rights are ascribed to humans in terms of material, inter-personal relations (theft, etc.); otherwise they are the property only of the divine (Thompson, 1980: 141-2). An individual’s merit or worth as a human being is not rooted in the simple fact of her humanity but in the level of her faithful submission to Allah. If one is a member of the *umma* and has entered into a contract, as it were, with God, then one becomes eligible for the entitlements that come with submission, including what are commonly referred to as human rights. Rights are not intrinsic to human beings but are contingent upon their acts. Rights do not inhere in one’s simple existence; they are earned by living in accordance with the precepts of Islam. In the words of one Muslim writer, “[I]n Islam there are no ‘human rights’ or ‘freedoms’ admissible to man in the sense in which modern man’s thought, belief, and practice understand them: in essence, the believer owes obligation or duties to God if only because he is called upon to obey the Divine Law and such Human Rights as he is made to acknowledge seem to stem from his primary duty to obey God” (Brohi, 1976: 151). Such a perspective begs the question of whether non-Muslims, or any who may be understood as not having a contractual relationship with God, can be the possessors of human rights.

A similar view is held among some conservative schools of Christian theology. Rights are not a part of the created order but are contained within the only entity with the authority, power and love necessary to encompass them: God. Furthermore, it is the opinion of some (particularly conservative evangelical) theologians that only Jesus Christ has rights before God. Humanity receives its own rights through Christ as mediator. The very first right secured by Jesus is that of, in the words of Jacques Ellul, “the privilege of belonging to Christ.” The Christian’s primary mandate is to be obedient to God. From this first duty spring up innumerable others, and issuing from those duties of religious obedience comes the opportunity to enjoy human rights. Says Ellul, “The notion of human rights depends on man’s God-given status as party to a contract. To put it differently, God gives man certain rights, placing him in a juridical situation in order to make his covenant genuine.” For Ellul, it is here that human rights receive what he calls their “absolutely firm foundation.” He says, “While Jesus Christ radically abolishes human justice and divests man of all his conquests, his powers and his rights, he is also the foundation of man’s new rights. For he, Jesus Christ, acquires these rights for man” (Traer, 1991: 49-51). Fortunately for non-Christians, Ellul believes that those who do not accept Jesus are still accorded all human rights offered through him because Christ has died for all persons, regardless of religious perspective. Ellul was concerned that secular human rights schemes give too much power to states to decide right and wrong, enabling states, consequently, to make their own criteria for rights. Morality -- right and wrong -- must never be left to governments to decide but rather to religious communities, who then hold states accountable. In a most practical way, the substance of human rights is for religious groups to identify and governments to implement.

Hindu understandings of human rights, and especially those that challenge the majority perspectives of international human rights law and advocacy, can not be understood apart from the concept of *dharma*. *Dharma* incorporates no emphasis on individualism; it emphasizes obligations rather than rights (some traditionalists refute the very existence of rights), and its precepts cannot be universalized as true for every human being. *Dharma* is specific to persons according to stage of life, social group, sex, quality of life and amount of suffering, etc. It is the immutable, universal law that sustains all of creation, the source of spiritual and material wellbeing (or lack thereof); it is ultimate

reality in cosmological terms and individual duty in personal terms. The maintenance by every individual of his or her *dharma* is believed to be crucial to the stability of the cosmos; without the performance by every person of dharmically mandated duty, the universe itself may crash.

This Hindu universe is a multi-dimensional reality; all things, tangible and intangible, exist on multiple levels. The absolutizing of any particular value is a foreign concept. The importance of any particular value does not reside in its abstraction but in its context, a notion that is antithetical to the common conception of human rights, designed as they are to refer to something permanent, immovable, and absolute, applicable to every human being in every time and place. In traditionalist Hindu understandings, the contextualization of social justice criteria is imperative. No value or right can be universalized or absolutized as valid for every person or era.

In the words of one Indian writer, “The only right conceded, be it to an individual or a group, is the right to compel the concerned parties to perform their duty” (Siriwardena, 1987: 24). Critics may well call this no right at all but an all-encompassing obligation. Arguably, traditional Hinduism teaches that there are no rights but only duties or, more liberally, that one earns certain rights consistent with one’s dharmic station in relation to the level of performance of one’s dharmic duties. Standing categories of rights simply cannot be applied to all people. R.C. Pandeya writes that one may not accord “the same set of rights to people who work for it and those who do not. People whose conduct and position are not effective enough to lead them to such an achievement would also invoke these rights merely in the name of their humanity. This would, in effect, give rise to misplaced and undeserved expectations leading ultimately to perpetual tension in society.” The supreme duty, according to Pandeya, is “knowing oneself.” Presumably, when one knows one’s true self, one will never perform duties or insist on rights outside of one’s appropriate location in the dharmic order (UNESCO, 1986: 268-270).

Discussions on the relationship between rights and duties differ significantly between these religious perspectives and most secular ones. In the latter, at issue is the relationship between one person’s rights and other persons’ duties to ensure those rights. If all human beings have a right not to be tortured then all human beings have a

duty/obligation not to torture. Within the religious perspectives we have been considering, a person may not merit rights in the first place without complying with certain theological duties related to belief and practice. A fundamental tenet of secular rights theories is that there is no element of merit or deserving. Human beings – all of them – ought to enjoy certain rights “simply because they are human,” with no conditions attached. “Human rights are inherent in one’s humanity,” writes one theorist (Howard, 1986: 16). In fact, many secular theorists ground the human rights concept in the human being itself. There are religious perspectives, however, that complicate the idea of just who “the human being” is.

In these theological understandings, the human being is not an independent entity, a solo moral agent, but a creature that exists only in relationship to a deity or divine principle. Islam has traditionally understood the human being to be *khalifa*, the representative of God. Muhammad Camara writes, “Islam doesn’t think that the human being is the supreme being in creation, or that he is indistinguishable from the rest of creation. Man is the representative (*khalifa*) of God, and human beings have liberties that reflect their nature as God’s representatives. These liberties are not absolute; they are bounded” (Dwyer, 1991: 78). As God’s vicars, human beings have no absolute rights but “bounded” duties; they are free to promote their own wellbeing but only in accordance with majority religious precepts. Islamic individualism is vertical rather than horizontal. The individual is sharply defined in relationship to God rather than to other persons or to states.

The human being, in traditional Christian understandings, is a composite of body and soul, of dust and breath, of mortality and immortality. Body and soul come together when God blows “breath” – soul – into a physically human receptacle. The creature is now understood to be *imago dei*, the very image of God. The human being is not a spiritual reflection of divinity (as in Islam) or suffused with divinity (as in Hinduism) but is the actual image of a deity that is wholly other. The human being is most highly valued by God of all things in the universe. Humanity and divinity commingle in only one instance, which is the person of Jesus of Nazareth. In him alone the human form actually becomes holy.

Humanity is commanded to be in close communion with God through obedience. Individual human beings are, paradoxically, both completely dependent on God and ultimately autonomous. Humans are dependent upon God because God created them in the first place, animating them and sustaining them throughout their lives. Simultaneously, humanity is given control over its own sphere. Through free will, individuals decide the course of events; they are not puppets of their creator. In every moment they have the choice to obey or deny God's laws. The state of sinfulness resulting from the Fall, humanity's original disobedience, deforms the *imago dei* but not its ultimate worth. St. Augustine and others have argued that the damaged *imago dei* continues to make invaluable humanity incapable of avoiding sin. Humanity remains intrinsically good, yet unable to stop doing bad.

Hinduism, meanwhile, does not recognize humanity as having a single nature. Rather, each person is composed of a unique mix of three qualities -- of lightness or buoyancy (*sattva*), or of movement, excitement, pain, and pleasure (*rajas*), or of heaviness or slothfulness (*tamas*). The caste and personality of the individual is determined by the particular composition of these elements, which qualities then determine their station. The human body is only the temporary residence of a particular soul, which migrates through the ages between various living creatures. The goal of existence is *moksha* (salvation). If one lives according to *dharma* and accumulates positive rather than negative *karma*, one may be born into a higher station in the next life (the castes and *jatis* are the hierarchically understood ordering of souls' stations through the chain of human worth towards *moksha*). "The human being" one sees today may be a reincarnated rabbit. In orthodox Hindu thinking, human suffering can be justified as deserved. How different, then, is the perspective of the contemporary, liberal rights theorist who writes that human beings "share a 'nature,' in virtue of which some things are good for every human being – some things are valuable for (and so, should be valued by) every human being—and some things are bad for every human being – some things are harmful to (and so, should be disvalued by) every human being" (Perry, 1997: 475). And how different would be the contention that some aspects of human suffering are incidences of human rights violations, having no relation to the actions or merits of the individual, and that remedying them is the duty of others.

The “human dignity” language that is central to some theorists’ understanding of the ground and source of human rights (e.g., Donnelly, 1989), and that is featured prominently in the opening language of the Universal Declaration of Human Rights and other instruments, is also complicated by some theological positions. The discourse of dignity is quite subjective in terms of defining lives, or the quality of lives, of intrinsic value. One conservative Christian writes, “A survey of the most challenging philosophies of human rights has left us with no adequate foundation for human dignity” (Traer, 1991: 53). The true foundation, of course, he finds in the Christian faith. Some theological schools within every religion will understand women’s dignity to be tied to their secondary status at home, in public, and within religious institutions. Others may consider a person’s dignity to be tied to his or her acceptance of the suffering caused by what are, to others, human rights violations. Religious individuals themselves, the very subject of “rights” concern, may believe their dignity to be tied to their low status, and may concretely experience material gains from the lack of certain rights. A particular complication in the intersection of religion and human rights is that in no other context is negative advantage so likely to be so directly linked to what a person genuinely understands to be the pursuit of the good. “Dignity” language itself is often not at issue between secular and religious rights theorists, but rather what comprises dignity, and whether the criteria for human dignity should be different for different groups of people.

A final issue in the consideration of theological foundationalisms is the belief among some religious communities that rights are legitimate only to the extent that they can be “found” in sacred texts or laws, and that if they are indeed endorsed by holy scriptures or laws they are required to be enforced. Rather than bolstering support for proactive human rights norms, this approach sometimes enshrines discriminatory practices such as unequal inheritance for sons and daughters, summary executions, unequal access to divorce, etc., all using the rhetoric of human rights. Some fundamentalist (dominionist) Christians interpret the Book of Leviticus as ordaining the “right” of states to execute homosexuals who are sexually active. One Pakistani cleric, Mawlana Mawdudi, has defended what he views as the Qur’anic mandate for women’s “right to chastity” (Bloom, 1996: 320). His theological and political opponents say that he is manipulating both the rights idea and Qur’anic exegesis to support the veiling and

seclusion of women, that chastity is a woman's choice, and that freedom from rape should be substituted as a genuine rights concern regarding women, sex, mobility, and violence. Similarly, the stated "right of women to live with their husband" is critiqued as a loophole by which polygamous men avoid having to support multiple households.

John Warwick Montgomery is a law professor who, like many fellow evangelical Christians, is concerned about what he sees as the overt individualism within the human rights idea and its essential androcentrism (rather than theocentrism). He writes, "From a biblical perspective, 'rights' as such do not exist." He is correct. "Human rights" – standards of treatment and of justice to which every human being is entitled simply because they are human – do not exist in the sacred texts or the theological history of any religious community, regardless of practitioners' identification of vital concerns for social justice within their tradition. Happily, Montgomery finds human rights to be identified throughout the Bible, covering every social and political issue imaginable. These interpretations are far from airtight, however, in terms of their argument, and leave extraordinary room for interpretation. Freedom of thought, conscience, religion, expression, assembly, association, and movement he finds referenced in John 7:17, which reads, "Anyone who resolves to do the will of God will know whether the teaching is from God or whether I am speaking on my own." The "right to a prompt trial" he locates in Ezra 7:26: "All who will not obey the law of your God and the law of the king, let judgment be strictly executed on them, whether for death or for banishment or for confiscation of their goods or for imprisonment." The "right to family life," which he identifies in I Timothy 5:8 ("And whoever does not provide for relatives, and especially for family members, has denied the faith and is worse than an unbeliever"), has the same troubling overtones as the "right to chastity" of Mawdudi for those who are critical of the New Testament Household Codes (of which this is part) for their subordination of women. For Montgomery, salvation from hell is at stake in whether Christians participate in securing human rights. What are all positive laws, all international human rights law, worth in the face of the laws of the creator of heaven and earth? Secular law is helpful and good, but it is nothing in the face of laws instituted by God Almighty. Human rights are biblically mandated; they are a part of God's salvific plan for humanity, and if individual humans do indeed wish to be saved, to be judged positively at the end of

time, they will work to ensure human rights as they are delineated in no less a text than the Holy Bible (Montgomery, 1986).

Freedom

A strong tendency within the three religions under consideration is the spiritualization of the understanding of freedom. Freedom is a metaphysical rather than a physical state, one that primarily exists in relation to God (or the divine) rather than other persons. In Islam, Allah grants an individual the original freedom to exist, as well as the freedom to become more fully human with the passing of time, through increased devotion to God and observance of the religion's teachings. The understanding of freedom that is communicated in the international human rights instruments – freedom to engage in certain actions, freedom from various types of harm, freedom from restraint, practical bodily liberty – is not a part of traditional Islam's understanding of human freedom. Abdul Aziz Said writes, "Personal freedom lies in surrender to the Divine Will, and this must be sought within oneself. It cannot be realized through liberation from external sources of restraint." He continues, "Since absolute freedom belongs to God alone, the individual realizes freedom by seeking God, the author of human freedom. There is no freedom possible through rebellion against this principle which is the source of human existence. To rebel against it in the name of freedom is to become separated from the potency and grace of the Divine and to lose inner freedom, the only real freedom." (Pollis and Schwab, 1979: 87-96)

Similarly, *Shari'a* is understood not to be binding or limiting to a believer but an instrument of true freedom. *Shari'a* spares believers the possibility of freedom's opposite – enslavement to lies and false living. If it appears to be imposing restrictions upon human capabilities or autonomy, it is actually serving to remove negative opportunities, the freedom to stray morally or to do evil. Any restrictions placed by *Shari'a* on outward actions are intended to promote legitimate freedom, the freedom that counts, the fullest freedom in one's spiritual life. The law is beneficent in every respect, even when it serves to contradict human will in a given situation, as it all serves to lead the believer to salvation (UNESCO, 1986: 208).

In traditionalist Hindu understandings, similarly, physical freedom – the freedom to make choices about one’s particular circumstances or to be free from harm – is not the desired goal. Human agency in most matters is not at issue because of the understanding of the individual’s immutable particular placement in the cosmic order. True freedom is not understood as “freedom of the will” but “freedom of the self,” or freedom from “ignorance, evil and ill-will.” The person who is truly free is the one who has achieved a detached consciousness, who has achieved a spiritual existence far above external laws and mundane constraints (Peden and Yeager, 1993: 29). Of course, such a detached consciousness can exist in a person who is denied most basic rights, including those considered consistent with one’s basic *dharma*. The freedom of choice that does inhere to the individual is the freedom to follow inclination or obligation, lives of *dharma* or *adhharma* (duty/order or its opposite) inspired by the innate attitudes of their particular *karma*. People are free to “make or mar themselves,” writes one Hindu scholar (Peden and Yeager, 1993: 238). Those who follow their obligation will be happy; they will be freed of their passions and desires (Peden and Yeager, 1993: 49-50). What limits a person’s freedom are those things not related to the *atman*, the true soul, and from these things that detract from one’s true self a person must struggle to be free. Actions arising from a “desire” for human rights could well be discouraged in this understanding of human agency and freedom.

Christianity has traditionally understood freedom to be granted not by a state or by persons but by God. There is a strong duality between one’s inner life and one’s outer life. The Christian may understand himself to be completely free even when in physical captivity. Truest freedom is spiritual independence from the empirical world (Rouner, 1988: 44). Christianity does not view the world as something illusory to be overcome, but as something with the power (because it is fallen) to corrupt their ability to love and obey God. A Protestant theologian writes, “Freedom is not the goal of political action; it is the presupposition. It is founded in the religious conscience, in the religious self-awareness of people who are free in faith and therefore not dependent on the state for that condition which constitutes them as free persons.” Christian partnerships with secular rights advocates will be an effort to create a temporal mirror, an embodiment or

institutionalizing, of the true freedom of the soul already granted to all people (Rouner, 1988: 35).

Christian freedom means that each person is able to choose in every moment whether or not to live obediently. Fr. Bryan Hehir, a Catholic moral theologian, writes, “In the Liberal position, the principal meaning of freedom is ‘freedom from’ interference in the exercise of one’s rights. In the Christian position, the deepest meaning of freedom is ‘freedom for’ engagement with others in society” (Thompson, 1980: 9). The responsible exercise of freedom in the public realm is imperative. But because the image of the divine within humanity has been deformed by sin, it is understood that a faultless exercise of one’s freedom is impossible. Christianity teaches a second kind of freedom in Jesus Christ, whose death and resurrection free humanity not from sinful acts but from the consequences of those inevitable sins. One will not be able to stop from sinning, but with repentance one will be forgiven them. The Christian, therefore, is freed to live into her holy responsibility to God, self, and others, and freed to live forgiven of her imperfect response to divine love and trust. True freedom is always God-given and Christ-mediated, a product of divine/human relationship.

Freedom is a double-edged sword in these three religions. It is the key to success/*moksha*/salvation, one’s positive judgment by God after death or release from the cycle of rebirths. But the soteriological consequences of deviation, of using one’s freedom unwisely, have ultimate ramifications. For those who fear damnation or eternal rebirth into lesser status and greater suffering, the use of one’s physical freedom to advocate for material changes in rights may be deemed a terrifying gamble that simply is not wise. In addition, the meaning and causes of current suffering may not be understood as issues of human rights but as the inevitable result of one’s misuse of personal freedom. The Fall, negative *karma*, divine punishment, and other rationalizations may persuade individuals that constraints on their physical freedom are the result of their own misuse of their spiritual freedom. These persons may also believe deeply in theological teachings that generally support restrictions on their freedom or their lesser status in society. If freedom of religion is indeed a fundamental human right, there is a particular irony in the fact that every person has the right to hold theological opinions that detract from their material freedom, that subordinate the freedom of others, and that entitle themselves,

generally, to exempt themselves from abiding by or enforcing rights norms that they believe to contradict their religion.

Equality

As with the concept of freedom, equality as a concrete value is frequently spiritualized, taken out of the realm of interpersonal, horizontal relationships and understood vertically in terms of each individual's relationship to the divine. Between human beings there is equality of spiritual value, which is crucially important for all believers to understand. That equality of spiritual value, however, does not have to (and in certain circumstances absolutely must never) translate into equality of practical human value. What is fair in the religions is not always what is equal. It is on the question of equality that freedom of religion as a discrete rights norm is most in conflict with other categories of human rights.

The common origin of all people in Adam and Eve is considered to be evidence, by some Muslim religious leaders, of the basic equality of all humanity (Siriwardena, 1987: 145). All people are equal in their "transcendental purpose" of living a life of greatest religious obedience. Allah is said to accept with equal merit the faithful practices of all Muslims, including prayers and fasting, almsgiving and pilgrimage. There is a tendency in traditional Islamic thought to consider equality as having integrity by category – equality is achieved when all "believing" men are treated the same way, all "believing" women have the same treatment, and the same treatment is experienced by all "people of the book" (monotheistic religions that predate Islam -- Jews, Christians, and (to some) Zoroastrians), all followers of other religions, all apostates, etc. Equality *across* these categories is unreasonable either because people have essentially different "natures" (women and men) or different levels of relationship or adherence to the laws of the Muslim religion.

Hinduism has taught, historically, that the remedy for visible inequalities of class, caste, gender, or any other category is the individual's righteous actions during his or her lifetime. All humans share the most elemental and important criterion: the equality of opportunity to improve their situation (and advance in the chain of rebirths) by living in loyal accord with their *dharma*. Social, moral, and material inequality has been

earned. One Hindu scholar says, “the opposite of equality is not hierarchy but order, and the opposite of *dharma* (duty) is not right but license” (Siriwardena, 1987: 25). What may appear to be extreme inequality is actually order, and proactive advocacy to repair that perceived inequality may be viewed as unconscionable.

Christianity, meanwhile, has done a sadly exemplary job of finding theological and biblical rationales for existing, unequal social relationships, superimposing divine approval on inequity or discrimination. Slavery, anti-Semitism, the subordination of women, and support for military actions have been justified, at least in part, on deeply held beliefs on the inequality of the human and social value of the actors. The earliest decades of the religion’s history bear witness to radically new (and positive) ways of understanding human equality, yet also are testimony to the adaptability of Christian teachings to accommodate local prejudices, as the first generations of missionaries spread their message. In fact, biblical texts can and do support inequality based on religion, economic class, gender, sexual orientation, social status, level of religious accomplishment, and other factors. They also support the opposite. The same is quite true, of course, for the texts sacred to Islam and Hinduism; the crucial factor is how adherents decide to use them.

In sum, these genuine differences in theological and philosophical perspectives between the religions and the human rights notion have caused some to describe the rights idea as inappropriate for their culture or society. Others have gone so far as to describe rights advocacy by “the West” as cultural or theological imperialism, the imposition of foreign values. Conservative Christians have a different source of uneasiness with the rights concept: it is dangerously familiar. Human rights have the ability to overwhelm classic Christian theology and liturgy. One mainstream theologian, Max Stackhouse, has warned of the possibility of substituting the biblical and historical God with “the Great God Freedom” if the rights idea is permitted too much theological influence (Stackhouse, 1984). The requirements of justice from fellow humans become too centralized, the value of the human being becomes overly important and divorced from its dependence upon God, and worship is reduced to calls for rights rather than the praise of God.

Theological challenges in applying human rights

What is theological? What comprises a genuinely religious element in a question of rights violations? Where does culture come in, and non-religious, regional tradition? Who decides what is authentic regarding a practice, especially the legitimacy of claims to religious immutability? Are clitoridectomy and infibulation “Islamic” practices or rather regional, cultural ones, even pre-Islamic ones, that have been assimilated into the current practice of Islam and since been read into interpretations of the Qur’an and *hadith* – eiseged rather than exegeted -- and thus legitimated as religious practices?

When we met together last April our paper from Hans Peter Schmitz asked us to consider the question of the legitimacy of external actors. This question is also relevant in cases of alleged rights abuses sanctioned by religion. There is great resistance, generally, to critiques of practices, traditions, or textual interpretations by people who are not members of the immediate religious community. Indeed, practices have meanings on multiple levels that may be unintelligible to those outside the group (the consumption of bread and wine as mere eating, or as representational cannibalism, or as integration/ingestion of the divine, etc.). The best approach is to permit the agents/subjects themselves to define what has religious or theological integrity for them. If there are indigenous theological refutations, those voices can be supported discreetly by those advocates, and if they are willing, these same advocates can reach out to and welcome the collaboration of totally external actors/supporters.

Even harder to address are those situations of the real theological underpinnings of inequitable treatment – of human rights violations – that simmer far below the surface yet are difficult to identify as such. The insidious pervasiveness of son preference, for example, is deeply rooted in religions such as Hinduism, and is significantly at issue in the sheer numbers of “missing” women and girls in India. The religious necessity for sons to light parents’ funeral pyres, the religiously informed personal status (or “family”) laws that funnel family wealth and inheritance largely to sons, the pervasiveness of those religiously-approved dowry systems by which women transport family resources into their husbands’ families – all of this supports the abortion of female fetuses, the intentional under-education of girls, and the providing for them of significantly fewer calories than their brothers. Arguably, theological perspectives also contribute to

domestic violence, caste-based violence (toward dalits and others), and very different forms of legal status and of bodies of law for people in different religions. Theological perspectives are at the root of these issues but can be difficult to pinpoint as such.

Another challenge introduced by theological perspectives is that some governments – the supposed implementers of human rights – are not separate from religious institutions. The courts, state offices, educational institutions, and other systems are regulated to a significant extent by a ruling religious hierarchy or school of theology. This is the case not only in self-proclaiming “theocracies” such as Iran; witness, to varying degrees, Nepal, Thailand, Ireland, and others. Some states or localities with dominating religious institutions understand their duty to be the protection of individuals from making choices that detract from their chance for spiritual success or salvation. They defer to religious courts, or allow secular courts to decide cases on the grounds of dominant religious perspectives.

Underneath the majority of the rights concerns that have been referenced in this paper are intra-religious questions of justice rather than inter-religious ones. The United Nations instruments that refer to religious freedom are of limited assistance in the rights abuses that underlie the present discussion. In general, they are applicable to questions of rights violations between religions rather than within them. The Universal Declaration of Human Rights asserts a right to the free practice of one’s religion, ostensibly without interference from those of other religions. “Free practice” may be held to mean that one can practice a religion without censure from co-religionists, but in practice the language speaks more to inter-religious questions than to intra-religious ones. The Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, a completely non-justiciable and non-binding declaration, provides little support for individual believers to challenge theological concepts that impede their enjoyment of particular human rights. The emphasis is on respect for the practices of those of other faiths, with little real relevance to reformers within religious traditions or those who understand their rights abuses to be perpetrated by co-religionists in the name of theological integrity. The documents assume that the malefactors are people outside of the religious community rather than local or national religious leaders, or family members.

Mention has been made above of the theological use of the human rights idea to promote particular religious agendas (e.g., the “right to chastity”). Rights language, generally, is of growing interest to conservatives/traditionalists in every tradition. “Human rights” as a concept enjoys significant moral power, and perhaps political power as well. Evangelical Christians, for instance, show a growing propensity to use the discourse of rights to support their efforts at proselytization, since “freedom of religion” certainly must revolve around the opportunity to practice “true” religion, or issues advancing their political and theological agendas. An examination of some conservative Christian pronouncements on the importance of religious freedom shows that an overwhelming concern is for the welfare of Christians around the world (see, for example, sites such as www.human-rights-and-christian-persecution.org or www.csi-int.org). One hopes that every religious community will flourish, but the adaptation of rights language to fit the possible expansionistic agenda of a particular group seems to be missing something. There is also a movement among evangelical Christians to promote or understand “forgiveness” as part of the project and scope of human rights. The Truth and Reconciliation Commission in South Africa has deeply connected the idea of forgiveness to its plan for healing and for the promotion of rights in that country. Forgiveness may indeed be the way forward in any number of situations of rights infringements (Amstutz, 2004; Lutter, 2004). It is difficult not to be concerned, however, that an emphasis on forgiveness will not be linked to a nullification of culpability for past rights abuses or on non-legal responses to current or future ones.

Similarly, rights language is used regarding evangelical Christian charity towards the poor. Filling empty bellies is fine, but the lack of a systemic understanding of *why* people are hungry is lamentable, and of why adequate food is a *human right*. The rhetoric of rights is becoming, in these circles, a neutered practice of meeting immediate physical needs (perhaps for evangelistic purposes) rather than serving as a concept that challenges the world community to think categorically about specific items of justice to which no person should be denied “simply because they are human.” In a similar vein, there are growing concerns about the new evangelical commitment to environmental conservation. Environmentalism is certainly a good thing, but the evangelical commitment is stemming from a new determination to act on the text of Genesis 1:26, in

which humans are said to have “dominion” over the earth. Such domination is understood by others to be an initial source of the environmental crisis, a perspective that places human beings in a superior condition of control. Some evangelicals now are saying that humanity needs to manipulate the environment responsibly. Most environmentalists say, rather, that humanity needs to understand itself as part of the created order and not as its pinnacle and leader. Simultaneously, and particularly in the wake of Hurricane Katrina, African-American religious communities are finding the concept of “co-stewardship” with God to be an uplifting metaphor for organizing themselves to work for environmental justice. They are claiming the idea of the “stewardship” of the earth as one of empowerment and a long-awaited source of advocacy for human rights generally. In every religious community, the growing use of the rhetoric of human rights has multiple uses.

Perhaps the new participation of evangelicals in the work of human rights can be based upon – or will eventually transform into – a profound commitment to a foundational quality of life for every human being “simply because they are human” rather than an agenda to protect Christian communities in non-Christian or non-democratic societies, or to perform immediate acts of charity for the suffering. Both of these things are not bad, in and of themselves, but they are not performed with the same political and theological understanding of an ongoing, undifferentiated commitment to the idea of fundamental human rights for every human being.

Theological responses to theological challenges

In each tradition there are women and men who seek to answer theological challenges to the human rights idea with competitively theological retorts. Hindu respondents have both a harder and an easier task than those in other traditions. It is harder because Hinduism is so much more diffuse, diverse, and uncodified. Sacred texts do not have the same spiritual authority as in Islam and Christianity, for instance. The work of reformers is easier for the very same reasons, however. In helpful ways, Hinduism is diffuse, diverse, uncodified, and its seminal texts lack the extreme authoritativeness of others’. In recent decades the focus of many Hindu reformers has been gods and goddesses. Proud of the fact that Hinduism is a religion with a

multiplicity of deities whose experiences reflect a wide variety of actual human experiences, supporters of god/dess reappropriation are of the opinion that greater emphasis on the pantheon of deities only broadens the acceptability of the real experiences of women and men. A female object of worship, for instance, can only help to elevate the status of women. Some supporters of women work to refashion the image of the most popular goddesses, such as Sita and Parvati, into models of strength and autonomy. Lina Gupta, for instance, has described Kali as a goddess with potential for reformers of Hinduism's patriarchy. Kali has *stri shakti*, or "women's power;" she is independent, fierce, and strong. Kali transcends duality, according to Gupta, and can be a source of "social and spiritual liberation for all women and men" (Cooley et al., 1991:15). Other reformers, such as Kancha Ilaiah, think that even Kali is not going far enough away from the patriarchal Hindu mainstream to be an effective model for women and men, that she is still part and parcel of elitist Brahminical Hinduism. Rather, it is in the local, dalit goddesses such as Pochamma (in Andhra Pradesh) who exist in a mythical world without husbands, caste or class allegiances.

Still other commentators, such as Rajeswari Sunder Rajan, question the ability of any god/dess to aid in restructuring Hinduism along more rights-abiding lines. They claim that all divine figures are so embedded in mythologies of subservience and domination that they are beyond all reclamation. The whole project is a dicey one, according to Sunder Rajan, as the re-appropriation of god/desses is being employed simultaneously by Hindu nationalists as well as progressive reformers. The conscious, intentional reinterpretation of religious history, texts, and characters is an important task but, say Sunder Rajan and others, it must always be done in the context of positive political, social, and economic changes, rather than greater ideologies (such as Hindutva) whose imagined society is not always affirming of human rights (DeKoven, 2001: 212-226).

Some Christians, likewise, are working to reform their tradition into one that affirms human rights in every way. They understand that the Bible, classic theological formulations, history, and tradition are steeped in some rights-denying norms, but also believe that each of these is a matter of a particular (if popular) interpretation of the tradition that is not intrinsic to it. They work to reconstruct essential biblical exegesis, as

well as the foundations of Christian theology and symbolism, into ones that are intentionally supportive of the idea of human rights, as they name racism, anti-Semitism, sexism, heterosexism, and other items as sins, as things that separate individuals and communities from God, that encourage domination and subordination, and refute essential human equality and human rights. Some Christians focus their re-envisioning efforts on historical characters such as Jesus and Mary, attempting to reclaim their original, liberating intentions. Jesus is understood to have radically challenged the gender and class stratification of his era (and therefore he would do the same today). Biblical accounts of his interactions with marginalized people, along with numerous social and material teachings attributed to him, are said to show that he viewed all people as having radically equal human value. Some reformers work to highlight the liberating potential of certain biblical texts and to put negative ones into historical/critical perspective, placing them in the context of the discriminatory culture in which they were written, and declaring that they are evidence not of divine will but of the human writer's personal bias. For many, the cornerstone of the Christian social message is one that defies every form of human domination.

Muslims are engaged in very similar, intentional work to create theological and practical change within their religious tradition. Azza Karam identifies three kinds of theological activism in her native Egypt whose focus is positive change in religious culture. The first group is those who work for change in Islamic society without attempting to revise the discourse of Islam. Their demands for full rights for all people are based in the international human rights instruments. They portray religion as a matter of individual preference and concern, and make no attempt to reconcile religious teachings and rights principles. They view religion as a completely inappropriate source for the establishment of rights norms (Marchand and Runyon, 2000: 200).

There are also those, such as Fatima Mernissi and Riffat Hassan, whose intention is very much to harmonize religious teachings and rights norms (Mernissi, 1991). They make full use of the Qur'an, Sunna, and other sources to support their claims for human equality. They view the realization of human rights as doomed within Islamic cultures if the norms in question cannot be reconciled with texts and teachings. They are concerned that a separation of religious and rights discourses will inevitably leave the conversation

solely in the hands of Islamists. In working to revise texts and practices that they consider misinterpreted, they strive to recover helpful traditions that are neglected by traditionalist interpreters (Cooley et al., 1991: 39).

In the opinion of a third group, proper Islamic values are under attack from external notions of equality, and all Muslims suffer as a consequence of trying to attain this foreign interpretation of equality. Women, for example, are “forced” to go out and work, to compete with men, and be humiliated and disrespected in the process. Extra burdens are placed on all, who are expected (and expect themselves) to be “superhuman.” The invaluable purpose and integrity of every person will be maximized to the extent that a society lives by *Shari’a* (Marchand and Runyon, 2000: 200-206).

Liberal Muslim scholarship accompanies these varying approaches with a similar diversity of perspectives. The first views “original” Islam as simply not in line with the modern understanding of human rights. The second views the earliest forms of Islam as compromised in practice but not in intention, and therefore recoverable. The third permits only the Qur’an as an authoritative source, viewing all others as corrupted and therefore inauthentic. A fourth calls for a whole new *ijtihad*, or interpretation of tradition. A fifth, the Mùtazila school of rationalist Islamic theology, has challenged the traditional idea that the Qur’an is “eternal in God.” Other modern epistemologies have similarly desacralized the Qur’an, emphasizing its daily applicability and contributions rather than its eternal or divine nature (Bayes and Tohidi, 2001: 24). The debates are vigorous within various activist and intellectual circles on the value and potential of Islam in ending rights infringements.

Ghazala Amwar is one intellectual who cautions against any use of fundamentalists’ paradigms by fellow Muslims who wish to ground universal human rights within an Islamic perspective. Her caveat has resonance for other religious traditions as well. She notes that reformers tacitly promote “the absence of a secular state.” Because they do not frame a theological basis *for* a secular state, they concede ground to fundamentalists on this point. Additionally, reformers’ heavy emphasis on the importance of authoritative interpretations of sacred texts, on the earliest periods of the community’s history, on return to the original, guiding ethical principles of the (then) new religious group, and on selective retrieval of traditions and texts to the exclusion of

ones that challenge their agenda, only reinforce and legitimate the fundamentalists' terms of theological and doctrinal discourse. In the end, writes Amwar, "by relying on an idealized past as the authority to justify their arguments for reform, reformists tacitly consent to a patriarchal framework." However, she cautions that for reformers simply to eliminate religion from the conversation altogether would subtract any legitimacy for their argument in "the hearts of the lay masses." Presumably, it would confer ownership to traditionalists of all religious interpretation, and hence the power to shape moral norms. Her alternative is for reformers to begin their discussion not with the paradigms of the fundamentalists but with the idea of the secular state and, using universally acceptable tenets of faith (such as "God's justice and mercy"), construct a rationale for the secular state as *the* political arrangement that will best aid Muslims in their attempts to live as faithfully as possible (Howland, 1999: 305).

In addition, reformers from all religious communities are challenging religion-based rights infringements far from the fields of theology and scholarship. They are establishing non-governmental organizations whose purpose is religious change and rights enhancement (for example, the Dalit Rights Center and Women Living Under Muslim Laws). They are constructing new rituals and ceremonies as substitutes for ones that harm certain members of societies. One community, for instance, has found that the most successful attempts to curb clitoridectomy and infibulation have come through the construction of alternative rituals for acknowledging sexual maturity for girls. Group consensus and cultural legitimacy are the keys to successful transitions in rituals and religious attitudes. In the process, discriminating practices and theologies come to be viewed as no longer safeguarding people as they might have done centuries ago. In this way the claims by religious authorities that unfair practices are "justice" or that international rights norms are negligible can be confidently, and popularly, dismantled.

In conclusion, many scholars, religious leaders and activists are proactively working to ensure rights for all within their communities. The foundation of their work must be theological education on the compatibility of their religion's teachings with those rights norms that are at issue. This education likely will need to be at the grassroots level, as educational institutions may be run by religious hierarchies that do not support rights initiatives and because, in some locations, people are illiterate. Positive rights law

is helpful, but until theological attitudes and beliefs are changed, rights infringements will continue.

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