

# Human Rights and/or Religious Ethical Values?

## Examining an Ambivalent Relationship

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### Introduction

**W**hat lies behind the current ‘international war against terror’ sees to be a conflict between two kinds of ethical convictions or perspectives: one is based on religious values of tradition, and the other, on the liberal values of the human rights tradition. On the one hand, Osama bin Laden and his Islamic fundamentalist and militant *Al Qaeda* network consider defense of Islamic religious values as one of the main reasons for the series of terrorist attacks they wage against the West, especially the US.<sup>1</sup> They accuse the Western ‘infidels’ of globalizing the liberal ideology which is perceived to be in serious opposition to the fundamental tenets of the Islamic tradition. On the other hand, counter-terrorist attacks and military invasions and occupations (of Afghanistan and Iraq) have been justified as an effort to correct the human rights violations prevalent in those countries.<sup>2</sup> Whether such claims are defensible is not the focus of our investigation. The complexity of the situation would require multiple levels of analysis. What we deem important to examine in this paper is the relationship of the ethical presuppositions upon which political and military actions are sought to be justified. An assessment of the global conflict requires a closer investigation of the relationship between the human rights tradition and the ethical values of religions which operate as ideological

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1. See transcriptions of some statements of Osama bin Laden against the West, *Anti-defamation League*, [http://www.adl.org/terrorism\\_america/bin\\_l.asp](http://www.adl.org/terrorism_america/bin_l.asp) (access 07.06.04).

2. See speeches of George Bush about the war on Iraq, *The White House*, <http://www.whitehouse.gov/news/releases/2003/02/20030226-11.html> (access 07.06.04).

presuppositions of the competing forces. What accounts for such kind of relationship? Are they necessarily irreconcilable?

The relationship between the ‘human rights tradition’ and the ethical values of religions (Hinduism, Buddhism, Judaism, Christianity, Islam, etc.) has a shade of ambiguity. Human rights advocacy is supported by and is even appreciated as an expression of the values of the great religious traditions; yet violations against them seem to form part of the very system of the same traditions. Is such ambiguity a mere case of inconsistency between belief and life or between theory and practice within particular systems or traditions of rationality, or is it more a real tension between two different types of structures or systems of beliefs and practices? This paper aims to examine that tension and attempts to give some explanation along historical, political, and philosophical lines. A description of the ambivalent relationship between the two will precede the discussion. Certain reflections toward a healthy encounter will form part of the conclusion.

## **Religious Ethical Values & Human Rights Tradition: An Ambivalent Relationship**

Defense and promotion of human rights have become part of the claims of many religions as expressions of the very values they uphold. Within the Catholic Church, Jack Mahoney observes a complete reversal of the attitude of the *Magisterium* from an outright rejection of human rights in the past (e.g. Pius VI exclaimed in his papal brief to Louis XVI of France, “human rights was a monstrous idea”) to a very positive endorsement and championing of it in very recent times (e.g. John XXIII, *Pacem in Terris*, 1963, # 40 ; John Paul II, *Sollicitudo Rei Socialis*, 1987, # 25).<sup>3</sup> Liberation movements within religious traditions are proofs of such commitment to, and alliance with, human rights. Methodist Jose Míguez Bonino writes,

[T]he drive toward universality implicit in our Christian faith, which found partial expression in the quest of the

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3. Jack Mahoney, S.J., “The Basis of Human Rights,” in *Moral Theology: Challenges for the Future*, ed. Charles E. Curran (New York: Paulist, 1990), 313.

American and French revolutions, the aspirations expressed in the UN Declaration, finds its historical focus today for us in the struggle of the poor, the economically and socially oppressed, for their liberation. At this point the biblical teaching and the historical junction coalesce to give the Christian churches a mission.<sup>4</sup>

The freedom of the human spirit to achieve the full blossoming of the human potentials generally forms part of the creed of many religious traditions. The promise of liberation and/or salvation of humans from bondage, though understood in different ways (spiritual, moral, political and/or physical), is one of the common elements perceivable in the vision of the major religions. This general assumption explains why we see adherence of varied religious traditions to human rights. Robert Traer observes that “within the major religious traditions of the world today, there are many leaders who have embraced human rights as expression of their faith.”<sup>5</sup> Human rights advocacy has become global, cutting across cultures and traditions of beliefs and practices. To bring home the point even more clearly, Louis Henkin suggests that “all the major religions proudly lay claim to fathering human rights.”<sup>6</sup>

In Islam, respect for human rights is regarded by the *Ulama* (judges) as an integral part of faith. “A man cannot be considered religious in the true sense of the word if he does not grant the rights of his fellowmen [sic].”<sup>7</sup> It is not on the amount of prayer that one has that he or she will be judged but on how one deals with others. Speaking about the place of human rights in Judaism, Hair H. Cohn writes, “Because of their faith, Jews are urged to be involved in the

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4. Jose Míguez Bonino, “Religious Commitment and Human Rights: A Christian Perspective,” in *Understanding Human Rights: An Interdisciplinary and Interfaith Study*, Proceedings of International Consultation held in Dublin, 1978, ed. Alan D. Falconer (Dublin: Irish School of Ecumenics, 1980), 32.

5. Robert Traer, *Faith in Human Rights: Support in Religious Traditions for a Global Struggle* (Washington, D.C.: Georgetown University Press, 1991), 1.

6. Louis Henkin, “Human Rights: Religious or Enlightened,” in *Religion and Human Rights: Competing Claims?*, ed. Carrie Gustafson and Peter Juviler (London: M.E. Sharpe, 1999), 32.

7. Robert Traer, *Faith in Human Rights*, 123.

advocacy of human rights.”<sup>8</sup> This obligation flows, he holds, from the mandate of the Jewish law that emanates from direct or indirect divine revelation. Christianity claims to have also made a historical contribution to the development of human rights tradition. Trutz Rendtorff argues that the Christian view of person as a responsible self is a major influence on the modern concept of human rights,<sup>9</sup> a point we shall develop later.

These affirmations of the positive relationship between human rights and religious values have to be qualified, since conflicts and tensions have also been part of that relationship. Describing such ambivalence, Hendrik Vroom says, “Religious traditions may support human rights, but will interpret them, select their own priorities and possibly reject some.”<sup>10</sup> The hermeneutic paradigm with, or from, which an institution or person views reality will have serious repercussion on how one will respond to the reality at stake. We see this in the case of the reading of *Bhagavadgīta*, a source of Gandhi’s inspiration for *ahimsa*, on the one hand, but a scriptural basis of the action of his murderer (Nathuram Vinayak Godse), on the other hand.<sup>11</sup> Along the same line of thought, there are interpretations of Hindu texts that are supportive of human rights, just as there is hostility to its implementation especially among Hindu fundamentalists.

The negative posture of religious traditions vis-à-vis the promotion of human rights has been clearly stated by Abba Hillel Silver. He claims, “Religion was not only tardy in championing human

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8. Hair H Cohn, *Human Rights in Jewish Law* (New York: K'TAV Publishing House, 1984), vii.

9. Trutz Rendtorff, “Christian Concepts of the Responsible Self,” in *Human Rights and the World Religions*, ed. Leroy S. Rouner (Notre Dame: University of Notre Dame Press, 1988), 35.

10. Hendrik Vroom, “Religious Ways of Life and Human Rights,” in *Human Rights and Religious Values: An Uneasy Relationship?*, ed. Abdullahi A. An-Na’im, Jerald D. Gort, et al. (Grand Rapids, MI: William B. Eerdmans Publishing Company, 1995), 24.

11. Rein Ferhort, “Combating the Enemy: The Use of Scripture in Gandhi and Godse,” in *Human Rights and Religious Values*, 120.

rights; at times, it was actually retarding and reactionary.”<sup>12</sup> Christian religious tradition that claims responsibility over the development of human rights is not exempted from the above indictment. In fact, one wonders if it is at all valid to speak of any ‘Christian tradition’ of human rights, considering that the Christian church has not historically been in alliance with the pioneers of human rights. In the name of religion and religious values, human rights has been violated and human dignity trampled down.

History shows a long record of how religious institutions and traditions have become instruments in the exploitation and oppression of individuals and peoples. In the earlier times among primitive communities, human sacrifice to the ‘gods’ was not an uncommon religious practice. Widows burnt with their dead spouse in Hindu cultic practice; women circumcision in some African indigenous religions; the Hindu caste system in India; the inquisition and the indexes in the Catholic Church, among many others, constitute some of the bad memories in the history of different religious traditions. Remnants of these practices continue to exist and find adherents and defenders even in contemporary times and contexts.

Religious freedom remains to be denied in some currents of interpretation of the Islamic (*Shari ‘a*) and Jewish laws.<sup>13</sup> “Some religions have not escaped the brush of slavery. Others have been charged with propagating or tolerating hatred in some groups.”<sup>14</sup> One notable area of concern for many religions is their failure to make a commitment to gender sensitivity and equality. Women’s rights are held in abeyance, if not totally denied, in many religious traditions. In a rural area in Bangladesh in the early 1980’s, for example, local *mullabs* (Islamic religious leaders) denounce women, who work outside the house and talk with men other than their husbands, as whores.

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12. Abba Hillel Silver, “Prophetic Religion and World Culture,” in *Religious Faith and World Culture*, ed. Amandus William Loos (Freeport, NY: Books for Libraries Press, 1951), 138.

13. Hair Cohn, *Human Rights in Jewish Law* (New York: KTAV Publishing House, 1984), vii.

14. Louis Henkin, “Human Rights: Religious or Enlightened,” in *Religion and Human Rights: Competing Claims?*, 32.

In Pakistan, we recall the well known case of Safia Bibi, the blind 13-year old girl who was convicted in 1983 by the court to three years hard labor for adultery after her father filed a complaint of rape against her alleged assailant (employer and son) but failed to meet the requirement of the *Zina* Ordinance demanding for four male witnesses. In 1991, the Prosecutor-General, Abolfazl Musavi-Tabrizi, declared that “anyone who rejects the principle of the *Hijab* (dress code) is an apostate and the punishment for apostasy under Islamic Law is death.”<sup>15</sup> In 1993 in Jerusalem, there were groups of women whose petition for the freedom of religious exercise was denied by the Supreme Court. In our own Catholic tradition, women by virtue of gender, continue to be deprived of their full participation in the *ministerial* life and office of the Church. These are just few cases where human rights and equality are absent or denied in the discourses and practices of religious traditions. To summarize this section, we borrow Nussbaum’s observation of world religions’ uneasy relation with human rights. She claims:

The world’s religions, in their actual human form, have not always been outstanding respectors of basic human rights or of the equal dignity and inviolability of persons. Some, indeed, have gone so far as to create systems of law that deny the equal rights of persons and justify violations of their dignity and their person. Apart from law, influential religious discourse in many parts of the world threatens the bodily integrity and equal dignity of persons – and sometimes, even, their equal liberty of worship.<sup>16</sup>

The above discussion shows that there is an ambivalence in the way religious traditions stand in relation to the values of human rights. On the one hand, the relationship is characterized by the embrace and even the identification of human rights with religious values; yet on the other hand, it seems to be one of tension and opposition

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15. Martha Nussbaum, “Religion and Women’s Human Rights,” in *Religion and Contemporary Liberalism*, ed., Paul J. Weithman (Notre Dame: University of Notre Dame Press, 1997), 94-97.

16. *Ibid.*, 94.

rather than harmony. The discrepancy in the way human rights function within religious traditions seems to suggest that the latter come from very different presuppositions that structure their system of beliefs, perspectives and practices. This assumption becomes tenable if we could establish that human rights tradition (in its present mold) hails from a 'different' tradition. This task we shall do in the next section where we give a brief historical account of the emergence of human rights discourses.

## **Modernity: The Crisis of Religion and the Genealogy of Human Rights Tradition**

In traditional societies, religion has a central role in shaping a people's worldview and in legitimizing institutions and social practices. Sociologist Emile Durkheim defines religion as "a unified system of beliefs and practice relative to sacred things, that is to say, things 'set apart and forbidden'— beliefs and practices which unite into a single moral community called a church, all those who adhere to them."<sup>17</sup> Religion functions as an important determiner of social values and perspectives necessary for strengthening bonds within a social organization. It does so by providing individuals with meaning and a sense of belonging and identity. It serves the society as a whole in sustaining both the structure and culture, by providing the integrating and legitimizing ethos of society. In such type of societies, all aspects of societal life and institutions, like laws, politics, economics, among many others, revolve around religious worldview, drawing from there their own legitimacy. Morality is based on spiritual grounds. "The source of moral value, the particular choices of men and women had moral worth only insofar as they conformed with an external validating will and pattern, God's will or natural law."<sup>18</sup>

Such social landscape that we have just described is generally

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17. Emile Durkheim, *The Elementary Forms of the Religious Life*, trans. Joseph Ward Swain (New York: Free Press, 1965, [1912]), 62, cited in Keith Roberts, *Religion in Sociological Perspectives* (Belmont, CA: Wadsworth Publishing Company, 1990), 4.

18. John Chauvet, "A Critique of Human Rights," in *Human Rights*, ed. Roland Pennock and John Chapman (New York: Nomos XXIII, 1981), 32.

considered in the West as already belonging to the past, to a period, historians call 'pre-modern'. During that period, Christian tradition shaped the social life, providing, particularly through its narratives, the integrating and legitimizing ethos to social institutions. Within the socio-political arrangement of the medieval synchresis, society was composed of two distinct orders: the spiritual and the temporal/corporeal, with the Church enjoying authority over the former and the 'sovereign' (monarchs or feudal lords), over the latter. Both believed to have their authority (*Rex Dei gratia*) derived from God, whose will – discernible in the natural law (*ius naturale*) – they claimed to authoritatively interpret and positively legislate as ecclesiastical and civil laws respectively. Otto von Gierke claims that the concept of 'natural rights' of the individual was already part of the medieval political traditions as an extension of the medieval natural law theory. "[A]bsolute protection against Positive Law was due to those rights which were directly conferred by pure Natural Law without the intermediation of any entitling act."<sup>19</sup> Yet Gary Herbert finds Gierke's deductive interpretation misleading. Against Gierke, he argues that in the medieval social set-up, "[t]he individual remained subordinate to the sovereign, the Church, and God, and not yet distinct from his community, only now torn between their conflicting authority."<sup>20</sup> Individual rights did not really exist as they have always only functioned within a particular social network where the individual belongs. Belief in the absolute power of God and the indispensable role of the community characterized the whole matrix of the Christian lifeworld. This ethos that sustained society for centuries only began to encounter unsurpassable crisis with the emergence of modernity. The crisis of authority that resulted from the abusive and oppressive exercise of public power as well as from the tragic consequences of religious conflicts, especially in the 16<sup>th</sup> and 17<sup>th</sup> centuries, led to the epochal changes that happened in modernity.

Modernity can be characterized as a rupture from the chains of the uncontested authority of tradition. It is a resistance against allowing

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19. Otto von Gierke, *Political Theories of the Middle Age* (Cambridge: Cambridge University Press, 1951), 81.

20. Gary B. Herbert, *A Philosophical History of Rights* (New Brunswick and London: Transaction Publishers, 2002), 57.

the past to determine the course of events in the here and now embracing instead ‘novelties’ to characterize the mode of individual and societal life. Most historians agree that the new order of things began in the period of the renaissance. Unwilling to be enveloped by the dark nights of the Middle Ages, a strong movement emerged with a drive to go back to the Greco-Roman classics,<sup>21</sup> where the light of reason played a prominent role to dispel ignorance and fate (first enlightenment/humanism). This movement opened the floodgate of change loosening the social fabric of the European societies that used to rest dogmatically on religious grounds. Consequently, the spirit of liberalism triggered big waves of resistance in the different spheres of societal life. Commencing with the religious protest led by Martin Luther (1483-1546) during the Protestant Reformation,<sup>22</sup> which started in 1517, it catapulted to major social and political changes (with the American [1776] and French [1789] revolutions as important landmarks) and to the corollary evolution in human and social consciousness. The newly perked up human imagination resulting from the growing scientific revolution of the time, also gave way to a series of breakthrough in inventions responsible for the industrial revolution in the 1800’s and for the succeeding innovations in many different facets of human life. Within this historical development, there had been a perceivable shift from a theocentric and spiritualistic worldview to a humanistic enlightened philosophy. Religion, especially in its institutional forms, was deposed from the seat of power and influence. Human reason was enthroned. God-talk was held in suspicion and rejected as mere projection of an alienated humanity (Ludwig Feuerbach, 1804-1872);<sup>23</sup> a sigh of the oppressed or an opium of the people (Karl Heinrich Marx, 1818-1883);<sup>24</sup> an infantile illusion or compulsion (Sigmund Freud); all these resonating with the declaration of the ‘death of God’

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21. See Richard Tarnas, *The Passion of the Western Mind: Understanding the Ideas That Have Shaped Our World View* (New York: Ballantine Books, 1993), 224.

22. See Rex Ambler, “The Self and Postmodernity” in *Postmodernity, Sociology and Religion*, ed. Kieran Flanagan and Peter C. Jupp (Basingstoke: Macmillan, 1996), 141.

23. See Ludwig Feuerbach, *Essence of Christianity*, Harper Torchbooks Series 11, trans. George Eliot (New York: Harper and Row, 1957).

24. Karl Marx, “Introduction to the Critique of Hegel’s Philosophy of Right” in *Deutsch-Französische Jahrbücher*. See Robert C. Tucker, *Philosophy & Myth in Karl Marx*, 3<sup>rd</sup> ed. (New Brunswick and London: Transaction Publishers, 2001), 99.

(Friedrich Nietzsche, 1844-1900).<sup>25</sup> With agnosticism or atheism taking over human consciousness, religion in its persistent assertions was privatized. Against the whole background of the increasing process of secularization, many societies began to seek moral legitimation for the emerging forms of social institutions and practices. Morality got a new grounding, i.e., the autonomous reason seeking its own universalizing legitimacy (deontological ethics of Emmanuel Kant 1724-1804), or the instrumental ethical rationality that began to define the quality of life in terms of consequent utility and pleasure of the majority of the concerned people (utilitarianism of Jeremy Bentham, 1748-1834, and John Stuart Mill, 1806-1873).<sup>26</sup>

The philosophical foundation of the doctrine of human rights as it is now enshrined in the 1948 Universal Declaration Document has emerged from the whole modernization process in the West, one that ushered in a new tradition of thinking, valuing, and living. Traer makes a similar assertion:

The development of human rights in the West may be seen as a central dimension of what social theorists now call 'secularization'. For at least, two centuries in the West, the fact that established Christianity has relinquished, or has been forced to relinquish, control over key public institutions of civilization as well as over the habits of the modern mind has not only been described as historical fact, but has been celebrated as the triumph of freedom, human rights and democracy.<sup>27</sup>

Such historical development makes it difficult for members of traditional cultures and religious traditions to accept human rights tradition. The affirmations of human rights were seen to involve beliefs and practices, which seem to undermine revered traditions. We can understand why modernism, liberalism and their articulated

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25. See Friedrich Nietzsche, *The Gay Science*, trans. Walter Kaufmann (New York: Vintage, 1974). See also J. Hollingdale, *Nietzsche: The Man and His Philosophy* (Cambridge: Cambridge University Press, 1965; rev. ed., 1999), 139.

26. See Jeremy Bentham, *An Introduction to the Principles of Morals and Legislation* (London: University of London Athlone Press, 1970). See John Stuart Mill, *Utilitarianism, On Liberty, and Considerations on Representative Government*, ed. H. B. Acton, Everyman's University Library (London: J. M. Dent & Sons Ltd., 1972).

27. Robert Traer, *Faith in Human Rights*, 4.

civil liberties were strongly rejected by the Church in the *Syllabus of Errors* of Pius IX in 1864, the *Lamentabili sane exitu* (1907 decree) and the *Pascendi dominici gregis* (1907 encyclical) of Pius X, and some other documents.<sup>28</sup> The rejection of the fundamental theistic presuppositions of the 'pre-modern' metaphysics by the emerging liberal tradition gave reason for the authorities of the Christian tradition to take a defensive and apologetic stance toward the principles and values of the human rights, which began to form part of the central doctrine of the new humanistic philosophy and social arrangements. This critical posture against human rights was already evident since the early development of the emerging tradition of human rights. The 1215 Great Charter of Liberties, which demanded the preservation of the rights of subjects and limitation of the power of the Crown, was annulled by Pope Innocent III, who also excommunicated the barons of England for drafting the said *Magna Carta*.<sup>29</sup> The threat of the modern philosophies and its corollary social embodiments in institutional structures weakened the legitimizing arbitrary political power of religious functionaries who found themselves in a defensive posture against the new ethos.

Notwithstanding the opposition by the Christian religious institutions against the emerging tradition of human rights, it can be said that the human rights tradition was originally derived from the Christian theological and moral anthropology. Along the natural law theory, which in Christianity was interpreted more in terms of God-given duty and social responsibility, proponents of human rights put greater stress on the needs, deserts and rights of the individual. The shift from a heavily theistic orientation to a more humanistic one – from 'natural law' ('what God designs') to 'natural right' ('what humans deserve') – characterizes the story of human rights tradition. This story includes many significant figures, from among whom we name and elaborate a few more important ones. We start with the great Dutch jurist and diplomat, Hugo Grotius (1583-1645), who is considered the father of modern international law. He argues in his

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28. See Claudia Carlen, *The Papal Encyclicals 1903-1939* (New York: McGrath, 1981), 71-98.

29. Jack Mahoney, S.J., "The Basis of Human Rights," 314. See also Alan S. Rosenbaun, ed., *The Philosophy of Human Rights: International Perspective* (London: Aldwych Press, 1980).

work, *De jure belli et pacis* (*On the Law of War and Peace*, 1625), that natural law provides everyone with certain juridical rights of protection and equal treatment on the basis of being human. Another important figure is the English philosopher Thomas Hobbes (1588-1679), who draws a sharp distinction between ‘right’ (*ius*) and ‘law’ (*lex*), which he identifies with liberty and with restraint respectively. He argues that each human being has a natural right to do anything for his own self-preservation, thus, society is composed of individuals who are a sorry state of conflict with each others. “The state of men (sic) without civil society, which state we may properly call the state of nature, is nothing else but a mere war of all against all; and in that war all men have equal right unto all things.”<sup>30</sup> Considering that the ‘state of nature’ of human being is belligerent, Hobbes theorizes that self-preservation is only possible when all enter into a ‘social contract’, surrendering his/her rights to the *Leviathan*,<sup>31</sup> called the commonwealth or state. Starting with a more positive understanding of human nature, John Locke (1632-1704), contributed also in the development of the philosophy of human rights. In his *Second Treatise of Government*,<sup>32</sup> he speaks of human nature as free, equal and independent, naturally endowed with rights, especially to private property. He innovatively theorizes on the relationship between natural law and universal natural rights. He argues that every individual person possesses certain ‘natural rights’ prior to the organization of society. Against a more positive anthropology, ‘natural rights’ of the individual are upheld against the absolute character of the sovereign. Further philosophical elucidations of humanist-Enlightenment thinkers and political theorists had led to the greater development of the doctrine of human rights, which was eventually adopted in the 1776 *American Declaration of Independence*; the 1789 French *Déclaration*

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30. Thomas Hobbes, *De Cive*, xvii, cited in Gary B. Herbert, *A Philosophical History of Rights*, 97.

31. See Thomas Hobbes, *Leviathan* (1651), in *Classics of Moral and Political Theory*, ed. Michael L. Morgan (Indianapolis and Cambridge: Hackett Publishing Company, 1996), 584-735.

32. John Locke, *Treatise of Civil Government and A Letter Concerning Toleration* (New York: Appleton-Century-Crofts, Inc., 1959), cited in Samuel Enoch Stumpf, *Socrates to Sartre: A History of Philosophy* (New York et al.: McGraw-Hill Inc., 1988), 263-274, esp., 272.

*des Droits de l'Homme* in the 18<sup>th</sup> century. But it was only in the 20<sup>th</sup> century when the universal vision of those declarations became more pronounced and visible. Discourses on human rights were already present in the pre-modern arrangement but it was in modernity when it was provided with a new humanist and liberal foundation. Such epistemological turn in the doctrine of human rights at the dawn of modernity already includes claims to universality, something which is believed to have been historically 'realized' in the 20<sup>th</sup> century when different nations came together and made a Universal Declaration of Human Rights.

Coming together to the assembly of the newly organized United Nations (1945), official representatives and leaders of different countries entered into an international agreement or pact in 1948 to respect and uphold the Universal Declaration of Human Rights, which confirms earlier affirmations of human dignity and the inalienable human rights of every individual person (e.g. Fourth Hague Convention of 1907, etc.). This came in the aftermath of the Second World War and the horrors of the Nazi holocaust that left a deep trauma in the collective psyche and spirit of humanity. It became imperative for many nations to resolve not to allow such abominable injustices and violations of human rights to ever happen again. Such commitment to protect every single human life and dignity which was originally supported by 48 nation states gained more adherence in its later development as it expands to include new elements coming from other perspectives and new historical exigencies. What can be considered as very important succeeding developments of the human rights tradition that followed the 1948 Universal Declaration were other international treaties: *International Covenant on Civil and Political Rights* (ICCPR) and *International Covenant on Economic, Social and Cultural Rights* (ICESCR), both approved in 1966.<sup>33</sup> Observers now refer to three generations of human rights: (1) civil and political rights; (2) economic, social and cultural rights; and (3) collective rights.<sup>34</sup> Serious

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33. See Henry J. Steiner and Philip Alston, *International Human Rights in Context: Law, Politics, Morals* (Oxford: Clarendon Press, 1996), 119-20.

34. See also Jim Ife, "Human Rights Beyond the Three Generations," a lecture delivered at a Conference, *Activating Life and Diversity Conference* by Bryan Dale, NSW (July 2003), <http://www.humanities.curtin.edu.au/pdf/hre/ThreeGenerations.pdf> (access 25.04.04).

discussions on ‘group rights’<sup>35</sup> and on ‘the rights of the future generations’<sup>36</sup> are under way in many international congresses.

Except for some of its provisions (see the Statute of International Court of Justice, art. 38, 1, c.), the human rights tradition may not be a legally binding instrument as such, but “it retains its symbolism, rhetorical force and significance in the human rights movement.”<sup>37</sup> It offers guiding principles for the 185 member states of the United Nations in the pursuit of peace and justice in the world. The Vienna Declaration and Program of Action of the 1993 World Conference on Human Rights seems to confirm this world-wide consensus.<sup>38</sup> Yet, even as we claim so, we do not set aside dissenting voices that emanate from other different traditions and perspectives of rationality. We elaborate on this along with the power dynamics that underlies the discourses.

### **The Power Discourse of Human Rights and Religious Traditions**

With the aggressive processes of globalization and a corollary modernization of the ‘Rest’ (in contrast to the ‘West’), expressions of serious resistance against the human rights tradition is not uncommon among authorities of the religious institutions of other civilizations and cultures (Islamic, Hindu, etc.)<sup>39</sup> as well as critical postcolonial and liberation theorists and activists from the Two-

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35. See Will Kymlicka, *Liberalism, Community and Culture* (Oxford: Clarendon Press, 1989).

36. See UNESCO, “Declaration on the Responsibilities of Present Generations to the Future Generations,” General Conference, Paris, 21 October – 12 November 1997, <http://www.unesco.org/education/esd/english/declar.shtml> (access 06.06.04).

37. Henry J. Steiner and Philip Alston, *International Human Rights in Context: Law, Politics, Morals*, 120.

38. See Final Report of the United Nations on the World Conference on Human Rights, Vienna 14-25 June 1993., [http://www.unhchr.ch/huridocda/huridoca.nsf/\(Symbol\)/A.CONF.157.24+\(PART+I\).En?OpenDocument](http://www.unhchr.ch/huridocda/huridoca.nsf/(Symbol)/A.CONF.157.24+(PART+I).En?OpenDocument) (access 24.04.04).

39. See Michael Ignatieff, “Human Rights as Idolatry,” in *Human Rights as Politics and Idolatry* (Princeton and Oxford: Princeton University Press, 2001), 60-61.

Thirds World. Besides the fact that the human rights tradition is perceived to be based on the atheistic ideology of secular humanism (the reason why it also met strong opposition from the Christian tradition), some voices from non-Western religions and traditions reject the human rights discourses as part of the 'imperialistic' and hegemonic expansion of the West. Many believe that behind the appeal for a global moral order that is based on a universal standard of human rights is actually a Western interest to safeguard its political and economic strategic power position in the different parts of the globe.<sup>40</sup> Considering that this hegemonic expansion of the liberal capitalist ideology is proving to be devastating to the economic, political and cultural stability, especially in the Two-Thirds World, it has been argued that what the human rights tradition needs to do is to confront the aggressive process of economic globalization which is, in fact, globalizing *inhuman rights*.<sup>41</sup> This observation resonates with that of Max Stackhouse when he speaks about the resistance of different traditions to human rights in the following fashion:

Little consensus exists as to the basis of this emerging doctrine. There is skepticism regarding its nature, roots, and specific content. Some skeptics consider it as ideological weapon. Westerners call for human rights as a shrewd move by which one group can impose ideas emerging out of its history into other cultures.... There is a perceived selective application often giving way to geopolitical interest.<sup>42</sup>

The questions raised against the human rights tradition resonate well with MacIntyre's objection against the liberalism's pretentious claim for universality and neutrality of certain rules and norms. Such claim to universality of a particular (liberal) tradition can be taken as

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40. For a Marxist critique of human rights as a bourgeois ideology, see Tony Evans, *Human Rights Fifty Years On: A Reappraisal* (Manchester: Manchester University Press, 1998).

41. See Vandana Shiva, "Food Rights, Free Trade, and Fascism," in *Globalizing Rights: The Oxford Amnesty Lectures 1999*, ed. Matthew J. Gibney (Oxford: Oxford University Press, 2003), 89.

42. Max Stackhouse, *Creeds, Society, and Human Rights: A Study in Three Cultures* (Michigan: William B. Eerdmans Publishing Company, 1984), 1.

an attempt of domination or imperialism of a superior power over the inferior ones.<sup>43</sup> MacIntyre has consistently argued that there can never be a universal or neutral standard or criteria from which other forms of particular rationality can be judged. There can never be any Archimedean point of view as every single rationality is always tradition-dependent, one that is always derived from a particular perspective. Hans-Georg Gadamer's critique<sup>44</sup> of the modernist illusion of pure objectivity, as well as his assertion for the hermeneutic role of prejudice (fore-structure) in understanding, is something that no serious thinker can now put aside. It is a matter of clarifying from which hermeneutic perspective or linguistic tradition one interprets certain issues and reality. Defending the modern critical theory that presupposes a certain form of critical distance and reflexivity from the authority of the discourse of tradition, Jürgen Habermas claims that no discourse is innocent of interest and power and should therefore be subjected to ideological critique.<sup>45</sup> As this Habermasian contention can be put forward against the claims of tradition, this could likewise be appropriated to critique the optimism of universal rationality of modernity on which the human rights tradition is based. And it is from this light that we appreciate the doubts and questions raised by some liberation theologians against the human rights tradition when they say that "the Western notion of rights could easily become an ideology masking the daily suffering and death of the poor majority."<sup>46</sup> They have argued that one should speak more of the rights of the poor in particular, instead of speaking simply of 'human rights' in general.

Taking now a critical perspective on the religious traditions' assertion of their own set of values and rationality, we can say that political interest is also at play in their own standpoint. Among the

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43. See Alasdair MacIntyre, *Whose Justice? Which Rationality?* (Notre Dame: University of Notre Dame, 1988), 354.

44. Hans-Georg Gadamer, *Truth and Method*, trans. Garrett Barden (London: Sheed and Ward, 1975).

45. Jürgen Habermas, *Knowledge and Human Interest*, trans. Jeremy J. Shapiro (Boston, MA: Beacon, 1971).

46. Philip Berryman, *Liberation Theology* (New York: Pantheon, 1987), 116-118.

masters of suspicion, who have tried to demolish the authority of tradition, was Karl Marx who situates religion along the ideological battle ground of power. Roberts describes him as criticizing religion for being a system that sacralizes the current forms of inequality and oppression present in particular culture. The superstructure which includes religion (state, morality, philosophy, arts, etc.) is what maintains the *status quo* ensuring in the process that nothing changes in the economic base (infrastructure) in terms of the productive forces and relations. Consequently, the religious functionaries, more often than not, enjoy privileged position of power. Conflict theorists believe that the “theodicies of privileged are not so innocent.... They are, instead, insidious tools of the ‘haves’ that ‘mystify’ the true causes of inequality and serve to keep an unfair social system in place.”<sup>47</sup> The ‘pie in the sky’, the promise of otherworldly salvation in Christian belief system, could maintain an uncritical acceptance of the present unjust system and keep the oppressed and the disenfranchised in their state of subjugation and exploitation. The Hindu belief in reincarnation, for example, has led many low-caste Indians to conform to the laws of *dharmā*. Only by conforming to this belief can one hope to move to a higher position in the next life through reincarnation. Human rights tradition that promotes and upholds human dignity on the basis of fundamental equality among peoples may come as a threat to the established order. Martha Nussbaum asserts that human rights should be protected even if doing so may put such intervention into question. She says,

When charges of ‘Westernizing’ and ‘colonializing’ (even, at times, ‘Christianizing’) burst in upon us, we liberals should insist, once again, that the loudest voices in a religious tradition do not define the totality of its possibilities; that political actors use religious appeals as vehicle for their own power, not always as legitimate attempts to capture the essence of tradition in question.<sup>48</sup>

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47. Keith Roberts, *Religion in Sociological Perspective*, 227.

48. Martha C. Nussbaum, “Religion and Women’s Human Rights,” 135. See also Martha C. Nussbaum, “Religion and Women’s Equality: The Case of India,” in *Obligations of Citizenship and Demands of Faith: Religious Accommodation in Pluralist Democracies*, ed. Nancy L. Rosenblum (Princeton, NJ: Princeton University Press, 2000).

Nussbaum's critical posture against particular traditions of (religious) ethical rationality is borne out of her Cosmopolitan and liberal vision of politics. In her attempt to also acknowledge the rights of groups and individuals to religious freedom, she proposes certain ethical and legal guidelines which the state must adhere to in dealing with different religions, especially in the way human rights are upheld or violated within their beliefs and practices. She argues that each individual should be able to realize his or her own basic human capabilities as a person,<sup>49</sup> something that any institution, religious or otherwise, should be able to fully respect and uphold. In view of this consideration, Nussbaum points to two orienting principles that should serve as guidelines in dealing with religions: the Kantian *principle of each person as end*, adopted as a *principle of each person's capability* and the *principle of moral constraint*. The first protects the right of each individual to liberty of conscience and religious exercise (as well as the free choice and exercise of all other human capabilities); while the second refers to the deference and protection that religions should enjoy (in providing members a way of searching for the ultimate good, of transmitting and fostering moral vision of life, and of embodying an idea of compassion for human suffering) provided that its practices do not harm people in the areas covered by the basic human capabilities we have referred to above. Nussbaum claims, "In the core of political conception, the *principle of moral constraint* says nothing about matters internal to religion itself."<sup>50</sup> Acknowledging that it is not easy to identify what is legitimately internal considering that religions are very often intertwined within the complex matrix of human existence, Nussbaum argues that the protection of central capabilities of each citizen could be considered a compelling interest that can legitimize interference with religion. Nussbaum believes that religions should be also open to reforms and one possible strategy is to promote more public dialogue over some norms inside the religious codes bringing them into some forms of confrontation with 'international treaty norms' like that of

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<sup>49</sup> See Martha C. Nussbaum, *Women and Human Development: The Capabilities Approach* (Cambridge: Cambridge University Press, 2000), 78-101.

<sup>50</sup> Martha C. Nussbaum, "Religion and Women's Equality: The Case of India," in *Obligations of Citizenship and Demands of Faith*, 350.

the declaration on human rights.

The above discussion shows us then that political factors are very much at play in the tension that we have just examined. The fact that the conception of human rights has three matrices according to political camps – western liberalism, Marxist socialism, and the Third World ‘self-determinism’<sup>51</sup> – it is important to be critical of discourses that appeal to human rights by unmasking the political and ideological agenda underlying them. Advocates of religious values of particular traditions could argue against Western liberal notions of human rights that are limited to individualistic formulations of civil and political rights. Yet aware of the power dynamics that are also present in the pontifications of the authorities of particular traditions, a critical posture remains to be necessary to unmask some interests that may hinder a genuine concern for the promotion of integrity and fullness of human life. A dialogical relationship, between the two kinds of particular rationalities (a point we shall elaborate below) would be one way of demonstrating the limits of both, consequently preventing them from falling into totalizing claims in their power discourses. Such tension and/or relationship could be assumed precisely because both camps (human rights advocates and advocates of traditional/religious values) have something valuable to offer from the rich resources of their particular traditions. Beyond political considerations, we now move to the deeper levels of consciousness that underlies people’s way of thinking, living and valuing. A philosophical consideration therefore may help explain the tension that arises from the differences in perspectives of the opposing traditions of rationality.

## **Competing Hermeneutic Perspectives and Ethos**

Human rights and religious values are rooted in different philosophical foundations. This explains as well why they have different priorities and emphases on their perspectives, worldviews, and set of values. We shall see the differences in the following areas:

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51. Alan S. Rosebaum, “Introduction,” in *The Philosophy of Human Rights, International Perspectives* (London: Aldwych Press, 1980), 6.

religious ethos versus secular perspective; community emphasis versus priority of the individual; duties, laws and authority versus rights and liberties; and particularity versus universality.

### ***Religious Ethos versus Secular Perspective***

Needless to say, one obvious reason for the tension between religious values and human rights tradition relates itself to the conflict of perspectives. Religious traditions and values normally operate within an all-encompassing ethos and worldview. MacIntyre speaks of particular ethical rationality as always constitutive of and constituted by tradition, one which is generally derived from a religious horizon of meaning that is attuned to the language of ritual, myth and symbols. These systems of meanings and symbols define the character of the community and of the individuals as well as the kind of social interactions they have with each other and with other peoples. They also sustain people in their struggle for survival and in the pursuance of their goals in life. Religious traditions have their own spiritualistic and transcendental vision of life, the world, society and human person. Their own world of meaning becomes their hermeneutic paradigm in understanding reality.

There are those who claim that human rights are religious in the sense that they entail an “ultimate metaphysical-moral vision about what is meaningful, about what relationships or memberships are sacrosanct, and about what social ethic should be followed in order to prevent chaos, social alienation, and tyranny from destroying essential humanity.”<sup>52</sup> This is the reason why some would not hesitate to speak of “a global faith” in human rights tradition.<sup>53</sup> This assumption of the religious nature of human rights tradition becomes less acceptable in view of the historical context of the whole process of secularization from which it emerged. Michael Ignatieff registers his opposition to such ‘idolatrous’ tendencies. Adopting some sort of ‘thin universalism’ (thin theory of what is right) within a multicultural context, he rejects any attempt to give the human rights tradition any

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52. Max L. Stackhouse, *Creeds, Society and Human Rights: A Study in Three Cultures*, 6.

53. Robert Traer, *Faith in Human Rights*, 207.

metaphysical or ultimate validation in any particular idea of the human good or moral vision. “Human rights is an account of what is right, not an account of what is good.”<sup>54</sup> Human Rights tradition adopts a different perspective. Reason is the main basis of its formulation and development. Its tenets are general and universal abstractions detached from particular exigencies of specific traditions. Its anthropological basis belongs to a completely different category away from the religious meaning.

### ***The Community versus the Individual***

The philosophy that immediately supports the human rights tradition is centered on the individual. “Man [sic] is a self-determining being insofar as he forms his particular life for himself. The basic human right then, is the right of the human individual to determine his particular life for himself.”<sup>55</sup> We have seen above (in the historical account of the emergence of human rights) how secular humanism in the period of modernity enshrined the rational individual human person to be the self-legislator for his or her own moral life. The irreducible uniqueness of each individual person, an indispensable principle that the liberal tradition has consistently valued and defended since the modern enlightenment is at the heart of the human rights tradition. Modernity’s resistance to the authorities of traditions was meant to liberate the individual in realizing oneself according to one’s own choice and agency in the process of self-definition.<sup>56</sup> This positive movement in protecting the individual from the totalizing dogmas and ideologies of social collectivities has also negative repercussions. Alan Rosenbaum writes, “In the modern tradition of human rights, the growth of individualism reinterpreted the person as an individual without regard for his religious and civil status.”<sup>57</sup> The individual who used to be trained in virtues and values in a particular community of tradition is now thrown into an atomistic existence meant to

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54. Michael Ignatieff, “Human Rights as Idolatry,” in *Human Rights as Politics and Idolatry* (Princeton and Oxford: Princeton University Press, 2001), 54.

55. John Chauvet, “A Critique of Human Rights,” in *Human Rights*, 32.

56. Edward Albert Shils, *Tradition* (London: Faber and Faber, 1981), 10-11.

57. Alan Rosebaum, “Introduction,” in *The Philosophy of Human Rights*, 11.

survive within a vast impersonal legal network of the society. Organized according to laws and social agreements, society of individuals receive the protection of the legitimate State power. “In Kant as well as in the relational view of persons, individual subjectivity is regarded as absolute: ‘nothing else can take its place’.”<sup>58</sup> The very strong emphasis on the individual and the seeming dismissal of the importance of the community in the human rights tradition explains the strong tension it has with religious traditions which tend to give more serious account to the good of the community. Religious traditions hold the human rights tradition in deep suspicion for its tendency to be defined by the strong sense of Western individualism. Henkin articulates this concern:

Religions (some of those surely, at times) have found the idea of human rights anthropocentric, egoistic, even narcissistic; and they have resisted the human rights commitment to individual autonomy, and its implicit challenge to authority, including religious authority, as anarchic, every man whatsoever is right in his own eyes.<sup>59</sup>

The value that is attached to human individuality within religious traditions depends at any rate on the view of reality as a whole. In connection with the question of the foundation of the individual rights of the human being, one must also consider completely different interpretations of human personality and individuality from the western culture. Within a tribal culture, the individual is not seen as an individual in the Western sense. While Zen Buddhism does not deny individuality, it understands it in a completely different way.

It is interesting to note that serious debates are now underway within the human rights tradition in considering the validity of what has been referred to as ‘group rights’.<sup>60</sup> The contentious issue with regard ‘identity politics’ almost always brings the cosmopolitan liberals

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58. Hendrik Vroom, “Religious Ways of Life and Human Rights,” in *Human Rights and Religious Values*, 32.

59. Louis Henkin, “Human Rights: Religious or Enlightened?,” in *Religion and Human Rights*, 32.

60. See Jack Donnelly, *Universal Human Rights: In Theory & Practice*, 2<sup>nd</sup> ed. (Ithaca and London: Cornell University Press, 2003), 204-224, esp. 208-211.

on one camp against the communitarian particularists and cultural relativists on the other (we shall elaborate below the philosophical presupposition and genealogical standpoints of these two contending positions). The communitarian challenge to the individualistic liberal orientation of the human rights tradition goes along with the agenda and advocacy coming from cultural relativist camps and interest groups (women, minorities, indigenous peoples, etc.). There has been a greater sensitivity that individual life can flourish only within the context of the community, whose existence and values should therefore be promoted and protected. It is in communities where (religious) traditions and values are embodied. Tradition takes its life from the 'social practice' of a particular community.<sup>61</sup> Keith Roberts writes, "In all history, we do not find a single religion without a church."<sup>62</sup> The individual's identity is defined by his/her membership in the community. Speaking of our life as narrative, Alasdair MacIntyre says, "The story of my life is always embedded in the story of those communities from which I derive my identity."<sup>63</sup> In some extreme and unfortunate cases, the individual even disappears or dissolves in the community. "The idea of human individuality and (as a consequence) that of human autonomy are alien to Hindu thought, for which everything is based on the cosmic order."<sup>64</sup> Buddhism, for example, "teaches the virtue of self-emptying so that the individual person becomes ego-less."<sup>65</sup> According to many religious traditions, it is the community and its (common) good that take priority over individual desires and needs.

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61. Alasdair MacIntyre, *Whose Justice, Which Rationality*, 354.

62. Keith Roberts, *Religion in Sociological Perspective*, 4.

63. Alasdair MacIntyre, *After Virtue* (London: Gerald Duckworth and Co., 1981), 221.

64. Hendrik Vroom, "Religious Ways of Life and Human Rights," in *Human Rights and Religious Values*, 33.

65. Taitetsu Unno, "Personal Rights and Contemporary Buddhism," in *Human Rights and the World's Religions*, ed. Leroy Rouner (Notre Dame: University of Notre Dame Press, 1988), 129.

## ***Duties, Laws and Authority versus Rights and Freedom***

Corollary to the concept of the community, religious traditions give emphasis on duties more than on rights. Buddhist scholar Hajime Nakamura speaks for religious traditions, especially in the Asian context, when he asserts, “‘Rights’ has never been a primary category among Eastern philosophers.... We don’t usually speak of rights in our tradition.”<sup>66</sup> In Hindu philosophy and culture, individual rights is not an independent notion. “It exists in the context of duty which structures daily social interchanges as well as Hindi ritual practice.”<sup>67</sup> What is most important is the common good, and any individual claim must be reconciled with it.<sup>68</sup> Mahatma Ghandi articulates such wisdom in the following words,

If we all discharge our duties, rights will not be far to seek. If leaving duties unperformed, we run after rights, they will escape us like a will or the wisp.... the same teaching has been embodied by Krishna in the immortal words: ‘Action alone and thine, leave thou the fruit severely alone. Action is duty, fruit is the right.’<sup>69</sup>

Duties are defined in the laws of the community which preserve harmony, order and peace. The laws are presented with divine origin and authority either received through revelation or discovered by the wisdom of the elders. Authority is bestowed on religious leaders who have the power to teach, judge, interpret and guide the community in preserving and living out their traditions. In Western Christian tradition, the concept of natural law together with the divine revealed laws (the *Decalogue*), has been the basis for the appreciation of, and adherence to, the duties in the context of its religious traditions.

This very theory of natural law was used by John Locke as the foundation for a theory of natural rights. Expounding on this

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66. See Leroy S. Rouner, “Introduction,” in *Human Rights and the World’s Religions*, 2.

67. John Carman, “Duties and Rights in Hindu Society,” in *Human Rights and the World’s Religions*, 8.

68. Robert Traer, *Faith in Human Rights*, 123.

69. *Ibid.*, 96.

fundamental insight, Alan Rosenbaum claims that “the individual possesses, by nature, the rights to life, liberty, and property.”<sup>70</sup> These have been identified as rights to personal freedom because respect for them is not possible without allowing for each individual a range of personal choice against public encroachment. “Free individuals, standing for their rights, are the ‘best fruit of modernity.’”<sup>71</sup> Two affirmations are involved in this conviction: (a.) Belief that the individual human being has inherent dignity and worth; and (b.) Human rights is the most significant symbol of that worth. The human rights tradition is there fundamentally to guarantee the exercise of liberties. “The American and French revolutions gave social effect to the idea of universal individual ‘equality before the law’. European philosophy in this so-called Age of Reason tended to express the prominent concerns of the day, namely, the liberation of the individual from absolute authority and of human reason from dogma. The effect of the Enlightenment on natural law theory was to underscore the autonomy of reason and morality.”<sup>72</sup>

### ***Particularity versus Universality***

Religious values are historically embedded in a particular living tradition. They are sustained, reshaped or even rendered irrelevant within the context of the complex system of beliefs and practices of the particular community to which they belong. They solidify social relations and define the narrative identity of the members of the community. MacIntyre claims that “moral concepts are embodied in and are partially constitutive of forms of social life.”<sup>73</sup> Religious values and their corresponding moral articulations can only be understood within their embodiment in a particular tradition. Values, like justice, fidelity, courage, etc. can only be drawn out from the concrete practices of a given particular community.

The Human Rights tradition, on the other hand, claims universality. It presents abstract principles which are proposed for universal

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70. Alan Rosenbaum, ed., *The Philosophy of Human Rights*, 12.

71. Leroy Rouner, “Introduction,” in *Human Rights and the World’s Religions*, 1.

72. *Ibid.*, 13.

73. Alasdair MacIntyre, *A Short History of Ethics*, 1.

application. Taken as a universal moral code, they are claimed to be valid for all human beings regardless of historical conditions of particular cultures and traditions. As he calls for a deeper study of anthropologies in different religious traditions, Abdullahi An-Na'im asks, "Can diverse religious anthropologies give way to a common core of Universal Right and stimulate adherents to acknowledge them in their cultural context or prevent adherents from doing so?"<sup>74</sup> He expresses his apprehension about the fact that the human rights tradition is also a product of a particular period in the history of Western culture and philosophy. Can this tradition then, which is based on the enlightenment anthropology, claim universal validity?

The tension that we have pointed out between particularity and universality which we have articulated along the tension between religious traditions/values and human rights tradition represents the long standing debate between the two camps of philosophical standpoints. Support for particular religious traditions and value can find affinity with pragmatic neo-Aristotelianism, which Karl-Otto Apel describes as an approach that has been "confirmed and supplemented by a post-Wittgensteinian relativism of the different or even incommensurable 'forms of life' and with a post-Heideggerian hermeneuticism and super-historism of the epochal clearings of truth or at least of the meaning of being within the occidental tradition of thought."<sup>75</sup> This historicist neo-Aristotelian trend that has given way to the emergence of 'ethics of the good life' according to the reflection of local traditions has been actually a reaction to the Kantian deontological universalism, a tradition that can be said to find its articulation in the universal doctrine of human rights. The search for universal ethical norms and standards continues to find contemporary adherence in the work of Jürgen Habermas, whose 'communicative action theory' has been developed by Apel along ethical reflection in his discourse ethics. The call of the historicist camp is appreciation of the specificity of good life that is grounded

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74. Abdullahi An-Na'im, "Preface," in *Human Rights and Religious Values*, xii.

75. Karl-Otto Apel, "The Problem of a Universalistic Macroethics of Co-Responsibility," in *What Right does Ethics Have? Public Philosophy in a Pluralistic Culture*, ed. Sander Griffioen and Karl-Otto Apel (Amsterdam: VU University Press, 1990), 31.

in tradition of particular communities; while the appeal of the formalist camp is to arrive at a universal consensus in the determination of what is right through communication processes and procedural norms.

Referring to the two philosophical trends that we have just described, Apel forewarns that it can be a fatal philosophical mistake to assume that the universalism of a post-Kantian ethics is fundamentally in contradiction with the pluralism of a quasi-Aristotelian ethics of the good life. Citing the history of human rights, he argues that such antagonism has been proven false, a reading that is being put to question by some, as earlier illustrated. Apel is convinced that there is a need for a universally valid ethics (universalistic macroethics through transcendental pragmatics) for the whole of humankind, but that which respects the pluralism of individual 'forms of life'. His position, for sure, resonates very closely with Nussbaum, who has brought into a reconciliation Kantian cosmopolitan universalism with historicist Aristotelian pluralism. Yet one wonders if such assumption is tantamount to the surrender of religious tradition to 'autonomous' rationality or to the Kantian concept of 'pure religion of reason' that is meant to rule or decide over particular traditions of rationality represented by particular religious institutions. This is, in fact, John Rawls' own political liberal project that appropriates the Kantian formal ethics in our contemporary world of pluralism and multiculturalism.

What seems more acceptable is to ground ethical rationality in the particularity of one's (religious) tradition and allow it to be open to other particular traditions of rationality. Sharing with others one's own wisdom and vision of life, every tradition could adopt a respectful disposition and even a humble posture to learn from others who may have something new to offer that would enrich one's own ethos and social practice. The liberal tradition, in which the human rights doctrine is fully at home, should give up its pretentious claim to objective universality but instead enter into the conversation process as a particular tradition of rationality which can also learn from others, just as it can also challenge others with its own critical and reflexive view and vision of life.

## Conclusion

All forms of tradition develop through time in history. They get reshaped and reconstituted by either the internal or external criticisms or challenges generally coming from their specific context. These influences come in the form of challenges that break into the system of beliefs and practices of the given tradition causing some kind of ‘epistemological crisis’<sup>76</sup> that opens up possibilities for new thinking, formulations and corresponding structures. The survival of a tradition along the fast-changing social context will depend on its capacity to redefine and reconstitute itself as it finds its relevance and rediscover its meaning in such contexts. Taking off from this presupposition, we can assume that both the particular religious traditions and the human rights tradition can both undergo changes or even transformations. We can argue that the encounter between the two, amidst conflicts, can give rise to the development of both. After all that is what we have already seen in history. Some religious traditions have embraced the human rights values understanding them as emerging from their very own religious standpoints. Or, as we also have observed that the human rights tradition has been going through certain developments incorporating elements derived from the challenges of new experiences or concerns of particular cultures or groups of peoples.

### ***Human Rights Doctrine: Challenge to Religious Traditions***

Human rights values pose some challenge to the religious traditions. For this, we have already seen certain evolutionary or revolutionary developments in the Catholic tradition (in the social doctrines, in particular), in the Protestant churches and even in other religions. There may still be areas of tension that these traditions have with the human rights values. There are certain possibilities that could be taken as options in dealing with certain conflicts with human rights in religious traditions. The first could be a posture of deep respect for religions, believing that they have a worldview of their own that escapes the perspective of an outsider. No external criticism

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76. Alasdair MacIntyre, *Whose Justice? Which Rationality?*, 355.

is valid and legitimate. Only those who are part of a particular tradition, those who are subsumed to the system of beliefs and practices can fully understand the language game of that tradition within its own hermeneutic paradigm. “Human rights should be concretized in the particular, and ultimately, discussion of them must be localized.”<sup>77</sup> The weakness of this position is that it would leave us completely helpless, if not irresponsible, to the demands of human rights and justice for the victims and the oppressed who are held captives in those traditions.

Secondly, a position held by great atheistic thinkers and that of a highly secularized world could also be taken, i.e., a critical posture toward religious traditions, dismissing them as irrational and mythical and, therefore, obstacles to the full flourishing of the human potentials and seeking to limit their sphere of influence in society, pushing them to the realm of the private. While it is true that some religious worldviews, beliefs and practices can or have become an instrument of dehumanization of peoples in society, greater attention to the positive resources of each religious tradition, has led us to re/discover that they have so much to offer for humanity’s genuine and integral development. Human rationality has its limits. As Peter Juviler argues, “Notions of rights are morally incomplete and potentially harmful without religion’s sense of life’s sacredness.”<sup>78</sup> There are inner resources in the recesses of the human spirit that religion alone can trigger and tap in order to help humans survive in communion with others amidst the chaos and complexities of life.

Thirdly, a critical recognition of the place and freedom of people to exercise and live their religious beliefs and values seems to us the better option. This is after all congruent to the very commitment of the human rights tradition to religious freedom. But when this freedom and the other rights of people are violated in particular culture or traditions, the human rights tradition can always raise a question from its own standpoint. It may be argued that it is a reading of an outsider according to the standard of that culture. But expressing a different perspective may always be an occasion for the

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77. Alan Rosenbaum, *The Philosophy of Human Rights*, 4.

78. Peter Juviler, “Ambiguities of the Divine,” in *Religion and Human Rights*, 4.

other to go beyond one's own hermeneutic horizon. A dialogical encounter with the other can always be a *kairos*, a moment of grace for one's conversion.

### ***Religious Values: Challenge to the Human Rights Tradition***

Religious values surely have something to offer to humanity. A society run by human rights tradition alone, spelled out and guaranteed in terms of laws and norms will be inadequate for a meaningful co-existence of people. The juxtaposition that we have done here even bears out more clearly the fundamental perspective of the human rights tradition. It rests on the recognition of the liberties of individuals. Liberal individualism surely has already manifested its ugly face in how people live their lives in fragmentation, seeking only one's own interest and rights. The innumerable lawsuits in courts of people who are just concerned about respect for their own rights will turn society into a network of ego-maniacs resting on a highly bureaucratic web of legalism. Without a grounding in a deeper sense of meaning for living and for human relationships in community which religious values and narrative traditions provide, individual lives and struggles will just become empty pursuits for one's rights and meaningless obligation of not stepping into other people's rights.

If the human rights tradition has been enriched by the articulation of the concerns from other standpoints (reason why we now have three generations of human rights as indicated above in part 3), religious tradition surely can challenge the standpoints of the human rights tradition and hermeneutically open it up toward its own development. Coming from the wealth of their narrative traditions, religions can challenge the ideological presuppositions of the human rights tradition that is based on the abstract and pallid scheme of modern scientific rationality and its corollary individualist liberal claim to objective universalism. Religions' profound insights and symbolic perspectives (as we have discussed above in part 4) in understanding the meaning of human life in its integrity and complexity are important elements in the imaginative task of building a just and humane society and world order. Hans Küng, who shares Apel's appreciation for the need of a macroethics for the attainment of global peace and

justice, believes that religions, in this respect, can play an indispensable role. Religions can help humanity forge a common vision of a new world order that can be achieved through a global ethics of responsibility. Religions can realistically arrive at a consensus of “necessary minimum of common human values, criteria and basic attitudes.”<sup>79</sup> Such ‘universal’ vision, we believe, could only be acceptable if it is understood not as a fixed, neutral, and an overarching criteria of what a just and a good life is, but simply a historical and revisable guide for the ongoing conversations between religions or particular traditions of rationality. There could be no Archimedean point of view or neutral criteria that can judge particular forms of rationality. If it is possible at all to talk of a global ethic (or better, ‘global ethos’), it should be one that emanates from and is embodied in the concrete practices of particular communities that remain constantly open to the recognition of the distinct values of other communities and of the irreducible uniqueness of each individual member. With a deep recognition of the values of community, responsibility, duty, openness to transcendence and spirituality, among other things, religious traditions can provide a corrective to the limits and inadequacy of the modern rationality of the human rights tradition. Such challenge that comes from religious traditions is made possible only when they recognize and critically appropriate the important critique that the human rights tradition of the liberal tradition valuably offers them. Willibald P. Pahr describes this saying, “As long as there are different social, economic, cultural and ideological circumstances in the world; as long as there are different traditions, there will be different concepts of Human Rights. In a pluralistic world we must accept pluralism in the field of Human Rights also. But there will be always one basic core to Human Rights: a series of irreducible humanitarian principles determined by human

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79. Hans Küng, “Clash of Civilization or World Peace through Religious Peace,” in *Facing Public Interest*, ed. P. Ulrich and C. Sarasin (Netherlands: Kluwer Academic Publishers, 1995), 16. See also his other related works pertinent to our discussion, *A Global Ethic for Global Politics and Economics* (London: SCM Press Ltd., 1997); and *Global Responsibility: In Search for a New World Ethic* (New York: Crossroad, 1991).

dignity which has to be respected under all circumstances.”<sup>80</sup> Appropriation of the human rights tradition in each particular tradition may have to take a different mold, but its fundamentally distinct liberal character should be maintained in order for it to genuinely provide a critique to religious traditions. We say this in a way that we also appreciate the distinct character of religious values that should also be allowed to function as a corrective to the inadequacy of the liberal tradition and its human rights tradition.

Standing from our common concern and interest for the well-being, and development of peoples in the world, dialogue takes off, allowing the advocates of religious values to speak from the wealth of their traditions and also recognizing the indispensable critical voices of human rights advocates. It may not be possible for the different particular traditions to arrive at a full agreement on the understanding of what a good life is, as this could be defined only from within the horizon of each particular form of life; but it is not impossible to engage the different traditions in a conversation where commonalities could be discovered, and tentative or limited agreements could be made. Without denying the very uniqueness of each person and people molded in the specific social location and historical embodiment, we believe that our recognition of the fact that we share a common humanity can be a good starting point in engaging ourselves in more profound and respectful conversations. The goal is not homogenization of the life-world but a fruitful and healthy interaction among varied perspectives and convictions, each one adopting a posture of openness to others in the ongoing search and discernment toward a closer approximation of truth about a good life. Commensurability may be denied as we are immersed in a pluralistic world. But what is most important is that we do not cease to search for certain opening for both camps to develop and change toward a widening of their own hermeneutic paradigm and horizon of meaning for a just and peaceful life in the world.

Going back to the presenting problem with which we started this reflection, we deem it appropriate to understand more deeply

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80. Willibald Pahr, “Human Rights in a Pluralistic World, *Revue des Droits de l’Homme/ Human Rights Journal* (1985): 102, cited by Robert Truer, *Faith in Human Rights*, 217.

the history, politics and philosophy behind the global conflict that is being staged in the world at the dawn of the new millennium. If we do not want to see further bloodbath and terrorism (from both sides), it is important to understand from where one or the other is coming. Recognizing and respecting the difference of the other, and adopting a posture of openness to learn from the other in the context of genuine dialogue, is the better and more promising way to achieve world justice and peace. Such is the alternative to Samuel Huntington's concept of 'clash of civilization'<sup>81</sup> which apparently is being adopted by the people in the Pentagon (where he used to belong). Instead of pursuing a total international war against terror, which often times end up becoming more horrifying and terrorizing than the strategy of those it wants to stop, other peaceful means, which proceed from a thorough-going self-critical reflection, should be exhausted. The only way the West can win the war against terror lies not in the high-powered military machinery but in being consistent in proving the validity and universality of human rights tradition in the actual practice of justice and genuine equality in the world. If the human rights tradition continues to be perceived only as an ideological tool to globally impose the liberal capitalist system of the powerful imperialist countries, especially the US, and fails to genuinely uphold the dignity of each person (especially those excluded by the system) and recognize the important role of religious values in the public sphere, one should not be surprised to see the consequent spread of fundamentalism in many threatened traditions. Furthermore, if the

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81. Huntington describes 'the clash of civilizations' as resulting from the end of the ideological conflict between the Eastern communist block and the liberal-capitalist West. This time, the geopolitical map is marked with seven or eight major civilizations (Western, Confucian, Japanese, Islamic, Hindu, Slavic-Orthodox, Latin American and possibly African), divided by cultural fault-lines, which have now replaced the ideological boundaries of the Cold War. He singles out the Confucian and the Islamic civilizations as the two main threats to the Western civilization. He refers to the intensifying claims of civilizations, generally against the hegemonic cultural expansion of the West or of any perceivable threat to one's own cultural integrity. Thus, he calls for the Western civilization to solidify its geopolitical strength against other civilizations. See Samuel Huntington, "The Clashes of Civilization?," in *Foreign Affairs* 73, No. 3 (Summer, 1993), 23-49. He later expounded this in a book, *The Clash of Civilization and the Remaking of the World Order* (New York: Simon and Schuster, 1996).

voice of the Other is constantly made to fall on deaf ears, it should not surprise us to be confronted with the language of terrorism and violence. If the language of fear is violence, peace could, therefore, be achieved only when people of different cultures and traditions begin to trust and respect each other. Considering that both the religious traditions and the human rights tradition have peace for its goal, a mutual openness in the common search for such an end, without forgetting justice as its foundation, may be the better alternative for a more promising future.

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