

## **Religion and Human Rights**

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### **A draft note to the panel on “Religious and Philosophical Foundations of Human Rights”**

I am by training a philosopher and by religious adherence a mainstream Norwegian Lutheran. I have been working with religion and human rights-issues since 1988, focusing more and more on Islam and human rights and, of course, also been concerned with the -- until less than hundred years ago -- mostly woeful interrelations between human rights and my own Evangelical-Lutheran tradition.

In my endeavors I have since 1998 had the good luck of cooperating with Cole Durham and a number of other fine people in ICLRS here at BYU, on scholarly as well as practical human rights projects crossing several religious divides. So I welcome wholeheartedly a serious discussion of the subject matter of this panel: “Religious and Philosophical Foundations of Human Rights.”

We panelists are requested to address, briefly, a number of questions that arise in the two-way traffic between, on the one hand, *human dignity and universal human rights* and, on the other hand, the *plurality of competing religions and life-stances* (or world-views) in the present-day world.

I first have to state three necessary background assumptions.

#### *Background assumption 1:*

I understand “religion” in *the inclusive sense*, the sense that is relevant to modern human rights norms: In providing for religious freedom modern human rights speaks of “freedom of religion *or belief*”, where “belief” includes also non-religious conviction. The French term is “conviction”, the original Russian term (in UDHR article 18) is “убеждения”. The human right to religious freedom is inclusive of religious as well as non-religious basic convictions and practical precepts, protecting diversity of faith or conviction and not privileging the religious in contrast to humanists, agnostics, atheists, or skeptics. – For the purpose of our discussion of justification of human rights across religious divides we might perhaps also use the term “philosophy” instead of the term “belief.”

#### *Background assumption 2:*

The presence of religious and philosophical diversity -- of a veritable plurality of competing religious and no-religious doctrines and convictions -- is an undeniable fact about present-day society, I assume in every country of the world. And modern universally applicable human rights are devised to accommodate such diversity of faiths and practices and organizations. This task is, in my view, reasonably well catered for by internationally codified human rights to freedom of religion or belief:

in UDHR art 18, ICCPR art 18, and ECHR art 9 and subsequently fleshed out by, and supplemented in, international jurisprudence, declarations, and opinions. Of course, international lawmaking and jurisprudence on freedom of religion or belief is not perfect, not always clear, and is sometimes criticized for very good reasons. (Cf. Lindholm/Durham/Tazib-Lie, eds., *Facilitating Freedom of Religion or Belief: A Deskbook*, Brill 2004).

*Background assumption 3:*

By “human rights” I understand in the main internationally codified norms, principles, and standards proclaimed and globally recognized as universal human rights largely after World War II, beginning with the 1945 Charter of the United Nations, the 1948 Universal Declaration of Human Rights, the 1950 European Convention of Human Rights and, subsequently, a large number of global and regional human rights instruments and institutions. -- I am not denying that human rights norms and principles were pioneered long before 1945: in North America and in France, in historical battles against torture, slavery, discrimination of women, colonialism, and exploitations and suppression of ethnic, religious and other minorities. Also, there are very important sources and potential groundings to be found in pre-modern and non-Western traditions. -- But intellectually disciplined discussion, today, is best served by relating to internationally codified and globally acknowledged standards and practices, today.

*The first set of questions:*

The first in the four sets of excellent questions for our discussion asks:

1. Should human rights, particularly the concept of human dignity, be understood as being grounded in religious or philosophical traditions or in some form of both? May diverse and conflicting grounds of universal human right be legitimate? Necessary?

My answers are: Yes! And Yes! And Yes! -- Let me present some reason in support of my threefold yes:

When the UDHR was elaborated, in 1947 and 1948, by the UN Commission on Human Rights chaired by Eleanor Roosevelt, members came from different and competing normative traditions, culturally, religiously, and politically. Their self-understanding, once they -- to their own surprise -- had reached substantive agreement on the final text of the Declaration, has been famously captured by the Catholic philosopher Jacques Maritain: The only expedient way of reaching an agreement on universal human rights norms was “not on basis of common speculative ideas, but on common practical ideas, not on the affirmation of one and the same conception of man, of the world, and of knowledge, but upon the affirmation of a single body of beliefs for guidance in action.” (quoted in Mary Ann Glendon, *The World Made New, Eleanor Roosevelt and the Universal Declaration of Human Rights*, Random House: 2001:77-78) This does not mean that speculative ideas, deep conceptions of man, of the world, and of knowledge were, according to Maritain, unimportant or superfluous in order to justify universal human rights. The point is, rather, that such groundings of human rights would be irreparably

controversial, and thus could not be included in the texts pronouncing universally applicable, globally binding human rights norms.

Maritain knew well, both from his own personal experience and as a matter of theoretical principle, that binding and reasoned agreement is perfectly possible across deep religions and doctrinal divides: Mutual trust and binding solidarity in the French Resistance between Catholics and Communists in the deadly struggle of the Resistance against Nazi authorities and collaborators had been an experiential fact during WW II. And French philosophers Poincaré and Duhem had in the 1920s proved logically that in physics incompatible and competing theories could be constructed so as to predict and explain equally well exactly the same empirical evidence.

Now, applied to the challenge of devising plural foundations of universal human rights I have proposed the following approach, inspired by the early work in the UN Commission on Human Rights: There is one common and publicly shareable grounding for universal human rights, namely the doctrine of human dignity. This age-old Stoic or Kantian doctrine had been introduced in international legal language only in April 1945, in the Preamble to the Charter of the United Nations. But the concept of human dignity had not been further defined or explicated. The UN Human Rights Commission sensed early on they needed a common foundation of universal human rights, They also discovered through their own heated discussions that any deep theological or philosophical or ideological foundation of rights would undermine the entire human rights project, due to the controversies they unquestionably would ignite. An international commitment to the notion of human dignity was already codified in the Charter. So the HR Commission decided to make human dignity the foundation of universal human rights. – My proposal is that we stick to human dignity as the shared and common foundation of our human rights commitment. But I propose that we open the gates for what is *also* necessary: a plurality of justifications which cannot be universally shared but can be presented, understood, argued about and *accepted as trustworthy across religious, philosophical and ideological divides*.

One example: my own foundation for embracing, and interpreting, human dignity as a foundation for human right is biblical. Genesis 1:27:

So God created man in his own image,  
in the image of God he created him;  
male and female he created them.

This text has been authoritative for Christians for more than 2000 years. Yet only in the course of my lifetime and perhaps that of my parents has at long last become a stable foundation for Christian commitment to inclusive human dignity and a basis for commitment to universal human rights. Interpretation of sacred texts is controversial and changeable! Mistrust of Christians from non-Christians has a basis in the shifting understanding by Christians of their own Scriptures.

Yet, after the 1965 Vatican II Declaration on the Dignity of the human person I hold Christian support of human dignity and human rights to be irreversible.

I now turn to a different religious tradition that I have worked with for some years. Our Muslim partners in discussion about human dignity and human rights in Norway, in Malaysia, or in Indonesia have produced convincing arguments in

support of equally stable foundations for their embrace of inclusive dignity and universal human rights. Professor Hashim Kamali, Malaysia, has provided an interesting translation into English, and an interpretation, of the following passage in the Koran chapter 17, verse 70:

We have bestowed dignity on the offspring of Adam,  
Provided them with transport on land and sea;  
Given them for sustenance things good and pure,  
And conferred on them special favors,  
Above a great part of Our creation.

Again, this passage, and a host of other passages from the Koran, may arguably be interpreted so as to provide Muslims with grounds for support of inclusive human dignity and of human rights. Such interpretations should better be entrusted to in the first place competent Muslims. But Koranic interpretations can surely be understood, communicated to, and assessed for their coherence and trustworthiness by non-Muslims.

Here a special difficulty should be mentioned: It is often said, by Muslims and non-Muslims, that *Shari'a* is unchangeable and infallible. My Muslim colleagues can confirm this. But what is pertinent to Muslim approaches to human dignity and human rights is *Fiqh*, the human and fallible and changing understanding by competent Muslim scholars of *Shari'a*.

Very much is to be said about contemporary discourses on Islam and human rights. My understanding is above all informed by experience in my own country, Norway, and by my learning from internationally recognized expert Muslim scholars, such as Professor Kamali in Malaysia and Professor Abdullah Saeed now at Melbourne Law School, both of whom are partners in scholarly and practical projects of the Oslo Coalition on Freedom of Religion or Belief.

In Norway, the umbrella organization of Muslim mosques and religious communities, Islamic Council Norway, has presented convincing arguments for their commitment on *Fiqh* grounds to human rights and human dignity. In publications by Muslim scholars in the Oslo Coalition program "New Direction in Islamic Thought and Practice" they have presented extensive arguments in favor of full-fledged support of human rights in Islamic grounds. Their respective arguments are not uniform, to the contrary. But the discourse among Muslim scholars about Islamic grounds for non-exclusive dignity and human rights is unquestionably in process. Facilitating such discourse is something I fervently think we should do as much and as well as possible.

My main point is that encouraging diverse and even conflicting grounds for embracing universal human rights is feasible and perfectly legitimate. It is legitimate since it respects the freedom and integrity of the other party, here that of Muslims, when they engage in developing internally convincing foundations of human rights.

The human rights doctrine of human dignity is admittedly not very profound. But it is uncompromisingly egalitarian. Muslims are, in virtue of their equal dignity and equal human rights to freedom of religion or belief, entitled to develop and present their own grounding for accepting and being bound by human rights. And they should be listened to others.

Seeking to cultivate reasoned support of human dignity and human rights across religious and philosophical divides is necessary, because there can hardly be a better way, in our world of recalcitrant religious and philosophical and cultural diversity, of reaching for stable and reasonable agreement on rights. Success is not guaranteed. But one benefit is for sure: the enjoyment of learning from the other about their ways of reasoning. Filling some holes in ones ignorance about the other is no small gain.