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FIDES ET LIBERTAS



2015

RELIGIOUS FREEDOM & HUMAN SOLIDARITY:
LIVING WITH OUR DEEPEST DIFFERENCES

THE JOURNAL OF THE INTERNATIONAL
RELIGIOUS LIBERTY ASSOCIATION

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DECLARATION OF PRINCIPLES

We believe that religious liberty is a God-given right.

We believe that legislation and other governmental acts which unite church and state are contrary to the best interest of both institutions and are potentially prejudicial to human rights, and hold that religious liberty is best exercised where separation is maintained between church and state.

We believe that government is divinely ordained to support and protect citizens in their enjoyment of natural rights, and to rule in civil affairs; and that in so doing, government warrants respectful obedience and willing support.

We believe in the natural and inalienable right of freedom of conscience—to have or not have a religion; to adopt the religion or belief of one's choice; to change religious belief according to conscience; to manifest one's religion individually or in community with others in worship, observance, practice, promulgation, and teaching—subject only to respect for the equivalent rights of others.

We believe that religious liberty also includes the freedom to establish and operate appropriate charitable or educational institutions, to solicit or receive voluntary financial contributions, to observe days of rest and celebrate holidays in accordance with the precepts of one's religion, and to maintain communication with fellow believers at national and international levels.

We believe that religious liberty and the elimination of intolerance and discrimination based on religion or belief are essential to promote understanding, peace, and friendship among peoples. We believe that citizens should use lawful and honorable means to prevent the reduction of religious liberty.

We believe that the spirit of true religious liberty is epitomized in the Golden Rule: *Do unto others as you would have others do unto you.*

STATEMENT OF PURPOSES

The purposes of the International Religious Liberty Association are universal and nonsectarian. They include:

- 1 Dissemination of the principles of religious liberty throughout the world;
- 2 Defense and safeguarding of the civil right for all people to worship, to adopt a religion or belief of their choice, to manifest their religious convictions in observance, promulgation, and teaching, subject only to the respect for the equivalent rights of others;
- 3 Support for religious organizations to operate freely in every country through the establishment of charitable or educational institutions;
- 4 Organization of local, national, and regional chapters, in addition to holding seminars, symposiums, conferences and congresses around the world.

MISSION STATEMENT

The mission of the International Religious Liberty Association is to defend, protect and promote religious liberty for all people everywhere.



THE INTERNATIONAL
RELIGIOUS LIBERTY
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DEDICATION



AMBASSADOR ROBERT A. SEIPLE is a man who is no stranger to awards and public praise. Over the past half century, he has received a vast range of honors acknowledging his service in many different fields. He is a decorated military veteran who served in the US Marine Corps, earning five Battle Stars, the Navy Commendation Award, 28 Air Medals, and the Distinguished Flying Cross. As a humanitarian, including eleven years as President of World Vision, he received eight honorary degrees acknowledging his years of public service. He was awarded the 1994 “Churchman of the Year” award from Religious Heritage America, and the 1995 “Independent Award” from Brown University.

As the United States’ first Ambassador-at-Large for International Religious Freedom, he garnered wide commendation for his work of behalf of vulnerable groups around the world, and he was awarded the US Secretary of State’s “Distinguished Public Service Award.” In 2006, Ambassador Seiple received “The Abraham Kuyper Prize and Lecture” at Princeton Theological Seminary and the “Distinguished Service Award” from the International Center for Law and Religion at Brigham Young University. The list of awards goes on.

However, for those of us who have been privileged to spend time with Ambassador Seiple, it is patently clear that, for him, these public acknowledgements are largely beside the point. In talking with him and hearing him speak—at both public events and in private conversations—it is obvious that he is driven instead by an immense compassion for suffering humanity, by an unwavering belief in the power of reconciliation and forgiveness, and by a personal *ethnos* that favors practicality over theorizing, and productive action over mere talk.

The International Religious Liberty Association has been extraordinarily fortunate for almost two decades to have Ambassador Seiple as a supporter, counsellor, and guide. He has served for many years as a Vice President of our organization, and since 2007 has been our President, providing us with invaluable insights and advice.



Earlier this year he shared with me his desire to retire in order to free up more time for his family, although he graciously continued to serve as we undertook the difficult task of finding his successor.

We dedicate this volume of *Fides et Libertas* to Ambassador Seiple. The organizing theme of this edition is “living with our deepest differences” and I believe no topic could be more apt in honoring our past president. I have witnessed many times his ability to connect with people from widely disparate circumstances; his ability to cut through divisiveness and to focus on common values and goals. Indeed, Ambassador Seiple’s life’s work has been defined by his efforts to bring people together—to break through barriers of ethnicity, rank, religion, and education to find the common core of humanity that binds us all together.

I wish Ambassador Seiple, his wife, Margaret, and his extended family God’s richest blessing in the years ahead. On behalf of the IRLA, I thank him for the generous gifts he has given us—his time, his experience, and his wisdom. His legacy will endure as the IRLA continues its work of promoting freedom of religion or belief for all people, no matter who they are, or where they live.

Ganoune Diop, PhD.

Secretary General of the International Religious Liberty Association

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INTRODUCTION TO *FIDES ET LIBERTAS*

This volume of *Fides* is divided into several sections with an undergirding thread: the need for human solidarity despite the deep differences in beliefs among the human family.

To live with our deepest differences requires digging into the depth of our common humanity from where springs the infinite value of all members of the human family. This journey can begin with the question: What is it to be human? Connected to this inquiry: What are the necessary elements that would make our human experience worth living? Principles such as human dignity come to the fore, but also freedom, without which no covenant, convention, or treaty would be possible. Religious freedom—one of the international fundamental freedoms—is a lens through which members of the IRLA approach the worth of every member of the human family.

This freedom undergirds all the other freedoms. It can be compared to a trajectory upstream and downstream. It presupposes freedom of thought, of conscience, of choice. It translates into freedom of expression, of association, and of assembly.

Religious freedom is the right to profess, practice, and propagate one's faith or convictions without threat, intimidation, or coercion. It is also the right to own property devoted to express what one cherishes most. It is the right to wear or display symbols that signify one's deep convictions. Human experience to engage ultimate realities is as sacred as temples, cathedrals, mosques, or shrines. It is personal. It is communal. It is part of the relationality that makes us human.

By devoting time, energy, and resources, contributors to this *Fides* show their commitment to the cause of religious freedom and its centrality in what makes this world a better place for millions of people. There has been some progress in the reduction of restrictions to religious freedom either in the form of government restrictions or popular hostility. But there is a long way to go. I commend the contributions of each writer in advancing the cause of religion freedom.

Ganoune Diop, Ph.D.
Doctor Honoris Causa
Secretary General
International Religious Liberty Association

FIDES ET LIBERTAS



PART ONE: LIVING WITH OUR DEEPEST DIFFERENCES



Over the past two decades, the International Religious Liberty Association's Meeting of Experts has brought together some of the world's foremost scholars and practitioners in the field of religious freedom to track legal and sociological trends. Papers published from these meetings have, in turn, produced a significant body of academic and practical resources for practitioners in the field of religious freedom advocacy.

The 17th annual Meeting of Experts took place at Pepperdine University School of Law in Malibu, California, August 10-14, 2015. Nineteen scholars representing universities and organizations from seven continents considered the question: "How can people with deep religious or philosophical differences live together without violence?" Through the four days of presentations and discussions, these experts examined faith-based diplomacy, mediation, justice, and the art of peacemaking in a complex and changing world.

Each paper presented during the Meeting of Experts was shaped in some way by two key questions: "How can we live with our deepest differences?" and "How can the best of religions overcome the abysmal record of religious wars, religious ethnic cleansing, and genocides fueled by religious discrimination?"

Presenters included David Little, professor emeritus of Harvard Divinity School; Brian Cox, senior vice president of the International Center for Religion and Diplomacy; Cole Durham, president of the International Consortium for Law and Religion Studies based in Milan, Italy; T. Jeremy Gunn, professor of international relations at Al Akhawayn University in Ifrane, Morocco; and, Amal Idrissi, law professor at the University of Moulay Ismael in Meknes, Morocco. Published here is a selection of these presentations.



RELIGION AND HUMAN RIGHTS: AN INTRODUCTION

JOHN WITTE, JR. AND M. CHRISTIAN GREEN¹

In January 2008, news headlines and human rights websites around the world broadcast the story of a death sentence handed down by a local Afghan court to a 23-year-old journalism student, Sayed Perwiz Kambakhsh, for committing the crime of blasphemy. The student had downloaded and distributed an article from the Internet after annotating it with words deemed to be an insult to the Prophet Mohammed. The article in question was critical of certain Islamic beliefs and practices that were seen as oppressive to women. Kambakhsh had allegedly added to the text some of his own criticisms of Mohammed's teachings on women. The death sentence drew criticism from journalists, human rights activists, and political leaders around the world, inspiring European Parliament President Hans-Gert Pöttering to protest to Afghan President Hamid Karzai: "The alleged 'crime' of this person would appear to be that he has distributed publications aimed at improving the situation of Afghan women."²

At the appeal court, Judge Abdul Salam Qazizada, a holdover from the Taliban era, was reportedly antagonistic toward Kambakhsh. In support of the blasphemy charge against Kambakhsh, the court considered as evidence anecdotal reports that that the young man was a socialist, was impolite, asked too many questions in class, and swapped off-color jokes and messages with friends. In October 2008, an Afghan appeals court overturned Kambakhsh's death sentence and sentenced him instead to twenty years in prison, presumably due to the considerable international attention to his case and international pressure on the Afghan government.³ Kambakhsh began his prison term in March 2009, the same month in which Afghan President Hamid Karzai signed a law specifying circumstances in which Afghan women of the Shi'a Muslim tradition must have sex with their husbands under Muslim family law.⁴ Interpretations of Islamic law as sanctioning marital rape were just the kinds of abuse of women's rights that the young journalist Kambakhsh was seeking to expose.

¹ This chapter is adapted from John Witte, Jr., and M. Christian Green, eds. *Religion and Human Rights: An Introduction* (Oxford University Press, 2012), 3-26 and is used herein by permission.

² "EU Parliament President Calls for Life of Afghan Student to be Spared," [the-parliament.com](http://www.eupolitix.com/EN/News/200801/def9afd4-1ad8-4763-acd4-75b5b316c6e4.htm), 21 January 2008. Accessible at: <http://www.eupolitix.com/EN/News/200801/def9afd4-1ad8-4763-acd4-75b5b316c6e4.htm> (last accessed 4 February 2008).

³ "No Death Sentence for Afghan Journalist," *The New York Times*, October 21, 2008.

⁴ Carlotta Gall and Sangar Rahimi, "Karzai Vows to Review Family Law," *The New York Times*, April 4, 2009.



Such has been the state of religion and human rights in the fragile new democracy of Afghanistan purportedly liberated from the Taliban and other extremists. This kind of story recurs in endless variations in the Middle East, Africa, the Balkans, and various former Soviet nations and provinces in Eastern Europe, as well as in Central and Southeast Asia. Browse the daily news reports,⁵ study the many briefings of human rights NGOs, pore over the annual reports from the United States Commission on International Religious Freedom⁶ or the United Nations Special Rapporteur on Religious Freedom and Belief,⁷ and it becomes altogether too clear that religion and human rights do not yet coincide in many countries of the world, despite their rosy new constitutional provisions on religious freedom and human rights for all. Apostasy, Blasphemy, Conversion, Defamation, Evangelization—this is the new alphabet of offenses in a number of politically volatile nations around the world.

The alphabet goes on to include Fundamentalism, Genocide, Homicide, Injustice, and Jihad in many other nations. A recent comprehensive study of the 198 countries and self-administering territories in the world today show that more than a third of these polities have “high” or “very high” levels of religious oppression, sometimes exacerbated by civil war, natural disasters, and foreign invasion that have sometimes caused massive humanitarian crises. The countries on this dishonor roll include Iran, Iraq, India, Pakistan, Bangladesh, Sri Lanka, Indonesia, Saudia Arabia, Somalia, Yemen, Sudan, Egypt, Israel, Burma, Rwanda, Burundi, the Congo, Chechnya, Uzbekistan, among others.⁸

Even in the more stable constitutional democracies of Western Europe and North America, religion and human rights are facing new changes and conflicts, although usually less violent. Ancient forms of Christian establishment and state favoritism in Scandanavia, England, Ireland, Spain, Italy, and Greece are giving way to new demands for religious pluralism and equal treatment for all. Many West European nations are now beset with urgent new constitutional struggles over the rights and freedoms of swelling populations of new Muslims and other immigrants. A number of European countries have recently passed new measures against “sects” and “cults” that set firm restrictions on religious dress, organization, and movement for various religious and cultural groups, including Muslims, Scientologists, and Römer. In Canada, traditional forms of church-state cooperation have given way to strong new equality norms, with particularly bitter contests emerging between same-sex parties and religious organizations. In the United States, the substantial weakening of the First Amendment has shifted many questions of religious liberty from the

⁵ For much of this part of the world, see the reports of Forum 18 (www.forum18.org).

⁶ See the collection of annual reports by the United States Commission on International Religious Freedom at (www.uscifr.gov); see also the recent manifesto by the Chicago Council of Global Affairs chaired by R. Scott Appleby and Richard Cizik: *Engaging Religious Communities Abroad: A New Imperative for U.S. Foreign Policy* (Chicago: Chicago Council of Global Affairs, 2010).

⁷ See the annual reports collected at <http://www2.ohchr.org/english/issues/religion/index.htm>.

⁸ The Pew Forum on Religion and Public Life, “Global Restrictions on Religion,” (December, 2009) www.pewforum.org.



judiciary to the legislature, and from the federal to the state governments—often leaving religious liberty vulnerable to fleeting local politics and contingent upon a claimant's geographical location.

The tragic irony of all this is that these new sharp contests of religion and human rights have emerged at the same time that human rights norms respecting religion have become increasingly refined. In part because of the new wave of democratization that has broken over the world since the 1970s, many countries have issued major new constitutional provisions, statutes, and cases on religion, replete with generous protections for liberty of conscience and freedom of religious exercise, guarantees of religious pluralism, equality, and nondiscrimination on religious grounds. These national guarantees have been matched with a growing body of regional and international norms building upon foundational guarantees contained in the 1948 Universal Declaration of Human Rights and successor human rights instruments. Especially in the last 20 years, the international norms of religious freedom and human rights on the books have become remarkably comprehensive and sophisticated.

This underscores an elementary, but essential lesson—that human rights norms need a human rights culture to be effective. “[D]eclarations are not deeds,” Judge John T. Noonan, Jr. reminds us. “A form of words by itself secures nothing.... [W]ords pregnant with meaning in one cultural context may be entirely barren in another.”⁹ Human rights norms have little salience in societies that lack constitutional processes that will give them meaning and measure. They have little value for parties who lack basic rights to security, succor, and sanctuary, or who are deprived of basic freedoms of speech, press, or association. They have little pertinence for victims who lack standing in courts and other basic procedural rights to pursue apt remedies. They have little cogency in communities that lack the ethos and ethic to render human rights violations a source of shame and regret, restraint and respect, confession and responsibility, reconciliation and restitution. As we have gradually moved from the first generations of human rights declarations following World War II to the current generation of more serious human rights implementation, this need for an effective human rights culture has become all the more pressing.

In the sections that follow, we first describe the place of religion in the modern human rights framework, and then analyze the kinds of intersecting roles of religion and human rights that are needed to build a more effective human rights culture.

RELIGION & THE INTERNATIONAL HUMAN RIGHTS FRAMEWORK

The international rights and liberties in vogue today have millennium-long roots in various religious, philosophical, and cultural traditions.¹⁰ Their definitive modern formulation, however, came with the promulgation of the Universal Declaration of

⁹ John T. Noonan, Jr., “The Tensions and the Ideals,” *Religious Human Rights in Global Perspective: Legal Perspectives*, ed. Johan D. van der Vyver and John Witte, Jr. (The Hague: Martinus Nijhoff, 1996), 594.

¹⁰ See sources in John Witte, Jr. *The Reformation of Rights: Law, Religion, and Human Rights in Early Modern Calvinism* (Cambridge/New York, 2008), 1-38.



Human Rights in 1948. The Universal Declaration was born out of desperation in the aftermath of World War II. The world had just stared in horror into Stalin's gulags and Hitler's death camps. It had just witnessed the terror of nuclear warfare in Hiroshima and Nagasaki. It had just endured the devastation of sixty million people killed in the bloodiest six years in the history of humankind. It was time to restate the basics of life, freedom, and community. It was time to take up Franklin Roosevelt's call to protect the "four freedoms" of everyone—"freedom of speech, freedom of religion, freedom from want, and freedom from fear."

The United Nations Commission on Human Rights, chaired by Eleanor Roosevelt, took up the task of drafting a definitive declaration on human rights. The drafting committee and the Commission as a whole were broadly inclusive in membership. The main drafters included René Cassin (a Jewish jurist from France and later Nobel Peace Prize winner), Peng-chun Chang (a distinguished Confucian scholar from China), John Peters Humphrey (a leading Canadian jurist who was then part of the UN Secretariat and prepared much of the first draft), Charles Malik (a Maronite Christian from Lebanon), and Jacques Maritain (a prominent French Catholic philosopher and France's ambassador to the Vatican). The Commission itself had representation from countries with majoritarian Atheist, Buddhist, Christian, Confucian, Hindu, and Muslim populations, including India, China, the Philippines, the U.S.S.R., Iran, Egypt, Lebanon, Austria, France, the United States, Panama, and Chile. The Commission further drew on bills of rights from around the world and drew from the expert opinions of sundry scholars, advocates, and NGOs of all manner of professions and confessions.

Jacques Maritain, a member of the Declaration drafting committee, was asked how such a diverse group of participants holding such divergent viewpoints could agree to a definitive list of fundamental rights. He replied: "Yes, we agree about the rights *but on condition no one asks us why.*" The goal, he elaborated, was to agree "not on the basis of common speculative ideas, but on common practical ideas, not on the affirmation of one and the same conception of the world, of man, and of knowledge, but upon the affirmation of a single body of beliefs for guidance in action."¹¹ That "single body of beliefs" was set out in the Preamble and Article 1 of the Universal Declaration, which affirmed that "the inherent dignity and the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world." Respect for human rights and human dignity is essential in all times and places, the Declaration insisted, and must be respected by and for all persons and peoples.

In thirty pithy articles, the Declaration set out the "universal rights" of all human beings: equality and freedom from discrimination; rights to life, liberty, privacy, and security of person; rights to national and cultural identity; freedom from slavery,

¹¹ Mary Ann Glendon, *A World Made New: Eleanor Roosevelt and the Universal Declaration of Human Rights* (New York: Random House, 2001), 77-78 (emphasis added).



servitude, and cruel and barbarous treatment; sundry criminal procedural protections; freedom of movement and asylum; rights to marriage and family life with special protections for mothers and children; rights to property; freedom of thought, conscience, religion, opinion, expression, and assembly; rights to political representation and participation; rights to labor, employment, and social security; rights to healthcare, education, and cultural participation. In the decades after the Declaration, many of these discrete rights became subjects of more elaborate covenants, conventions, and declarations on rights. These international instruments, which fall largely under the vast auspices of the United Nations, were echoed and elaborated in both regional instruments like the 1950 European Charter of Human Rights and the 1969 American Convention on Human Rights. They were further elaborated in the numerous national constitutional provisions and cases issued during the political reconstruction of the world after World War II as well as in the many post-colonial democratic revolutions that followed in Africa, Latin America, and South Asia.

The 1948 Universal Declaration and subsequent human rights instruments include both “freedom rights” (speech, press, religion, and the like) and “welfare rights” (education, labor, health care, and more). Later instruments also outline rights to peace, orderly development, and environmental protection.¹² Many of these rights have religious sources and dimensions, and religious parties often draw on these sundry rights to protect their religious identities and practices. One of the hallmarks of the modern human rights movement is that human rights are “interrelated,” “indivisible,” and “interdependent.”¹³ Freedom rights are useful only if a party’s basic welfare rights to food, shelter, health care, education, and security are adequately protected. The rights to worship, speech, or association mean little to someone starving in the street or dying from a treatable disease. Both freedom and welfare rights are often sacrificed in times of war, emergency, or force majeure.

While religious persons and communities often find refuge in sundry rights claims shared with non-religious claimants, a special category of religious rights and freedoms has also emerged to deal with some of the unique needs of religion. Articles 2 and 18 of the Universal Declaration called these the rights of “thought, conscience, and belief” and the freedom from religious discrimination. Four international instruments, elaborating the Declaration, contain the most critical protections of religious rights and liberties: (1) the International Covenant on Civil and Political Rights (“the 1966 Covenant”),¹⁴ (2) the United Nations Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief (“the 1981 Declaration on Religion or Belief”),¹⁵ (3) the Concluding Document of

¹² On these latter rights, see the chapters by Ronald Niezen, Willis Jenkins, and R. Scott Appleby herein.

¹³ See Ingvill Thorson Plesner, “Religion and Economic, Social, and Cultural Rights,” in Witte and Green, eds. *Religion and Human Rights*, 316-329, citing the World Conference on Human Rights in Vienna, 14-25 June 1993.

¹⁴ G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316, 999 U.N.T.S. (Dec. 16, 1966).

¹⁵ G.A. Res. 36/55, U.N. GAOR Supp. (no. 151), U.N. Doc. A/RES/36/55 (Nov. 25, 1981).



the Vienna Follow-up Meeting of Representatives of the Participating States of the Conference on Security and Cooperation in Europe (the “1989 Vienna Concluding Document”),¹⁶ and (4) the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious, and Linguistic Minorities (“the 1992 Minorities Declaration”).¹⁷

The 1966 International Covenant on Civil and Political Rights, a binding treaty accepted by 165 countries today, largely repeats the capacious guarantee of religious rights and liberties first announced in the 1948 Universal Declaration. Article 18 of the 1966 Covenant reads:

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.
3. Freedom to manifest one’s religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.
4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Article 18 distinguishes between the right to freedom of religion or belief and the freedom to manifest one’s religion or belief—what American law labels as liberty of conscience and free exercise of religion respectively. The right to freedom of religion (the freedom to have, to alter, or to adopt a religion of one’s choice) is an absolute right from which no derogation may be made and which may not be restricted or impaired in any manner. Freedom to manifest or exercise one’s religion (individually or collectively, publicly or privately) may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others. The latter provision is an exhaustive list of the grounds allowed to limit the manifestation of religion. The requirement of necessity implies that any such limitation on the manifestation of religion must be proportionate to its aim to protect any of the listed state interests. Such limitations must not be applied in a manner that would vitiate the rights guar-

¹⁶ 28 I.L.M. 527.

¹⁷ G.A. Res. 47/135, Annex, U.N. Doc. A/Res/47/135/Annex, 18 December 1992.



anteed in Article 18.¹⁸

Article 20.2 of the 1966 Covenant calls for States Parties to prohibit “any advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility, or violence.” Articles 2 and 26 further require equal treatment of all persons before the law and prohibit discrimination based, among other grounds, on religion.

The 1981 Declaration on Religion or Belief elaborates the religious liberty provisions that the 1966 Covenant adumbrated. Like the 1966 Covenant, the 1981 Declaration on its face applies to “everyone,” whether “individually or in community,” “in public or in private.” Articles 1 and 6 of the 1981 Declaration set forth a lengthy illustrative catalogue of rights to “freedom of thought, conscience, and religion” — repeating but also illustrating more concretely the 1966 Covenant’s guarantees of liberty of conscience and free exercise of religion. Article 6 enumerates these rights as follows:

- (a) To worship or assemble in connection with a religion or belief and to establish and maintain places for these purposes;
- (b) To establish and maintain appropriate charitable or humanitarian institutions;
- (c) To make, to acquire and use to an adequate extent the necessary articles and materials related to the rites or customs of a religion or belief;
- (d) To write, issue, and disseminate relevant publications in these areas;
- (e) To teach a religion or belief in places suitable for these purposes;
- (f) To solicit and receive voluntary financial and other contributions from individuals and institutions;
- (g) To train, to appoint, to elect, or to designate by succession appropriate leaders called for by the requirements and standards of any religion or belief;
- (h) To observe days of rest and to celebrate holy days and ceremonies in accordance with the precepts of one’s religion or belief; and
- (i) To establish and maintain communications with individuals and communities in matters of religion and belief at the national and international levels.

Further guidance for the protection of a person’s freedom of conscience is

¹⁸ See Symposium, “The Permissible Scope of Legal Limitations on the Freedom of Religion and Belief,” *Emory International Law Review* 19 (2005): 465-1320.



provided in the 1990 Copenhagen Document which, glossing the 1981 Declaration, recognizes “the right of everyone to have conscientious objection to military service” and calls for “various forms of alternative service ... in combatant or civilian service” “which are compatible with the reasons for conscientious objections to military service.”¹⁹

The 1981 Declaration, in Article 5, also dwells specifically on the religious rights of children and their parents. It guarantees the rights of parents (or guardians) to organize life within their household and to educate their children “in accordance with their religion or beliefs.” Such parental responsibility within and beyond the household, however, must be discharged in accordance with the “best interests of the child.” At minimum, the parents’ religious upbringing or education of their child “must not be injurious to his physical or mental health or to his full development.” Moreover, the Declaration provides more generically, “the child shall be protected from any form of discrimination on the ground of religion or belief. He shall be brought up in a spirit of understanding, tolerance, friendship among peoples, peace and universal brotherhood, respect for freedom of religion or belief of others, and in full conscience that his energy and talents should be devoted to the service of his fellow men.” The Declaration leaves juxtaposed the parents’ right to rear and educate their children in accordance with their own religion and beliefs and the state’s power to protect the best interests of the child, including the lofty aspirations for the child’s upbringing. Despite ample debate on point, the Declaration drafters offered no specific principles to resolve the disputes that would inevitably arise between the rights of parents and the powers of the state operating *in loco parentis*. Some further guidance on this subject is provided by the 1989 UN Convention on the Rights of the Child—though the issue of parental rights over their child’s religious upbringing and welfare remains highly contested.²⁰

As these children’s rights provisions illustrate, the 1981 Declaration, like the 1966 Covenant, allows the “manifestation of religion” to be subjected to “appropriate” state regulation and adjudication. The 1981 Declaration permits states to enforce against religious individuals and institutions general regulations designed to protect public safety, order, health, or morals, or the fundamental rights and freedoms of others. It is assumed, however, that in all such instances, the grounds for such regulations are enumerated and explicit and that such regulations abide by the international legal principles of necessity and proportionality.

The 1981 Declaration includes more elaborate prohibitions than the 1966 Covenant on religious discrimination and intolerance. Article 2 bars religious “discrimination by any State, institution, group of persons, or person.” And it defines such discrimination as “any distinction, exclusion, restriction or preference based

¹⁹ Document of the Copenhagen Meeting of Representatives of the Participating States of the Conference on the Human Dimension of the Conference on Security and Co-operation in Europe (1990), Principle 18, reprinted in OSCE/ODIHR, *Guidelines for Review of Legislation Pertaining to Religion or Belief* (June, 2004), p. 45.

²⁰ See Symposium, “What’s Wrong with Rights for Children?” *Emory International Law Review* 20 (2006): 1-239.



on religion or belief, and having as its purpose or as its effect nullification or impairment of the recognition, enjoyment or exercise of human rights or fundamental freedoms on an equal basis.” All such discrimination based on religion or belief, the Declaration insists, is “an affront to human dignity” and a “disavowal” of the “fundamental freedoms” that form the cornerstone of national and international peace and cooperation. Accordingly, the Declaration calls on all States Parties “to take effective measures to prevent and eliminate” such discrimination “in all fields of civil, economic, political, social, and cultural life,” including rescinding laws that foster discrimination and enacting laws that forbid it.

The 1981 Declaration includes suggested principles of implementation and application of these guarantees. It urges states to take all “effective measures to prevent and eliminate discrimination on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields of civil, economic, political, social and cultural life.” It urges states to remove local laws that perpetuate or allow religious discrimination and to enact local criminal and civil laws to combat religious discrimination and intolerance.

The 1989 Vienna Concluding Document extends the religious liberty norms of the 1981 Declaration, particularly for religious groups. Principle 16 rounds out the list of enumerated rights guarantees quoted above from the 1981 Declaration:

16. In order to ensure the freedom of the individual to profess and practice religion or belief the participating States will, *inter alia*,

- A. take effective measures to prevent and eliminate discrimination against individuals or communities, on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields of civil, political, economic, social and cultural life, and ensure the effective equality between believers and non-believers;
- B. foster a climate of mutual tolerance and respect between believers of different communities as well as between believers and non-believers;
- C. grant upon their request to communities of believers, practicing or prepared to practice their faith within the constitutional framework of their states, recognition of the status provided for them in their respective countries;
- D. respect the right of religious communities to establish and maintain freely accessible places of worship or assembly; organize themselves according to their own hierarchical and institutional structure; select, appoint and replace their personnel in accordance with their



respective requirements and standards as well as with any freely accepted arrangement between them and their State; solicit and receive voluntary financial and other contributions;

E. engage in consultations with religious faiths, institutions and organizations in order to achieve a better understanding of the requirements of religious freedom;

F. respect the right of everyone to give and receive religious education in the language of his choice, individually or in association with others;

G. in this context respect, *inter alia*, the liberty of parents to ensure the religious and moral education of their children in conformity with their own convictions;

H. allow the training of religious personnel in appropriate institutions;

I. respect the right of individual believers and communities of believers to acquire, possess, and use sacred books, religious publications in the language of their choice and other articles and materials related to the practice of religion or belief;

J. allow religious faiths, institutions and organizations to produce and import and disseminate religious publications and materials;

K. favorably consider the interest of religious communities in participating in public dialogue, *inter alia*, through mass media.

A number of these religious group rights provisions in the Vienna Concluding Document reflect the international right to self-determination of peoples. This right has long been recognized as a basic norm of international law, and is included, among other places, in the 1966 Covenant, the 1989 Child Convention, and the 1990 Copenhagen Document. It has its fullest expression in the 1992 Minorities Declaration. The right to self-determination belongs to “peoples” within plural societies. It affords a religious community to practice its religion, an ethnic community the right to promote its culture, and a linguistic community to speak its language without undue state interference or legal restrictions. Governments are required to secure the interests of distinct sections of the population that constitute a people in the above sense. The 1992 Minorities Declaration clearly spells out that obligation: protect and encourage conditions for the promotion of the concerned group identities of minorities; afford to minorities the special competence to participate effective-



ly in decisions pertinent to the group to which they belong; do not discriminate in any way against any person on the basis of his or her group identity; take actions to secure their equal treatment at law. The Minorities Declaration further provides that: "States shall take measures to create favorable conditions to enable persons belonging to minorities to express their characteristics and to develop their culture, language, religion, traditions and customs, except where specific practices are in violation of national law and contrary to international standards."²¹ So conceived, the right to religious self-determination provides religious groups some of the same strong protections afforded to religious individuals under the freedom of conscience guarantee.

The 2007 United Nations Declaration on the Rights of Indigenous Peoples gives specific elaboration of these rights of self-determination for indigenous, aboriginal, or first peoples. Article 12 provides that "Indigenous peoples have the right to manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains." Article 25 provides further that "Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard."²²

These are the basic international provisions on religious rights on the books. Various regional instruments, notably the European Charter on Human Rights (1950), the American Convention on Human Rights (1969), and the African Charter on Human and People's Rights (1981), elaborate some of these guarantees. Further amplification is provided in various religious declarations and treaties involving religious bodies, notably the recent concordats between the Vatican and Italy, Spain, and Israel and in other bilateral treaties between various nations.

A number of religious bodies have also issued important international declarations of human rights, including religious rights and liberties, that have helped to mobilize human rights reflection and activism within these religious communities. Both the Roman Catholic Church and the Islamic world, each claiming well over a billion members worldwide, offer good examples. The Catholic declarations were issued during and after the Second Vatican Council (1962-1965), when the Church came to endorse many of the very same human rights and democratic principles that it had spurned a century before. "Every person," reads the famous Vatican decree *Dignitatis Humanae* (1965), is created by God with "dignity, intelligence and free will ... and has rights flowing directly and simultaneously from his very nature." Such rights include the right to life and adequate standards of living, to labor, educa-

²¹ 1992 Minorities Declaration, art. 4.2.

²² *United Nations Declaration on the Rights of Indigenous Peoples*, UN GAOR, A/61/L.67/Annex (2007). See further the chapter by Ronald Niezen herein.



tion, and health care, to moral and cultural values, to religious activities, to assembly and association, to marriage and family life, and to various social, political, and economic benefits and opportunities. The Church emphasized the religious rights of conscience, worship, assembly, and education, calling them the “first rights” of any civic order. The church also stressed the need to balance individual and associational rights, particularly those involving the church, family, and school. Governments everywhere were encouraged to create conditions conducive to the realization and protection of these “inviolable rights” and encouraged to root out every type of discrimination, whether social or cultural, whether based on sex, race, color, social distinction, language, or religion. As a corollary, the Church advocated limited constitutional government, disestablishment of religion, and the separation of church and state. The vast pluralism of religions and cultures, and the inherent dangers in state endorsement of any religion, in the church’s view, rendered mandatory such democratic forms of government. Armed with these new human rights teachings, the Catholic Church has become a critical force in the new democratic and human rights movements in Brazil, Chile, Central America, the Philippines, South Korea, Poland, Hungary, the Czech Republic, Ukraine, and elsewhere.²³

The Universal Islamic Declaration of Human Rights (1981) offers another compelling example of a religious community’s new embrace of human rights. The foreword of this important document proclaims this instrument to be a “declaration for mankind,” invoking a classic Qur’anic passage describing the creation of humanity “into nations and tribes, so that you might come to know one another.”²⁴ The Declaration guarantees “freedom of belief, thought, and speech” and, more specifically, a person’s “right to freedom of conscience and worship in accordance with his religious beliefs.” It condemns actions that “hold in contempt or ridicule the religious beliefs of others or incite public hostility against them,” and declares that “respect for the religious feelings of others is obligatory on all Muslims.” Above all, it declares, that the “Qur’anic principle ‘There is no compulsion in religion’ shall govern the religious rights of non-Muslim minorities” and “[i]n a Muslim country religious minorities shall have the choice to be governed in respect of their civil and personal matters by Islamic Law, or by their own laws.”²⁵

The more recent 1990 Cairo Declaration on Human Rights contains no articles specifically devoted to religious freedom, but it does cite “race, color, language, sex, *religious belief*, political affiliation, [and] social status” as impermissible bases of discrimination.²⁶ Religious rights are mentioned in a provision on educational

²³ See J. Bryan Hehir, “The Modern Catholic Church and Human Rights: The Impact of the Second Vatican Council,” in *Christianity and Human Rights*, ed. John Witte, Jr. and Frank S. Alexander (Cambridge: Cambridge University Press, 2010), 113-134.

²⁴ Universal Islamic Declaration of Human Rights (London: Islamic Council, 1981), foreword (quoting Qur’an, Sura 49:13). Accessible at: <http://www.alhewar.com/ISLAMDECL.html>, last accessed May 3, 2009.

²⁵ Ibid., Arts. 13, 12, 14, 10

²⁶ Cairo Declaration on Human Rights in Islam, Aug. 5, 1990, U.N. GAOR, World Conf. on Hum. Rts., 4th Sess., Agenda Item 5, U.N. Doc. A/CONF.157/PC/62/Add.18 (1993) [English translation], Art. 1 (emphasis added).



rights, as well as in the context of the believer's right "to live in security for himself, his *religion*, his dependents, his honor, and his property."²⁷ At the same time, a provision on free speech limits the applicability of free speech guarantees in cases where such speech would "arouse nationalistic or *doctrinal* hatred or do anything that may be an incitement to any form of racial discrimination."²⁸ In its linkage of religion to race and other categories of identity, the Cairo Declaration, is a precursor to the more recent connections made between religion, race, and ethnicity in the "combating defamation of religions" resolutions that have been introduced by the Muslim member states of the Organization of the Islamic Conference (OIC) at the United Nations in recent years.²⁹ The conflation of religion, race, and ethnicity in those resolutions suggests a potentially narrower ambit of religious freedom than the earlier Universal Islamic Declaration. But it is equally important to recognize that the Cairo Declaration does affirm the fundamental nature of religious rights, even as it hints at the grounds for their restriction.

These international instruments on religion and human rights—and many others that can adduced—highlight the hottest religion and human issues that now regularly confront national and international tribunals: How to protect religious and cultural minorities within a majoritarian religious culture—particularly controversial groups like Muslims, Mormons, Bahias, Jehovah's Witnesses, Scientologists, Unification Church members, and Indigenous peoples who often bring charges of religious and cultural discrimination. How to define limits on religious and anti-religious exercises and expressions that cause offense or harm to others or elicit charges of blasphemy, defamation, or sacrilege. How to adjudicate challenges that a state's proscriptions or prescriptions run directly counter to a party's core claims of conscience or cardinal commandments of their faith. How to balance private and public exercises of religion, including the liberty of conscience of one party to be left alone and the free exercise right of another to proselytize. How to balance conflicts between the rights of parents to bring up their children in the faith and the duties of the state to protect the best interest of the child. How to protect the distinct religious needs of prisoners, soldiers, refugees, and others who don't enjoy ready access to traditional forms and forums of religious worship and expression.

Many religion and human rights issues involve religious groups, for whom the right to organize as a legal entity with juridical personality is itself often a critical issue. How to negotiate the complex needs and norms of religious groups without according them too much sovereignty over their members or too little relief from secular courts in the event of fundamental rights violations by religious tribunals. How to balance the rights of religious groups to self-determination and self-governance and the guarantees of freedom from discrimination based on religion,

²⁷ *Ibid.*, Art. 22 (emphasis added).

²⁸ *Ibid.*, Art. 18 (emphasis added).

²⁹ On this latter, see Carolyn Evans, "Religion and Freedom of Expression," in Witte and Green, eds. *Religion and Human Rights*, 188-203.



gender, culture, and sexual orientation. How to balance competing religious groups who each claim access to a common holy site, or a single religious or cultural group whose sacred site is threatened with desecration, development, or disaster. How to protect the relations between local religious communities and their foreign co-religionists. How to adjudicate intra- or interreligious disputes that come before secular tribunals for resolution. How to determine the proper levels of state cooperation with and support of religious officials and institutions in the delivery of vital social services—child care, education, charity, medical services, and disaster relief, among others.

Each one of these issues of religion and human rights issues now commands a whole library of specialty literature, and a whole litany of human rights documents, cases, and field reports to consult.

THE PLACE OF RELIGION IN HUMAN RIGHTS

A number of distinguished commentators have argued that it is just because of all of these thorny problems that religion should have no place in a modern regime of human rights. Religious ideas may well have been the sources of human rights in earlier eras; some religious groups might even have helped to inspire the modern human rights revolution. But religion has now outlived its utility. Religion is, by its nature, too expansionistic and monopolistic, too patriarchal and hierarchical, too antithetical to the very ideals of pluralism, toleration, and equality inherent in a human rights regime. Religion is also too dangerous, divisive, and diverse in its demands to be accorded special protection. Religion is better viewed as just another category of private liberty, expression, and association and given no more preference than its secular counterparts. Indeed, to accord religion special human rights treatment is, in effect, to establish it and to discriminate against non-religious parties in the same position. Purge religion entirely, this argument concludes, and the human rights paradigm will thrive.³⁰

This argument proves too much to be practicable. In the course of the twentieth century, religion defied the wistful assumptions of the Western academy that the spread of Enlightenment reason and science would slowly eclipse the sense of the sacred and the sensibility of the superstitious. Religion also defied the evil assumptions of Nazis, Fascists, and Communists alike that gulags and death camps, iconoclasm and book burnings, propaganda and mind controls would inevitably drive religion into extinction. Yet another great awakening of religion is upon us—now global in its sweep and frightening in its power.³¹

It is undeniable that religion has been, and still is, a formidable force for both political good and political evil, that it has fostered both benevolence and belliger-

³⁰ See David Little, "Religion, Human Rights, and Public Reason: The Role and Limits of a Secular Rationale," in Witte and Green, eds. *Religion and Human Rights*, 135-154.

³¹ See R. Scott Appleby, "Religion, Violence, and the Right to Peace," in Witte and Green, eds. *Religion and Human Rights*, 360-378.



ence, peace and pathos of untold dimensions. But the proper response to religious belligerence and pathos cannot be to deny that religion exists or to dismiss it to the private sphere and sanctuary. The proper response is to castigate the vices and to cultivate the virtues of religion, to confirm those religious teachings and practices that are most conducive to human rights, democracy, and rule of law.

Human rights ultimately need religious ideas, institutions, and rights claims to survive and thrive. First, without religion, many rights are cut from their roots. The right to religion, Georg Jellinek once wrote, is “the mother of many other rights.”³² For the religious individual, the right to believe leads ineluctably to the rights to assemble, speak, worship, proselytize, educate, parent, travel, or to abstain from the same on the basis of one’s beliefs. For the religious association, the right to exist invariably involves rights to corporate property, collective worship, organized charity, parochial education, freedom of press, and autonomy of governance. To ignore religious rights is to overlook the conceptual, if not historical, source of many other individual and associational rights.

Second, without religion, the regime of human rights becomes infinitely expandable. Many religious communities adopt and advocate human rights in order to protect religious duties. A religious individual or association has rights to exist and act not in the abstract but in order to discharge discrete religious duties. For many religions, freedoms and commandments, rights and duties belong together. To speak of one without the other is ultimately destructive. Rights without duties to guide them quickly become claims of self-indulgence. Duties without rights to exercise them quickly become sources of deep guilt.

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

Fourth, without religion, the state is often given an exaggerated role to play as the guarantor of human rights. The simple state-versus-individual dialectic of many modern human rights theories leaves it to the state to protect and provide rights of all sorts. In reality, the state is not, and cannot be, so omniscient, as the fantastic failures of the twentieth-century Communist states made all too clear. Numerous “mediating structures” stand between the state and the individual, religious institutions prominently among them. Religious institutions, among others, play a vital role in the cultivation and realization of rights. They can create the conditions (sometimes the prototypes) for the realization of first generation civil and political

³² Georg Jellinek, *Die Erklärung der Menschen- und Bürgerrechte: ein Beitrag zur modernen Verfassungsgeschichte* (Lipzig: Duncker and Humblot, 1895), 42.



rights. They can provide a critical (sometimes the principal) means to meet second generation rights of education, health care, child care, labor organizations, employment, artistic opportunities, among others. They can offer some of the deepest insights into norms of creation, stewardship, and servanthood that lie at the heart of third generation rights.

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

Similarly, the ancient teachings of Buddhism, Confucianism, Hinduism, and Indigenous Religions have much to teach the world about human rights—particularly in their call to strike new balances between individual rights and social responsibilities, between the freedoms of humans and the needs of nature, between the legal order of the world and the cosmic order of the universe. Buddhist, Confucian, Hindu, and Indigenous defenses and declarations of rights are beginning to appear, and many members of these religious traditions now often eagerly embrace the freedom of religion and religious self-determination held out by modern human rights and constitutional instruments. But all these Asian and Indigenous traditions have also maintained a healthy skepticism about modern formulations of human rights, and question whether human rights are truly universal or just the hegemonic creations of Western Christianity and Enlightenment liberalism.



THE PLACE OF HUMAN RIGHTS IN RELIGION

Human rights skeptics within the Asian religious world often find allies among Western religious believers as well. It is one thing, such religious skeptics argue, for religious believers and bodies to accept the freedom and autonomy that a human rights regime allows. This at least gives them unencumbered space to pursue their divine callings. It is quite another thing for religious communities to import human rights within their own politics and theologies. This exposes them to all manner of unseemly challenges.

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

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

The Universal Declaration of Human Rights [of 1948], like the French Declaration of the Rights of Man and Citizen in 1789, has had an immense impact throughout the world. It has been called a modern edition of the New Testament, and the Magna Carta of humanity, and has become a constant source of inspiration for governments, for judges, and for national and international legislators.... [B]y recognizing the Universal Declaration as a *living* document ... one can proclaim one's faith in the future of mankind.³³

In demonstration of this new faith, Vasak converted the “old trinity” of “*liberté, égalité, et fraternité*” taught by the French Revolution into a “new trinity” of “three generations of rights” for all humanity.³⁴ The first generation of civil and political

³³ Karel Vasak, “A 30-Year Struggle,” *UNESCO Courier*, November 1977, p. 29; see also Karel Vasak, “Foreword,” in Karel Vasak, ed., *The International Dimensions of Human Rights* (Westport, CT: Greenwood Press, 1982), xv; id., “Pour une troisième génération des droits de l'homme,” in *Études et Essais sur le Droit International Humanitaire et sur les Principes de la Croix-Rouge en l'Honneur de Jean Pictet*, ed. Christophe Swinarski (The Hague: Martinus Nijhoff, 1984), 837-845.

³⁴ Vasak, “Pour une troisième génération,” 837.



rights elaborates the meaning of liberty. The second generation of social, cultural, and economic rights elaborates the meaning of equality. The third generation of solidarity rights to development, peace, health, the environment, and open communication elaborates the meaning of fraternity. Such language has become not only the *lingua franca* but also something of the *lingua sacra* of the modern human rights movement. In the face of such an overt confession of secular liberalism, religious skeptics conclude, a religious body would do well to resist the ideas and institutions of human rights.

Both these skeptical arguments, however, presuppose that human rights norms constitute a static belief system born of Enlightenment liberalism. But the human rights regime is not static. It is fluid, elastic, and open to challenge and change. The human rights regime is not a fundamental belief system. It is a relative system of ideas and ideals that presupposes the existence of fundamental beliefs and values that will constantly shape and reshape it. The human rights regime is not the child of Enlightenment liberalism, nor a ward under its exclusive guardianship. It is the *ius gentium* of our times, the common law of nations, which a variety of Hebrew, Greek, Roman, Christian, and Enlightenment movements have historically nurtured in the West and which today needs the constant nurture of multiple communities around the world. It is beyond doubt that many current formulations of human rights are suffused with fundamental libertarian beliefs and values, some of which run counter to the cardinal beliefs of various religious traditions. But liberalism does not and should not have a monopoly on the nurture of human rights; indeed, a human rights regime cannot long survive under its exclusive patronage.

We use the antique term *ius gentium* advisedly—to signal the place of human rights as “middle axioms” in our moral and political discourse. Historically, Western writers spoke of a hierarchy of laws—from natural law (*ius naturale*), to common law (*ius gentium*), to civil law (*ius civile*). The natural law was the set of immutable principles of reason and conscience, which are supreme in authority and divinity and must always prevail in instances of dispute. The civil law was the set of enacted laws and procedures of local political communities, reflecting their immediate policies and procedures. Between these two sets of norms was the *ius gentium*, the set of principles and customs common to several communities and often the basis for treaties and other diplomatic conventions. The contents of the *ius gentium* did gradually change over time and across cultures as new interpretations of the natural law were offered, and as new formulations of the positive law became increasingly conventional. But the *ius gentium* was a relatively consistent body of principles by which a person and a people could govern themselves.³⁵

This antique typology helps us to understand the intermediate place of human rights in our hierarchy of legal and cultural norms today. Human rights are the *ius*

³⁵ See Brian Tierney, *The Idea of Natural Rights: Studies on Natural Rights, Natural Law, and Church Law, 1150-1625* (Grand Rapids, MI: Eerdmans, 1997).



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

This antique typology also helps us to understand the place of human rights within religion. Our argument that human rights must have a more prominent place within religions today is not an attempt to import libertarian ideals into their theologies and politics. It is not an attempt to herd Trojan horses into churches, synagogues, mosques, and temples to assail secretly their spirit and structure. Our argument is, rather, that religious bodies must again assume their traditional patronage and protection of human rights, bringing to this regime their full doctrinal vigor, liturgical healing, and moral suasion. Using our antique typology, religious bodies must again nurture and challenge the middle axioms of the *ius gentium* using the transcendent principles of the *ius naturale*. This must not be an effort to monopolize the discourse, nor to establish by positive law a particular religious construction of human rights. Such an effort must be part of a collective discourse of competing understandings of the *ius naturale*—of competing theological views of the divine and the human, of good and evil, of individuality and community—that will serve constantly to inform and reform, to develop and deepen, the human rights ideals now in place.

A number of religious traditions of late have begun the process of reengaging the regime of human rights, of returning to their traditional roots and routes of nurturing and challenging the human rights regime. This process has been incremental, clumsy, controversial, and at times even fatal for its proponents. But the process of religious engagement of human rights is now under way in Christian, Islamic, Judaic, Buddhist, Confucian, Hindu, and Indigenous communities alike. Something of a new “human rights hermeneutic” is slowly beginning to emerge among modern religions.³⁶

This is, in part, a “hermeneutic of confession.” Given their checkered human rights records over the centuries, religious bodies have begun to acknowledge their departures from the cardinal teachings of peace and love that are the heart of their sacred texts and traditions. They have begun to confess that their theologians and jurists have resisted the importation of human rights as much as they have helped in their cultivation, that their internal policies and external advocacy have helped to perpetuate bigotry, chauvinism, and violence as much as they have served to propa-

³⁶ Abdullahi Ahmed An-Na'im, “Towards an Islamic Hermeneutics for Human Rights,” in *Human Rights and Religious Values: An Uneasy Relationship?* ed. Abdullahi Ahmed An-Na'im, et al. (Grand Rapids: Wm. B. Eerdmans, 1995), 229-242.



gate equality, liberty, and fraternity. The blood of thousands is at the doors of our churches, synagogues, temples, and mosques. The bludgeons of pogroms, crusades, jihads, inquisitions, and ostracisms have been used to devastating effect within and among these faiths. Confession and restitution are essential first steps for any religious community to engage human rights fully.

This is, in part, a “hermeneutic of suspicion,” in Paul Ricoeur’s famous phrase. Given the pronounced libertarian tone of many recent human rights formulations, it is imperative that we not idolize or idealize these formulations. We need not be bound by current taxonomies of “three generations of rights” rooted in liberty, equality, and fraternity. Nor do we need to accept the seemingly infinite expansion of human rights discourse and demands. Rights bound by moral duties, by natural capacities, or by covenantal relationships might well provide better boundaries to the legitimate expression and extension of rights. We also need not be bound only to a centralized legal methodology of articulating and enforcing rights. We might also consider a more pluralistic model of interpretation that respects “the right of the [local] community to be the living frame of interpretation for [its] own religion and its normative regime.”³⁷

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

This is, in part, a “hermeneutic of law and religion.” A century of legal positivism in the Western academy has trained us to think that law is an autonomous discipline, free from the influence of religion and belief. A century of firm laicization and strict separation of church and state has accustomed us to think that our law and politics must be hermetically and hermeneutically sealed from the corrosive influences of religious believers and bodies. An ample body of new scholarship has emerged, however, to show that law and religion need each other, and that institutions like human rights have interlocking legal and religious dimensions.

The universality of human rights has held up “as long as no one asks why” in Maritain’s famous phrase. The various covenants and conventions of international

³⁷ Abdullahi Ahmed An-Na’im, *Toward an Islamic Reformation: Civil Liberties, Human Rights, and International Law* (Albany, NY: SUNY Press, 1990), 235.



human rights law, as concerns religion, while not always unanimous in their acclamation or uniform in their application have generally been taken to be universal in their aspiration. What happens when increased globalization, communication, and internationalism in the legal sphere brings to light uncomfortable differences of opinion, orientation, and ontology in the religious sphere? Most religions have a stake in asserting the truth of their own beliefs against the apparent falsehood of the beliefs of others. At the level of normative interreligious engagement, refraining from asking the “why” questions may be difficult if not disingenuous, if one purports to want to truly understand and respect religious beliefs and religious diversity. How to have these conversations in a way that is both critical and constructive amid descriptive and doctrinal pluralism remains a crucial challenge for both religion and human rights.

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PEACEMAKING THROUGH INQUIRY, INTERIORITY, AND INSIGHTS

ANDREA BARTOLI¹

I have been asked to discuss “The Role of Religion and Religious Freedom in Dispute Resolution and Peace Making” in a world that “is plagued with deep divisions, antagonisms, and conflicts raging on every continent that imperil civil and religious freedoms for many people.” The question is asked: “How can we today live with our deepest differences?” And while I share this concern, I find myself wanting more or better exploration in two directions. I ask myself: “Are these divisions new?”; “Are these divisions deepening, worsening, hardening? Or are they getting smaller, more malleable, more manageable?” So I find myself asking: “Can we see a pattern? Can we distinguish trends?” And subsequently, can we set out on a journey that might improve the chances of life not just surviving, but flourishing?

At the beginning of my paper I must be extremely clear about my own conceptual frameworks and tools. I am a devout post-Vatican II Catholic who discovered in the United States the work of Bernard Lonergan, a theologian and philosopher of the past millennium who has guided many through the difficult paths of post-modern relativisms and oversimplified claims to truth.² His deep belief in truth and grace guides my attempt to contribute a few words to our common enterprise.

Each year at Seton Hall University all freshmen must read a book. This year it is *The Ledge*, a story of two climbers who experience a terrible accident.³ Only one survives falling into a crevasse, a deep icy fissure in a glacier. The one who escapes is a believer, and he is also a reasonable person. He is well prepared and well equipped, but still the odds of him surviving that particular situation are very slim.

It appears to me that humanity is today in a similar situation, drawing closer to the edge of an icy crevasse, this time made of mistakes and folly. We are in each other's hands, and the world we make and remake is terrifyingly unjust, oppressive, and unresolved. It doesn't need to be that way. It can change. It does change. Every

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² Bernard Lonergan is the author of *Insight: A Study of Human Understanding* (London: Longmans, Green & Co., 1957) and *Method in Theology* (London: Darton, Longman and Todd, Ltd., 1972). In *Insight* he worked out what he called a Generalized Empirical Method, and in *Method in Theology* he showed how this method elucidated the structure and process of work in theology. For more information <http://www.bernardlonergan.com/biography.php>.

³ Jim Davidson and Kevin Vaughan, *The Ledge: An Inspirational Story of Friendship* (New York: Ballantine Books, 2013).



time someone is open to authentic religious experience, every time we make sense of the world around us truthfully, every time we act prudently based on that understanding, the world becomes more peaceful, more reasonable, more favorable.

I ask myself: “Where are we today, as a human family, as we experience the present and venture into the future?”

I think we are caught in contradictions—both bound to learning and tempted by violence. Everything we see and experience seems contradictory. Humanity is as numerous as never before and yet our food supply does not diminish. We have created many nation-states and yet in many areas of the world there is little political stability. We have proclaimed human rights and yet we disregard them—violently and tragically. To claim that all is well is foolish; and yet to claim impending doom and inevitable destruction is untruth. Many see the world through the lens of increased complexity, and this can be overwhelming. Life seems less simple than in the past; it feels less understandable. Old patterns are disrupted and some respond by hardening their grip on the forms and structures of the past. Others venture on without thinking much, concerned more with their current relationships or predicaments.

Today, we must look deeper than this. Can we see something—especially at the intersection of religion and politics—that gives us clues for how religion might help ameliorate the differences that exist at this intersection?

I think we are bound to learning; that we must accept that the human project is made up of billions of differentiated realities, and billions and billions more to come. And so I offer inquiry, interiority, and insights as universal responses to the challenges of conflict and the temptation of violence—this oversimplified response to chaos that aims at creating order by imposition.

I speak of inquiry because a violent conflict is, in a very cogent way, an answer before the question; a response to a question that is never posed; a voice that speaks before listening. Inquiry is the great orientation of any religious experience, of any human quest that is open to truth and not just to the certainty of death and power. Inquiry is fragile, uncertain, and humble. Yet it is transformative and leads us endlessly to new understandings.

How did we get to the current formulation of religious liberty? It was not obvious. It was not a given. I speak of interiority because in the hearts and minds of individuals (Roger Williams and others) arose the idea that humans are not only free, but must be free. They saw freedom as a call, as an invitation, as a responsibility that the political sphere should respect and protect, not interfere with or impose upon. My point is that we cannot approach politics and religion without an appreciation of the human person, her capacity to choose, to be free and to free others. Interiority is the cradle of all freedoms, of all meanings and words. Interiority is where the mystics can see the presence of life unfolding and we can explore the contours of freedom.

I speak of insights because they come to us as a gift of the Spirit and as a prize of our inquiry. Humans cannot force understanding. Understanding is an act of



freedom. It is a gift that frees us from ignorance and delusion. As humans we experience life and then we understand it in a world mediated by meaning. And so as we venture into the nexus of religion and politics we are actually on a quest; we look for signs, we seek understanding. Learning doesn't just happen to us. We are not passive recipients of someone else's action but, in our own freedom, we participate in the action of the Spirit. Could it be then, that we must re-engage religious freedom as a way to learn from one another respectfully and contribute to the one project of the human family?

If I look at my own tradition, and specifically at my own denomination and focus in on its relation to Islam, I find many very hopeful signs. I mention just a few:

- a Pope who, for the first time in history, chooses the name Francis to acknowledge the saint who visited the Sultan Malik al-Kamil as a peaceful pilgrim in the middle of a crusade.
- another Pope, John Paul II, just a few years before Francis, who brought together in Assisi, the birthplace of Francis, an unprecedented group of religious leaders to pray for peace.
- an Ecumenical Council that embraced religious freedom⁴ and solemnly declared its "high regard for the Muslims."⁵
- a very consistent *magisterium pacis* from all Popes after Pius IX and a strenuous effort to avoid war, contain war, and resolve war through peaceful means.

Benedict XVI said, speaking about truth: "We never have it; at best it has us."⁶

I find this expression very effective. Humans must seek the truth and submit to it, knowing that their grasp is incomplete and that humility is the proper way to approach it. None of these signs can be understood properly without reference to inquiry, interiority, and insights. They are an expression of religious liberty, of individual persons making a difference by attending to their own inquiry properly, by letting their interiority resonate with the longing of the Spirit, by seeking insights in understanding.

I can't help but refer to the words of a Christian witness describing the actions of Sultan Malik al-Kamil toward prisoners. "Who could doubt that such goodness, friendship and charity come from God? Men whose parents, sons and daughters, brothers and sisters, had died in agony at our hands, whose lands we took, whom we drove naked from their homes, revived us with their own food when we were dying

⁴ *Declaration on Religious Freedom, DIGNITATIS HUMANAЕ, On the Right of the Person and of Communities to Social and Civil Freedom in Matters Religious*, Promulgated by His Holiness Pope Paul VI on December 7, 1965.

⁵ Second Vatican Council, *Nostra Aetate* 3, October 28, 1965.

⁶ "It is obvious that the concept of truth has become suspect. Of course it is correct that it has been much abused. Intolerance and cruelty have occurred in the name of truth. To that extent people are afraid when someone says, 'This is the truth', or even 'I have the truth.' We never have it; at best it has us. No one will dispute that one must be careful and cautious in claiming the truth. But simply to dismiss it as unattainable is really destructive." Pope Benedict XVI in *THE DICTATORSHIP OF RELATIVISM, A conversation with Peter Seewald*, retrieved on August 11, 2015, at <http://www.lst.edu/academics/landas-archives/373-dictatorship-of-relativism>



of hunger and showered us with kindness even when we were in their power.”⁷

Magnanimity towards others, especially prisoners, is a sign of humanity; humanity of both the captives and the captors. But I can’t escape the awareness that by simply pointing your attention and mine to this episode, I am choosing, I am exercising my religious liberty. I am, hopefully, participating in what Pope John Paul II has called the “purification of memory”; this extraordinary task in front of all of us that no one knows how to attend to, but which probably has something to do with recognizing past wrongs and calling them by their names.

We are in each other’s hands and, unfortunately, still looking at my own tradition, and specifically at my own denomination in its relation to Islam, we can see very disturbing signs. I mention just a few:

- More Christians were killed for their faith in the past century than in all the centuries before.
- The number of areas where Christians are actively killed by Muslims is high and increasing—from Syria to Iraq, from CAR to Indonesia.
- The voices calling for a violent response to the war by ISIS are strong and growing.
- Words are easily platitudes, useless reminders that weapons count more on the battleground of the world.

What are the signs we pay attention to? What do we infer from what we see? What are we learning? The concept paper for this Meeting of Experts emphasizes that “many major disputes and conflicts are caused by or related to the refusal to acknowledge people’s rights to fundamental freedoms, including freedom of religion. The denial of freedom of religion or belief inexorably translates into a refusal to respect other freedoms.” I would like to elaborate the point even further because I think we are living in a time that requires the responsibility of friendship.

There was a time when Christianity did not exist. There was a time when Islam did not exist. It was not long ago. It is long for the span of one person but not for the span of the universe (at least as we understand it today in scientific terms). There was a time in which Christianity was just a group of Jews who met a teacher and lost him to a violent death. There was a time when Muslims were just a small group of companions of a gifted leader. There was a time when those differences did not exist, were not relevant, were not a “root cause.” Was the religious strife less virulent? Less violent? Christians met violent death very soon and Muslims, too. So did the Baha’is, the Shia, and the Mennonites ... and countless minorities, religious or otherwise.

An important component of religious freedom is the freedom to become; to explore new ideas, options, rituals; to grow in the pathways of the Spirit. I think all religious traditions have a lot of work to do internally, within their ranks, to secure the freedom to become, not just the freedom of the established. It is difficult. It is

⁷ Oliverus Scholasticus cited by Christopher G. Weeramantry, *Justice Without Frontiers* (The Hague: Kluwer Law International, 1997) 136-7.



risky. Conformity and homogeneity have strong appeal. Coherence has a great pull. Yet everyone is in trouble when large numbers of Sunni do not consider Shia as Muslims. It is not only their problem when a violent Jew attacks gay activists in the name of religious purity. Everyone is involved in everyone else's freedom. We must protect the right to become from the temptations of violence.

The fundamental choice of using violence to settle differences is not new and it has been used lethally through history almost everywhere. Differences never kill; humans do. Intentional killing is a choice, a powerful, deadly choice. It is a choice justified in norms and narratives, in stories and understandings, in injunctions and fantasies. Humans kill those who are close and different.

The first freedom is not to be killed. The first freedom is to live. Once alive, humans can search and find life. Alive, humans can see how their lives are inexorably linked to one another. We are truly like climbers ascending together. Our safety and wellbeing are linked to the wise decisions of the others. We may say: "There are so many unstable and unreasonable people. How can we trust?" And there we find the first glimpse of what religions can offer a world of contradictions: a path of trusting that moves, not the final, absolute answer, but the humble, confident search of one who believes the universe is meaningful and reasonable, that life can be understood, and that meaning can occur to us, even in the midst of madness.

There is a quote often attributed to Viktor Frankl, author of *Man's Search for Meaning*.⁸ "Between the stimulus and the response there is a gap. There lies all destiny and history." I do believe that this is right. Differences are not root causes. Humans are not determined by their conditions alone. Humans make choices. Religious humans can make choices open to the groaning of the Spirit and the victims. Humans must accept the challenge to become religious, to be fully religious, to be more intentionally, more freely, more creatively religious. Think of Francis' visit. Think of us, today, speaking about that visit. Think of me speaking with pride of that gesture and of the response of Sultan Malik al-Kamil. Religious life, I believe, cannot be but creative. History is made by human choices. We are making history together through inquiry, interiority, and insights.

Could it be that we were made different for a reason? That humans cannot but differentiate; that differences are simply the product of our uniqueness; and therefore could it be that we actually, and simply, need each other—all others—in order to be fully who we are? Francis and Sultan Malik al-Kamil are long gone and yet we are still "making" them, we are revisiting them, we are learning from them, we are re-authoring them. We cannot escape this co-authorship, but we can seek life in the midst of chaos.

It seems to me that if we are to find a way out of the current crevasse we must

⁸ Viktor E. Frankl, *Man's Search for Meaning: An Introduction to Logotherapy* (Boston: Beacon Press, 1963-2007).

⁹ Although often attributed to Frankl, the words are actually a paraphrase of Frankl's ideas by Stephen Covey in his book *The 7 Habits of Highly Effective People* (New York: Simon & Schuster, 1989) 321.



radially chose humility and respect over power and violence; inquiry over certainty; interiority over oppression; insights over ignorance. States have long tried to keep order by imposition, but the results are short and costly. More effective would be to look at human history as one, single, and ongoing experiment where learning, and not violence, is the core of the development of entire civilizations. We are learning about ourselves as humans—not as Italians, or Christians, or Romans, or any other grouping. It is just recently that we, as human beings, have started to understand ourselves as both unique and universal at the same time.

The language of this differentiated and differentiating human family is far from adequate for the task at hand. We need not only English to describe the pain and sorrows and hopes and dreams of humanity; we need every voice, every word, every uttering of the Spirit ever shared by a human person. And we need the loving ear of someone gathering that whisper into a loving heart; into the loving heart of the ever-living life; the heart of that ever-loving God, who is mysterious beyond our fathoming.

Religion and humans open to religious experiences can help humanity feel the breeze of the Spirit again, open our lives to the revelations of life, which opens us to possibilities not considered before. The world is in the making: let us make it with God and not against humanity, let us make it with love for all, let us make it with life for all.



RELIGIOUS AND PHILOSOPHICAL CLAIMS: A RIGHT TO FREEDOM OF RELIGION OR BELIEF AS A PRE-CONDITION TO PEACE

GANOUNE DIOP¹

INTRODUCTION

Peaceful relations among persons and communities necessitate the adoption and integration of everyone's right to fundamental freedoms and especially, the right to religious or philosophical claims.

The foundational postulate of the following reflection is that every person or people group is entitled to make claims about the veracity their faith or philosophical convictions. Every one should enjoy this right. There should be immunity from being reviled, shamed, and persecuted, just because of one's belief to have absolute truth. Freedom of conscience, thought, opinion, and expression are inseparable from freedom of religion or belief. In this sense the interrelatedness, interdependence and indivisibility of all human rights are widely recognized by the international human rights community.

Though construed in various ways, all humans are involved in a quest for meaning. The endeavor to make sense of life's predicaments or mysteries is a universal common experience. Religious or philosophical claims seem to provide a framework aimed at making sense of human existence. They are an intrinsic part of the dignity of living.

All religions or philosophies claim to provide antidotes to the predicaments humans are entangled in.

These claims need not create antagonism between people of different religious convictions and philosophical persuasions. Religious or philosophical claims are an intrinsic part of human experience. Human beings facing the fragility, uncertainty and transient nature of human existence seek to find meanings that explain life's mysteries. People cope with reality in various ways. Differences in approaches to the root cause of the human predicament or hope are part of the rich heritage humans are called to share. This is more than tolerance, which can be a disguised tool of a superiority complex or a patronizing or condescending attitude towards those who differ.

What is needed for human beings to live together in peace, justly and equitably

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sharing the world's space and resources is to embrace other people's humanity without necessarily endorsing their beliefs.

The dignity of difference, as Rabbi Jonathan Sacks calls it, should be factored in the way humans relate to one another. He encouraged a conversation on how all can better learn how to honor the dignity of difference in a globalized world.

MISPERCEPTION OF OTHER PEOPLE'S HUMANITY AS CAUSE AND INCENTIVES TO CONFLICTS

What is at stake in interfaith conflicts is fundamentally a misperception of other peoples' intrinsic humanity. There is a pernicious trajectory of thought that leads to conflicts and violence.

Violence is the result of a trajectory that begins with the misperception of the other. It begins with the degrading of the positive image of the other and the building up of a negative one. The next step in this vicious spiral of wrong is to assimilate the victim with the negative mental construct. This distortion in turn leads to the fact that the other person has to be harmed, eliminated, or at least contained.

The latter is nonetheless demeaning because its aim is to humiliate, to shame the other in the hope to contain some perceived perverted and harmful aspects of their existence.

Violence is also an expression of the corruption of power. The disease of domination and subjugation and the sense of misplaced authority go with the act of inflating or overrating the capacity of the human ego. This misconstrued reality leads people to underestimate the value of every human person. The misinterpretation of the nature of power distorts the perception of perpetrators of violence and blurs their vision. The life of others is sacred no more. Violence imprisons its perpetrators, the mystery in other peoples' existence is mastered so it seems; but humans are irreducible to being objects.

Under what conditions should violence against the integrity of the human person belong to the category of inhuman, cruel and degrading treatment?

"One could argue, it is stated, that some past violations of human dignity, such as the mass manufacture of nerve toxins, court-mandated sterilizations, and harmful experimentation on prison populations, have only become thinkable once the perpetrators have set aside the protective view that all human beings are in God's image."²

The recognition of human dignity and the commitment to upholding every person's infinite worth and sacredness is a sure antidote against violence. Our international association is committed to help develop a culture of respect of other holistic rights including physical, psychological, mental, spiritual and relational and environmental peace.

² John F. Kilner. *Dignity and Destiny: Humanity in the Image of God*. (Grand Rapids, MI: Eerdmans, 2015) 7.



THE RIGHT TO HAVE CONVICTIONS AND TO MAKE CLAIMS

Hindus called their religion the everlasting “dharma.” The paths they suggest, such as Karma yoga, Raja yoga, Jnana yoga and Bhakti yoga, are all seen as providing solutions to the deepest problems of humanity. These claims should not be interpreted as arrogance but as legitimate expressions of deep-seated beliefs.

Buddhists of various traditions who identify life’s poisons as they call them, as greed, hatred and illusion identify the core of their path as consisting of wisdom, compassion and harmlessness. They are entitled to their claims.

Freedom of religion or belief ought to be protected for indigenous peoples or people from traditional tribal societies. All people ought to enjoy their space in contemporary pluralistic societies. The pattern of interference, domination or subjugation and submission of any people group should be a reality of the past. These ills are an assault to human dignity everywhere. A future of peace cannot be built without being intentional about protecting all people’s freedom of religion or belief.

Many Muslims see their religion as the only path to the unification of human existence based on the oneness of the being they call Allah. Expressions of radical monadic monotheism should not justify the labeling of others as “infidels” because they adhere to the mystery of triune God from the perspective of a dynamic monotheism. But Muslims have the right to their convictions. All should be entitled to their own opinions.

Jews have the right to believe they are the chosen people of God with covenant privileges without being disturbed. They are entitled to their claims. Freedom of religion or belief should put an end to hostility, animosity, or antagonism against Jews. Throughout history the relentless and ruthless determination to aggress this people group shows the darkest side of humankind. Embracing freedom of religion for all can help heal divisions and bring more humane international relations.

Atheists or agnostics start their philosophical reflections from entirely different premises and claims. They deserve respect. From a widely held perspective, Christians’ worldview is grounded on the premise that God who is love, has a benevolent disposition towards human beings to the point of becoming incarnate in the one they call God the Son, Jesus Christ. While all major world religions put an emphasis on the need for human beings to acquire righteousness, Christians sum up what they call the good news as the righteousness of God, focusing more but not exclusively on a theocentric perspective rather than a mere anthropocentric perspective.

Exclusive monopoly of the right to make claims is self-defeating. No single religion is monolithic. Several traditions coexist within each religion or philosophical tradition.

Within any given tradition there are differences of interpretation of their common history. The survival of any religious tradition and of all religious traditions is founded on the right of each to exist.

Hinduism is composed of a multitude of religious and philosophical trends:



Folk Hinduism, local traditions and cults of local deities; Vedic Hinduism, practiced by traditionalist Brahmins; Vedantic Hinduism, as philosophical approaches of the Upanishads; Yogic Hinduism, especially based on the Yoga Sutras of Patanjali; “Dharmic” Hinduism or “daily morality” based on the notion of Karma and societal norms; and Bhakti or devotionism, especially as in Vaishnavism.³

Buddhism is composed of several branches: Theravada Buddhism, Mahayana Buddhism, Vajrayana or Tantric Buddhism. If one takes into consideration the various offshoots and local variations a picture of a complex diversity emerges.

In the same Islamic tradition, there are differences in interpretation. Shia Muslims understand the will of their prophet differently than do Sunni Muslims in matters of legitimate guidance of the community of Muslims.

In Christianity, Catholics take the central common doctrine of the incarnation much further than Christians of other traditions such as various offshoots of Protestantism. They are entitled to do so and to invite others to embrace their vision of God and God’s acts.

Religious freedom allows all to enjoy the inalienable right to make claims according to their own convictions without being demeaned, humiliated, shamed, or despised.

Violence against people because of their differences should never be the norm or the exception. All human beings have the right to believe or not to believe, to belong or not to belong, to express themselves in sharing their opinions or to hold on their ideas when they choose to do so. The principle of every person’s dignity demands this.

Freedom of religion or belief is a useful antidote against crossing the boundaries of civility to the realm of inhumanity. By respecting other people’s conscience we celebrate their humanity.

Freedom of religion or belief is an intrinsic part of what it means to be human and to be considered as such. Sharing the public space, partnering for peace and for the wellbeing of the whole human family requires the promotion and the protection of freedom of religion or belief. Cherishing this right is an expression of caring about all other brothers and sisters in humanity.

³ See June McDaniel, “Religious Experience in Hindu Tradition,” *Religion Compass* 3/1 (2009) 99–115.



HISTORY AND MEMORY: ON CONFRONTATION WITH UNDERSTANDING

JAIME CONTRERAS¹

In the architecture of the social sciences, as in the course of political debate, discussions play a principal role. They are not neutral and they are always determined by something or someone. Foucault has said that power and knowledge are certainly articulated in speech,² and these discursive elements may be manifested in different strategies of a social or political nature. P. Bourdieu wrote that these discourses affect the “markets,”³ resulting in parallel processes of domination and censorship, but above all there is a social value—a “price”—that is ordinarily adapted to the laws that govern this particular market. These are the trends, or the socio-historical context, that dictate the acceptability or non acceptability of the discussions and the legitimacy of the speaker.

For this reason, discussions are the strategies used by those involved in the “social market” to try to increase their own benefits. Thus, discussions are adapted to value-forming laws, and, therefore, discussions carry the social brand, the power, and the value of the situation in which they take place.

For more than 30 years the discussions of the FARC (Revolutionary Armed Forces of Colombia) have found a ready market, not only in Colombian political and cultural society, but also in the Ibero-American space, and even in Europe. Its symbolic power has had a significant influence, for there have been many accusers and consumers of the same. Those who are aware of this effect, the champions of the “fariano” discussions, have managed to contextualize their messages and then formalize their codes in the horizontal culture of broad social sectors. In this sense, the guerrillas of the FARC have perhaps learned to maximize the symbolic impact of their discourses in a much more efficient medium than their own weapons and their military structure. A careful look at this material reveals right away a conceptualization of history, especially of Colombian history, with strongly perverse connotations; a history which always appears disguised as memory.

But memory is not history, and this is why the work of the historian, for obvious reasons, is frequently dangerous. The discipline, patronized by the Muse Clio, is frequently hijacked. This is something that historians know well, because the hijack-

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² M. Foucault, *La voluntad del saber. Historia de la sexualidad I* (Barcelona: Tusquets, 1973) 12.

³ P. Bourdieu, *¿Qué significa hablar?. Economía de los intercambios lingüísticos* (Madrid: Akal, 1985) 37.



ers of this discipline are those who know that the past often gives the right to those who exercise power and control. In this sense there is evidence that this past is the consequence of a more or less gross manipulation of memory.

But memory is a major attribute of human beings, even to the point of making the past a vital necessity. Nothing is as dramatic as when we witness the terrible spectacle of seeing a loved one enter into the haze of Alzheimer's; and nothing appears as certain as that the whole human being is edified in, and through, his or her memory. But when this goes beyond the limits of individuality it becomes objectified—because, as we all know, memory is frequently subject to multiple manipulations, and often those who control their memories feel the need to forget the past or to tint it with interesting highlights and shades. We agree that the material that makes up our memory is not linear, but oscillating and often wandering between memories and forgetfulness, which at times are ignored and at other times updated.

In any political community of our day in the so-called “nation state” there exists a more or less official, and sometimes unofficial, history, which serves to weaken or reinforce, according to the greater or lesser socio-economic impact that it may have on the political discourse within the community. A political culture of open confrontation fosters the emergence of differing, if not divergent memories. But the fact that the present conflict manifests itself in different memories does not mean that these, in themselves, define a particular history.

Even if their influence is enormous, the events and political structures of the moment should not be the things that define the events that can, or cannot, be matters of history, because these cannot be intellectual participants and moral justification of the current interests or conflicts. In reality, these are nothing more than “the foam on the waves” according to historian F. Braudel, while the true history is long and varied, and is the result of many accumulative happenings. Nevertheless, there are many historians who believe that “presentism” is the cancer of the evil of the so-called “historical memory”; that is, history that is written from the perspective and the interests of more or less dominant social groups, whether of political parties or other elite or subversive groups, whether armed or not. Without doubt, this is about hijacking “Clio” from the bias of the present. But as explained by Primo Levi from his experience in a concentration camp, in all cases it happens, memory has an attribute that is as wonderful as it is false.⁴ Wonderful, because without memory there is nothing, but false if it is complacently molded in the shadow of power and overloaded with pretended memories, thus becoming a tribunal where the past is being judged. If it is true, as is frequently stated, that “the war against forgetfulness is a war against death,”⁵ it is also fitting to consider that memories are not written in stone, and that the winds of time easily blurs memories, which are affected by the woodworms of forgetfulness.

⁴ Primo Levi, *Los heredados y los salvados* (Barcelona: Muchnick, 1989) 21.

⁵ Edimene L. Latorre Iglesias, *Comunicación, Memoria y Resiliencia*, Univ. Sergio Arboleda. Julio 2012, 11.



Because memory is frequently inflationary, when this happens the memory sins excessively and becomes dogmatic and even suffers from memory-fetish. It was Nietzsche who best understood that forgetfulness can sometimes be a means or a recourse to free oneself from the heavy burden of the past, especially when it is perceived as being too historicist. This German philosopher said that it is absolutely impossible to live without forgetting. According to Jorge Luis Borges in *Funes el memorioso*, the person with good memory for whom “memory is a garbage dump” has neither place nor space for thought, because, as Borges wrote, “to think is to forget, is to generalize, is to disassociate.”⁶ Thus we try to select memories in order to produce thoughts. For Nietzsche such a function is only possible if the individuals or social groups where this occurs happen to know how to forget deliberately just as they also know how to remember deliberately. This is precisely how a vigorous instinct warns us when it is necessary to see things historically, and when it is necessary not to see them historically.⁷ And this is where our philosopher, in the midst of the memories and the forgotten, introduces the concept of the key word: history. History is certainly not memory nor is it the forgotten. Of course, history is not individual memory, but neither is it to be confused with the so-called “collective memory,” a concept so overused that it is difficult to define, both in span as well as subject matter (families, communities, or institutions) that it is said to represent.

History and historians generally feel certain misgivings about the so-called “collective memory” because of the facility with which this can be manipulated. And it is true that in this sense memory, or better yet, the manipulations of the stories, are particularly rejected by academics. They tend to talk about ambiguous concepts like “social memory” or “memory of the people” and based on these, they put together political programs to “recover the memory” and get the community, or so-called “people,” to have “an accurate awareness of the present or formulate a project for the future.”⁸ In one case or another, they tend to hide behind these expressions certain perceptions of the past that serve certain ideological interests, disguising them as what they call a solid “awareness of collective identity.” Such political claims are manipulative, especially when they develop into oral traditions that are, of course, not a few, and are not defined by any apparent primitivism. In these circumstances it appears to matter little, if at all, that often the entire story in memory is altered. And, from time to time, what is introduced are words, discussions, values, and interpretations that correspond with contemporary arguments and that serve to “update the function of historic memory.”⁹

Not only that, but this process can contain something even more perverse; the

⁶ Jorge Luis Borges, *Funes el memorioso* 1944. Obras Completas. Vol.1. Círculo de Lectores (Emecé Editores: 1984) 467-469.

⁷ F. Nietzsche, *La filosofía de Nietzsche* (Madrid: Alianza Editorial) 79-80.

⁸ G. Bonfill Batalla. *Mi pueblo durante la Revolución: un espacio de memoria popular*, Instituto Nacional de Antropología e Historia, México D.F. 1987, 7.

⁹ Ibid, 11.



pretense of denying history in response to an alleged horror of the past. In these cases, it is about imposing the principle of “not knowing,” so that on top of such denial, an artificial present time may be constructed; an initiator of the “true history,” which would “last a thousand years,” and which begins now, in this fortunate time, when the one designated by providence governs—even though this is expressed in an immanent and fully materialistic way. Such is the usual “modus operandi” of dictatorship and other totalitarian regimes. And we don’t want to compare some of them, who are very near to us, (and not to remember them as prototypes, since their course of action no longer does any direct damage to anyone, except to history itself), to the unique Chinese emperor Shi Huang Ti, who began the construction of the great wall at the same time when he issued a decree to burn all books written before his time. This is a unique example of how erasing history is done, followed by closing the door to the outside world to avoid being contaminated. So consequently, erasing history leaves only an army of servants, naturally devoid of spirit, to consume massive replacements of manipulated “historic memory.”

Without such notorious excesses in the political and cultural landscapes around us, historic memory has also come to be considered, in an exaggerated way, as the purest representation of the collective spirit, and thus it is understood as an everyday living history under permanent construction. I cannot but qualify these tendencies as mere vulgar and abundant historicism that, as Nietzsche reminded us, does not “know how to deliberately forget.”

No, this is not history, although many political groups, some more violent than others, practice it. And this is why in that sense, memory is generally random and is full of significant self-contradictions: there are selective memories and there are others which are universal. There are personal memories and others that are said to be collective, evocable, and some forgettable memories; some are justificatory and testimonials; some are direct and some indirect; long and short; compact and fluid; indefinite and anomic; irrelevant and with the tendency of being transcendental. And all are determined by the unstable and indefinite relationship between memories and forgetfulness. As a result, we say that memory in itself is no guarantee of certainty, in as much as in its reconstruction there are precise identifications or rejections which are manifested.

But memory, in spite of its proclivity to manipulation, if it has a relationship with history, is able to evoke discussion on the past that the historian can consider as “*material that perhaps can and should be made history*.” Memory, then, can be at most a “*pre history*” that, to be validated, must pass the screen of critical and rigorous criteria of the historiographer’s knowledge. Certainly, at this point the singular element is knowledge; that is to say knowing, and conversely, not knowing, or knowledge that is faulty. With this distinction, good and bad history is summarized. Of course, memory under such circumstances, can be useful for the historian—albeit on rare occasions, and almost never when we speak of “*social memory*” or “*collective memory*”



(both concepts being laden with ambiguity). If it becomes complicated to define the nature of a social group, then it becomes even more complicated to know the meaning of “collective.” Memory of what and of whom? Past experiences, shared life experiences, traditions that transcend the individual and take care of group objectives. Here also the range is wide: familiar memories, clinical, tribal, popular, middle class, working class, Christian, Jewish, generic, and also regional, autonomous, and national memories.

Of all of these, the “national memories” are the ones that develop with ease, and with scarcely a blush, produce a machinery of myths and legends about a supposed shared past. Of these, the most vindictive are those that are marginal and that produce discussions that “dream” of retrieving a supposedly repressed past. In these discussions the object is to find signs of identification of the vindicated group—to find such variables as a common language, the landscape, the land, or the ethnicity. As a result of such diversity, the idea is born of a “*collective institutionalized memory*” or a “*historical memory*” that immediately is converted to “*official history*.” The discipline that determines what should be remembered has to be flattering for the socio-political faction that is in power. Naturally, this is about a *history that is partial* where two main strategies stand out: first, emphasis is placed on a self-defining group history where individual identity is diminished. Secondly, it is intended that this history be of an especially commemorative nature; always relying on the memories of centenarians and on temporary memories of myths and other legends—a history that is defined as “commemorative bulimia” according to the historian P. Nora.¹⁰ In such cases we may, of course, speak of “historic memories,” but not of “History” with a capital letter.

Let us then be careful when the emphasis is put on the term “historic memory” and much more so when it is confined to an institutional framework of inevitable political identity. Memory and history are not synonymous; in any case, we historians fit with difficulty in the term “historic memory” because for us it is not conceptually acceptable that the adjective “historic” be seconded, manipulated, or discarded by the noun “memory.”

Recovering the past, even if it is the recent past, is not specifically a matter of memory, but it is an attribute or condition of knowledge. In reality, as said earlier, it is about knowing or not knowing; about knowing well or knowing something different. It is about being sure of the knowledge, to have the knowledge of the historian, “scientific” knowledge. We know, it’s true, that such an adjective (scientific) is a vague definition, but we historians define it well because when we use it, it is subjected to documental criticism, which is common to the methodology of the social sciences. In this sense history cannot be subject to manipulation by memory, nor by the official, nor by the individual, nor by “reality,” nor by “heterodoxy.”

¹⁰ Cit. En R. García Cárcel, *Las memorias del pasado. Las memorias históricas de España* (Madrid: Galaxia Gutenberg, 2011) 82.



When memory is superimposed on history then the past is not recognized as such, but is reconstructed as a function of the present; in such cases the historian acts as an intermediary in the service of the dominant political game. In these situations, the ill-fate that dominates “*historic presentism*” arises; in other words, the misinformation of history and historic knowledge is used in the service of totalitarian, or similar projects such as ethnic nationality or identity.

Distinctly violent insurgent movements always resort to the presentist discussion in their historic justification. The FARC, of course, is not an exception to this rule, but rather they are a model. In effect, this organization in its ideological armor understands that its objects and structure are due to a “historical necessity” whose nature is, on many occasions, included and inserted, according to Jacob Arenas, into the very heart of the Colombian society giving them their specific identity. It is about a “heart” that is identified by the axiological idea of the people. “We are,” claim the FARC, “the people in arms.” Such historical teleology is repeated in the multiple speeches that the terrorist group has been addressing to the ideological market.

It was launched, for example, when Jacob Arenas explained that the “*fariana*” guerrilla is not, as is supposed, a random phenomenon, but its structure and entity has been neatly and properly installed from the beginning in the very genes of the Colombian people.

This is how the Colombian people have always fought, it is the kind of struggle which, explains Arenas, you will not find in the official history books. As a result, and by opposition, it is the guerrilla movement about which the real history of Colombia is written. Thus the FARC writes an account of history that, beginning with the brave indigenous leaders who opposed the conquistadores, like Calarca and Tendama—the first guerrillas—spans the entire tumultuous 19th century to arrive at the “providential” moment at which time the true assignment of Colombia with its history came into being—the heroic moment of Marquetalia (1964)—when it is said that the FARC was born.

And if guerrilla warfare is in the DNA of the people, then the proclivity to communism is equally in their genetic make-up. This is the ideology of the people of Colombia, says Arenas with the same spontaneity and attachment with which its men were metabolized in the countryside. Jacob Arenas defends this thesis with brave effort, especially on the occasion on which he describes for us the “martyrdom” of Magdalena, the young communist *fariana* star of the novel written by Arenas entitled *An Old Scoundrel Called Don Epifanio*, a story of the simplest, most ordinary stereotypes, which discourses on the recurring class struggle deep in Colombia.

Naturally, if the communist gene has been inserted in the Colombian identity, it becomes obvious that the history of Colombia has been, for the most part, but a crude manipulation. And this has always been so, even from the initial moment of its independence from Spain. There you have it: such assertions demonstrate the



fariana interpretation of the person of Bolívar. The story is well known: in 1987, under the leadership of Alfonso Cano, the FARC organized and led the Simón Bolívar Guerrilla Coordinating Board, and assigned to Catatumbo the drafting of a document on the historical figure of the Liberator. This apprentice historian wrote a document that the organization conveniently released. In this document Bolívar was studied and understood as a guerrilla leader whose popular and revolutionary program was aborted by reactionary groups who, since then, have retained the seat of political and social power in society. “The FARC, as a result,” explains Catatumbo, “is the armed movement which complies with the historic mandates which the Liberator demanded and could not accomplish.” In this sense, the group declares, “We are Bolivians and we declare ourselves sons of Bolívar.” “This is how it is,” concludes the author of the document, “the true history of Colombia, a *‘history of irrefutable facts’*.”

It is not necessary to persist in this matter: the FARC, like all totalitarian movements and all self-defining nationalists, inevitably makes of history a precise political goal, and filters the past through a symbolic screen “of the appetite of a hunger for an identity which can never admit any rigorous and emotionless historical knowledge.”

In this respect, many have heard of a manifesto that a group of European historians developed some years ago regarding the political “pressures” of those who blame the management of memory. This manifesto, called the *L’Appel de Blois: Liberté pour l’histoire* (1998), came from a group of historians directed and led by Pierre Nora, a well-known historian of CNRS (Centre National de la Recherche Scientifique, in France). In this manifesto, the famous historian addresses the political authorities regarding the Armenian genocide, stating that “it is not the role of the parliament (of Strasbourg) to write history” and “history struggles against the tendency of the politicians to criminalize the past, each time putting more obstacles in the way of the historic research.... History should not be the slave of the present, nor should it be written under the dictatorship of concurrent memories.”¹¹ Pierre Nora concludes: “In a free state it is not the role of any political authority to define the real history and to restrict the freedom of historians with criminal threats.... In a democracy the freedom for history is the freedom of all.”¹²

It is true that, in their deliberations, the historians also recognized that the rule of law helps in the principle of guiding the memory, objectified as far as possible. But the historians affirmed that law can never impose anything by expressed or tacit coercion and much less by way of legislation or penalties. The “official memory” cannot be institutionalized, nor can it confer on the authorities the right or privilege of defining historical truth. The political needs of governments cannot fabricate a past which justifies a specific present, for it is not the role of the legislator nor the execu-

¹¹ Publicado en *Le Monde*, 28 de noviembre de 2008 (traducción del francés).

¹² Ibid.



tive to implant a specific historical memory, nor to construct or encode it.

But the temptation is great. For example, there is the so-called *Historical Memory Law* enacted by the government of the Spanish President Rodriguez Zapatero on December 25, 2007. Under this law, “they recognize and amplify the rights and establish measures in favor of those who suffered persecution and violence during the civil war of the Franco dictatorship.”¹³ In reality it is a law favorable to certain perceptions and interests of some top political leaders who are interested in denying previous legislative standards, such as the laws of amnesty enacted by the governments of the Spanish Political Transition. As Professor R. Garcia Carcel has explained, the purpose of this law, enacted without the desired consensus, was “to allow the generation of the grandchildren of the fighters in the civil war to impose their particular memories on those of their fathers and grandfathers, who were the ones who actually lived through the trauma of the war.”¹⁴

Indeed, the grand drama of “political memory” is that it is hereditary, for it runs the danger of being constructed from justifiable ancestral memory. It is often, on this point, that the manipulators of memory who operate in the midst of conflict situations, impose, institutionalize, and perpetuate situations of fear or of political dominance. They do so with unpleasant stories, that is, speeches on “collective memory,” which seek to transfer history to a point in the past where it is possible to confuse the distinction between victims and victimizers. It is obvious that the object of these “stories” is the exoneration of guilt and also the continuation of a “history” that has become official and dominant. This is what happens, for example, with the so-called literacy projects of some pro-independent political parties in the Spanish Basque Province.

In this particular case the memory constructed seeks to establish a supposed “Basque national oppression” by deleting the temporary boundary between Francoism and the later period of democracy. With such historic misinformation the “gudari” of ETA (Euskadi Ta Askatasuna) presented himself before Basque society as the heir of the soldier who defended Euskadi in the civil war, thus managing to expand the pantheon of the “glorious victims.” With such an argument, false on all points, they try to institutionally legalize the struggle of the ETA allowing the terrorist group to defend themselves by claiming that the victims of their violence was the result of a “justified conflict.” The surprising thing about such positions is that, not only are they defended by the political program of violence, but that by the effects of a widespread moral relativism that has come to tolerate territorial violence, they also form part of the strategy of some institutions of the Basque government. An example of this is the so-called government Plan for Peace and Coexistence, for which, in an act of political cynicism, the victims come from the one side as well as the other.

¹³ Ley de la Memoria Histórica. Boletín Oficial del Estado de España, N. 310, 27 de diciembre de 2007, 53.410-53.416.

¹⁴ R. García Cárcel. *Las memorias históricas de España*, 4-5.



As a result, a collective exercise of “forgetfulness” has been imposed on this organization as an exclusive condition for peace. And this peace, which is a result of a grossly manipulative discourse, will be the initial foundation on which to operate the legal complexity, pseudolegal in many cases, of the so-called “transitional justice.”¹⁵ It is the only possible solution, we are told, to overcome the intricate tangle of interests that exist under “post conflict circumstances.” As a result, one must try to deal with the temptation to turn over the page as soon as possible without even reading it.

Most of this is known also in Colombia, in regards to the alleged conflict with insurrection groups. Regarding this, here are the words of Pastor Alape, member of the Secretariat of FARCL: “In almost all peace processes the poor ask for peace and the powerful for prison.” Such is the demagogic drift, on which so often those who are confused slip, and on occasions the manipulators term this “historic memory.”¹⁶

But memory, and much less “historic memory,” cannot be a matter of justice. I understand that the ability and the right to remember can be, according to the National Center of Memory of Colombia, “the voice of an expression of rebellion against violence and exoneration.”¹⁷ But this does not give such memory the ability to make history, and much less, to set itself up as judge, because only justice, as defined by the rule of law, can dispose of the coercive attributes against violence and exoneration that were exercised in the past. And it is only here, in this instance, that the injustice and the damage can be repaired. To argue, as has been done repeatedly, that “social memory” should be found in an “institutionalized” framework of a specific nature in which it is possible to legalize memories, is nothing but a false remedy in which the overturning of the standards of the rule of law is assured.¹⁸ Because it is a subjective phenomenon, no one can assure that the reconstruction of memory implies the verification of the reality of the past; therefore it does not seem appropriate to speak of “legitimate or illegitimate memory,”¹⁹ as is proposed by the report *¡Basta Ya! (That’s Enough!)*, but only of what is really subjective memory.

Therefore, let us agree that memory is not history, nor can it be hijacked from the political sphere by any faction or group with aspirations of achieving the same thing. Such hijacking is based on the need to impose referent ideologies and doctrines in the midst of the debate or uproar of political confrontation. Such is the evident danger of historic presentism. It is thought that a presentist history can, and should, be made by the participation of historians contaminated by political ideas. I understand, paradoxically, that history is too serious a matter to be left in the hands of historians. Such presentism is particularly dangerous when it is expressed from

¹⁵ José Luis Barbería, *El país Vasco se enfrenta co las armas en silencio a su pasado reciente*, El País 7 y 8 de Junio 2015. See also, J. Marrodan, et al, *Relatos de Plomo. Historia del terrorismo en Navarra*, Pamplona, 15. Y J. Antonio Pérez y J. María Ortiz, *Construyendo memorias. Relatos Históricos para Euskadi*. (Madrid: Los libros de la Catarata, 2013).

¹⁶ Declaraciones a El Tiempo 2 de Junio 2015.

¹⁷ *¡Basta ya! Colombia. Memorias de guerra y dignidad*. Bogotá, Imprenta Nacional, 2013, 13.

¹⁸ J. Carlos Velez Rendón. “Violencia, Memoria y Literatura Testimonial en Colombia,” Estudios Políticos, Univ. de Antioquia, 2003, n.22, 33.

¹⁹ *¡Basta Ya!...*, 16



quasi provincialist positions, which convert its stars into the prophets of historical development. They are devotees of a type of indisputable “historical factum,” and such groups are thought to be necessary and decisive.

To think of such groups, history has to have a purpose that ordinarily is understood as the result of a moral dogmatic projection. Of course, in such a projection victims and perpetrators cannot be calculated; and since they have already begun to “construct” the story which will be official, the group decides on the main star, so that his presence at a future time will be necessary and inevitable. In one way or another, from this perspective, history cannot stop being anything but the fulfilment of the “laws” which contain the brand of the group. In review of a historical essentialism, it is about a certain self-defining metaphysical exercise.

But history understands little about providence; nor is it, nor can it be, the result of a moral consensus exempt from responsibilities. And history is not a tribunal, although it expresses objective purposes which distinguish some facts from others. History does not know about dreams or possibilities; there is no history of “it could have been” but in the very reality, as happens in life, in history also “each must support its own sail.” In this sense, I dare to say that the real history always demands the social, moral, and political illegalization of violence. In history there can be no indifference or vagueness; the victims have been victims and the aggressors, aggressors. History cannot be asked to sanction political principles, such as “we are all victims” or “no one is to blame”; nor does it defer responsibilities alleging that someone has failed “because of an inevitable conflict”²⁰ or argue, like the FARC who repeatedly defend themselves with the words “we were forced to make war.” These are frequent judgments in post-war situations and they come from those who deny the basic immorality of their behavior and who, fleeing from history, prefer to play “historic memory” to avoid the necessary self-evaluation and the reconsideration of their tenets. It is enough to know that in such circumstances the general distribution of guilt contributes to the exoneration of said guilt. As Hanna Arendt said: “All are guilty becomes no one is guilty.”²¹ On this plane, history is not a moral judge, even though the truth and the good are the specific goals of their activity. History, as we said before, does not sanction the moral entity of the present. Its space is the past where facts, information, and even myths are classified, and they escape the simple game of interpretations in order to try to reconstruct complex and diverse processes which converge in the present; this reconstruction “operates under the sovereign exercise of the autonomy of reason and liberty” without determinism that makes it possible “to convert history into prophecy.”²²

History then becomes a resource of public relations and demagoguery. Those who wield it insist on the need for peace as a result of the political exercise of the memory,

²⁰ *Esbozo histórico de las FARC-EP*. Edición corregida y aumentada, 2005, 19-23

²¹ Hanna Arendt, *Eichmann en Jerusalén. Un estudio sobre la Banalidad del mal* (Barcelona: Lumen, 2003) 37.

²² A. Elorza, *La hora de Euskadi. Disidencias, artículos y ensayos* (Barcelona: 2003) 52.



and they include evidence that is far from history and far from reality. Then the superabundance of media about peace imposes the need for justice, and as a result, the resource of the demagogue is constant and continuous.

But history continues because it needs memories more than it needs forgetfulness—memories that are testimonies that pass through the sieve of criticism; testimonies that continue to accumulate, and get even better in a process of construction in which that which identifies it is no longer real, but pliable entities which are made and unmade as time goes by. This is a process marked by logic that is generated in the memory, that inspires it; a process that does not have any predetermined project or aim. History is always under construction, just as the personification of the memory is always the story of the present. For the historian, memory is not a matter of history, but it is history itself. Let us then let the good historian continue to work with his archives and his sources, even if it is just to find in a photograph, “the face of the man that was under the hat,” as we have been reminded by the metaphor of Yerushalmi. That face was deleted. Who did it? Maybe it was “the militants of forgetfulness, the dealer in documents, the assassins of memory; maybe the reviewers of the encyclopaedia. Or the inventor of past restorations or maybe the powers of darkness...”²³ We call on the historian to find the face that was under the hat and to discover the identity to which the subject who was photographed is entitled. This is the task of the historian; he works, encouraged only by “an austere passion for the facts, for the proofs and for the testimonies which are the sustenance of his occupation; this is the only way that he can observe and stand guard.”²⁴ In this sense, history has no substitute; and such assertion is all the more important because it is about this that the battle will rage in the near future; and I think that this must be one of the main conclusions of these simple reflections. And what about forgetfulness? Perhaps its antonym is not memory after all, but fairness.

²³ Yosef H. Yerushalmi, *Reflexiones sobre el olvido*. En [www: cholonantes.edu.pe](http://www.cholonantes.edu.pe). Biblioteca Virtual de Ciencias Sociales, 12.

²⁴ Ibid.



TRANSITIONAL JUSTICE IN SPAIN (1975-2015) A LEGAL PERSPECTIVE AND ITS POLITICAL IMPLICATIONS: TRUTH AND MEMORY

JAIME ROSSELL GRANADOS¹

INTRODUCTION

Over the past two centuries in Spain, a sociologically Catholic society, the phenomenon of violence has been of political, ideological, and nonreligious origin—although, at times, religion was used as an excuse.

In my intervention, I will talk about the victims of this political violence and how they are being used by politicians in the so-called peace process and on behalf of the so-called transitional justice.

In this sense, I think it is civil society—not politicians—which should lead the reconciliation process.

On July 22, 2014, the United Nations Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, Pablo de Greiff, referred to Spain in a report. In relation to the victims of the Spanish Civil War and the dictatorship he wrote:

[T]he measures adopted have not corresponded to a consistent, comprehensive and overall State policy in favour of truth, justice, reparation and guarantees of non-recurrence. The most serious shortcomings are to be found in the spheres of truth and justice.”

No State policy was ever established with respect to truth; there is no official information and no mechanisms for elucidating the truth. The current scheme for the “privatization” of exhumations, which leaves this responsibility to victims and associations, aggravates the indifference of State institutions and raises difficulties with regard to the methodology, homologation and officialization of truth.

The families’ need to give their loved ones a proper burial is urgent. In the area of justice, excessive formalism and restrictive interpretations of the Amnesty Act and the principle of legality not only deny access to justice

¹ Jaime Rossell Granados is Deputy Director General for Relations with Religions for Spain’s Ministry of Justice. This is the paper he presented on the occasion of the 17th Annual Meeting of Experts organized by the International Religious Liberty Association (IRLA), August 10-14, 2015 at Pepperdine University in Malibu, CA.



but they also impede any sort of investigation.²

In that sense, our Supreme Court, referring to the Amnesty Act, in 2012 established that “in our procedural system a proceeding of mere judicial investigation without the aim to impose a penalty on guilty persons is not possible... The right to know the truth is not part of a criminal proceeding, and can only be tangentially satisfied.”³

De Greiff notes that the official approach is maximalist. And shows how “several government representatives, in the course of the meetings he had with them, tended to base discussions on the following proposition: “either we all agree that we are fully reconciled, or the only alternative is the resurgence of underlying hatreds, which would entail too high a risk.”⁴

The Special Rapporteur maintains a position against this view, based on the strength and stability of the Spanish democracy. However, he believes that the “shortcomings in institutional response to the theme of the Civil War continue to give rise to differences that are deeper than expected.”⁵ The Special Rapporteur points out that “the strength of democratic institutions must be measured not by their ability to ignore certain issues, especially those that refer to fundamental rights, but rather by their ability to manage them effectively, however complex and awkward they may be.”⁶

And then he lists a number of aspects in which he believes that the initiatives adopted by the Spanish authorities are not considered.⁷

In that sense, a relevant issue is the victims feeling as a second-class victims compared to terrorism victims. The Special Rapporteur says in his report, there is “a series of more ambitious measures seeking recognition and reparation for ... victims

² United Nations, General Assembly, Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, Mission to Spain, A/HRC/27/56/Add.1 (22 July, 2014).

³ The Supreme Court of Spain, Sentence No. 101/2012 (27 February 2012).

⁴ United Nations, A/HRC/27/56/Add.1.

⁵ Ibid.

⁶ Ibid.

⁷ Ibid. These aspects are:

¹ Removal of francoist symbols

² The role of the Valley of the Fallen (Valle de los Caídos) (Report of the Committee of Experts for the future of the Valley of the Fallen of November 28th 2012, proposing among other measures the need of operating an integral re-signaling of the place, the establishment of an interpretation center for the comprehension of the true reality and the exhumation and transfer of the mortal remains of the Dictator)

³ Poor education in school

⁴ Insufficient training of the Police, the Armed Forces and Judges

⁵ Lack of information about facts of deceased, forced labour of prisoners, etc.

⁶ Restricted Access to archive documents

⁷ Privatized exhumations

⁸ Amnesty Act (STS 27-2-2012 “the pretension on the so-called truth trials, those that aim to a partial reconstruction of the facts without the intervention of the suspect... In our procedural system a proceeding of mere judicial investigation without the aim to impose a penalty on guilty persons is not possible... The right to know the truth is not part of a criminal proceeding, and can only be tangentially satisfied”).

⁹ Universal Jurisdiction



of terrorism,” thus suggesting the Spanish Government was taking advantage of the discussions that were then around the Preliminary Bill for an Organic Act on the Status of Victim of the Offence, as an opportunity to incorporate “all categories of victims.”

For that reason, in Spain today when we speak of victims, we do it referring to two different kinds of victims, at least in their origin, if I may say so. On one hand, the so-called “victims of the Spanish Civil War and the dictatorship” and on the other hand, the “victims of terrorism,” that until recently were those who had suffered the barbarity of ETA (a Basque terrorist group with a Marxist ideology) and those who have tragically suffered (March 11, 2004) and still suffer jihadist terrorism in its different manifestations.

In my intervention I will refer to both. I want to clarify that in no way do I understand them to be victims of a different kind, but I make this distinction because different democratic Spanish governments have not treated them equally. The cause, in my opinion, rests in the ideology of the ruler in question.

SPANISH CIVIL WAR AND DICTATORSHIP VICTIMS

Why this form of forgetting? What are the causes?

Unlike what happened in Latin America, in the Spanish transition the traumatic memory of the civil war and the desire of preventing its repetition (the phrase “never again,” coined after World War II) led the main political and social forces of the moment to look into the future and to not propose any kind of punitive measures against the actors in human rights violations.⁸ It will only happen, as I will point out later, from the nineties onward.

In those years, during the transition in Spain, there was a triumph of oblivion against memory, blaming the political elites for what was caused by the vast majority of Spaniards.

The Spanish transition established a new legal system adopted by consensus, in which a series of “gag rules” and an Amnesty Act (1977) were enacted, shielding the actors of the recent past from any judicial process. Thus began a law-making process that sought the reparation, at least materially, of the defeated in the Civil War and the dictatorship through the enactment of different laws that will lead to the Historical Memory Act of 2007.

Was that oblivion occurring only in Spain or was it a common phenomenon in Europe in the second half of the 20th century?

Casanova points out that “the emergence of memory becomes a main concern of

⁸ As Casanova points out, maybe the length of this dictatorship over others known which lasted six, seven or eight years, is the cause of the lack of need to seek responsibilities. Among other reasons because those that had to leave for so long were unable to return, and when they did, they were powerless, unable to strengthen a civil society in need of speeches of conciliation and not confrontation. See, in that sense, “los límites de la memoria,” paper presented by Dr. Julián Casanova in the Manuel Giménez Abad Foundation on the occasion of the Seminar “Memory, Law and Terrorism,” November 9-10, 2009, 4 (<http://www.fundacionmgimenezabad.es>).



culture and politics of the occidental societies in the beginning of the 21st century ... (and) it comes basically from the end of the 1980s, beginning of the 1990s.”

And he said, “from the moment of what I call the universalization of human rights, that coincides in the international scene with several events: the end of the Cold War; the end of Apartheid in South Africa; and the end of the Dictatorships in the Southern Cone... without this universal process of seeking responsibility, justice and truth (because that’s what basically happened in those countries) the current approaches on justice and human rights would be incomprehensible.”⁹

This triumph of memory in the 1990s, along with restorative justice, made the victims visible and provoked talk regarding their reparation.

The right to reparation for the victims has been recognized by the United Nations. The General Assembly Resolution 60/147 (2005) sets the guiding principle of reparation very broadly.¹⁰

In Spain, this process culminated in 2007 with the enactment of the Historical Memory Act, located within the framework of the transitional justice, and it distinguishes between reparation as a right of the individual and reparation as a duty for public authorities.

Reparation as a right of the individual includes:

- a. The recognition of the right to moral reparation and the recovery of personal and family memory.
- b. The general declaration of the illegitimacy of repressive special jurisdictional bodies and their resolutions.
- c. The right of the individual to obtain a declaration of reparation and personal recognition, extended to the spouse—or person with analogous relationship-, ascendants, descendants and relatives to the second degree of blood ties.
- d. The right to obtain monetary compensation.

⁹ Casanova, “Los límites...,” 2

¹⁰ In the same sense, José Zalaquett, member of the National Commission for Truth and Reconciliation in Chile, proposed a series of principles that should be applicable in any given peace process within the international community:

- a) Importance of repairing the damage caused by human rights violations, and the establishment of a system that prevents the repetitions of those violations, through measures that expose the truth and allow the application of justice.
- b) Build a discourse of truth as public and complete as possible in relation to the most serious forms of victimization.
- c) Truth must be recognised by individuals and society in general
- d) In relation to justice, there should be a vindication of the memory and reputation of the victims, compensation of these and their families, prosecution and punishment of the victimizers or other sanctions, such as disqualification from public office.
- e) Truth must be an absolute value, although the criminal justice should be balanced, taking into account the possibility of forgiveness and the need for reconciliation.

See in Alonso, R. “Justicia, reconciliación y procesos de paz ante fenómenos de violencia política,” in Gamarra, Y. (coord.), “Lecciones sobre Justicia internacional,” Zaragoza, 2009, 70.



Reparation as a duty for public authorities entails:

- a. Assistance in the location and identification of the victims.
- b. The removal of symbols and monuments.
- c. The duty of collecting and storing the historical documents.

But the Historical Memory Act has also brought criticism from some authors who understand that reparation measures have a mainly symbolic or moral dimension; criticism from international bodies, such as the UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence; or allegations of victims' associations who claim to be second-class victims compared with victims of terrorism.

I don't believe that the measures contained in the Law sufficiently satisfy the needs of the victims or their families. Learning from history and past mistakes is the key for the recovery of memory and never forgetting.

The struggle for memory is the struggle for the democratization of society. It is the struggle for strengthening civil society. The Spanish young people and the last two generations of the dictatorship, who never studied the Spanish civil war in school, suffer from a clear knowledge gap around the meaning of the construction of civil society.¹¹ That is the key.

THE TERRORISM OF ETA AND JIHADISM

In the case of victims of ETA terrorism, the process of visibilization of the victims was also complicated. From the end of the 1960s, more than 850 persons have been murdered by ETA, and hundreds have been injured or suffered kidnapping or extortion; and thousands have been forced to leave their homes, their land, in a sort of "ethnic cleansing," for not sharing ETA's totalitarian project.

Although currently the levels of ETA's violence have dropped, the terrorist group has not disappeared, so the impact of terrorism on society is still alive today. It is still not possible to speak freely in the streets, and certain non-nationalist political parties can't find candidates for the elections willing to signify themselves in front of their neighbors.

How is this issue handled in our country, in Spanish and Basque society?

In Spain, until the end of the 1990s, the victims of terrorism were invisible or had been made invisible either by the Government or by society itself.

The moment the terrorist group began murdering politicians and journalists, victims became visible. Politicians and journalists began to feel threatened by a phenomenon that, until then, only affected the members of the armed and security forces.

The solutions adopted to end terrorism, copying existing models, have not been

¹¹ "Los límites...", 7.



the most appropriate,¹² although the criticism should focus on the circumstances or conditions in which those models should be developed.

In this sense, the big mistake of the socialist government of Rodríguez Zapatero was to think that the “Northern Ireland peace process model” could be applied to the conversations with ETA.

Impunity for terrorists in exchange for the end of violence creates the illusion of a solved problem. But the contempt implied by relegating the application of justice causes serious democratic deficit,¹³ and warns us of the fatal consequences brought by fostering attitudes contrary to reparation and justice.

A process that established a framework of impunity was unacceptable for victims,¹⁴ because oblivion was put back on the political agenda, displacing memory.

In this context, the defense of justice, memory, and dignity of the victims becomes an imperative claim, especially in periods in which the end of terrorism is announced, as the promises of an end to violence are sometimes used in exchange for a dangerous political impunity.¹⁵

So, in this moment, victims are starting to become visible in Spain. Against the attempt to forget as a way to allow impunity, a movement of visibility of the victims promoted and funded by the socialist government emerged, victims of the Civil War and the dictatorship.

And this group of victims, along with those of Jihadism, drags with it the forgotten victims of the democracy, the victims of ETA. If the Historical Memory Act was approved by the socialist government in 2007 to seek reparation for victims of the civil war, it will be in 2011 when the Conservative government starts working on a Law on the care of victims of terrorism.

Two laws for two different types of victims... or, are all victims equal except for politicians?

CONCLUSION

Victims need to remember and be remembered, and we should be very careful establishing the procedure for making them visible, as “forgetting can be as harmful

¹² Clearly, the aetiology of violence in America differs from the one in Spain or Northern Ireland. While it is true that its emergence coincides with times when there is a significant democratic deficit in the state structures, both countries initiated major democratization processes. These processes were developed in parallel with terrorist violence, thus subtracting an important social support to those groups (ETA was born as an ideological response to the Franco dictatorship). Moreover, in these countries these terrorist organisations have been the main human rights violators while in the other environments the State has exercised the greatest violence. The situation therefore is not the same and the same models are not applicable.

¹³ Alonso, R., “¿Qué justicia ante el final del terrorismo?” paper presented in the Manuel Giménez Abad Foundation on the occasion of the Seminar “Memory, Law and Terrorism,” November 9-10, 2009, 7. (<http://www.fundacionmgimenezabad.es>).

¹⁴ An impunity that, according to some authors, “can be both legal and political, moral or even historical, because it seeks oblivion, the absence of criminal punishment, equality between the repressor and the repressed, justification of crimes and, ultimately, that history will remember the official lie on violence as the truth... Peace processes can generate unfair pressure on victims, releasing instead the victimizers from it. Ibid, 11.

¹⁵ Ibid. p. 2



as the memory of their tragedy if this is undertaken without the due assumption of responsibility for the crimes committed against them, or is accompanied by a dangerous legitimization of them.”¹⁶

As a victim said before he was murdered, “Anyone who has committed a crime has no indulgence by saying that his crime is politically motivated; because to think that justice should be guided by political criteria is to deny justice itself. Political concessions could never work in the achievement of a sustainable peace.”

Transitional justice intended as justice for the victims, is against impunity and provides an alternative material justice. Transitional justice must be built from memory, especially the memory of the victims and their pain.

Likewise, a society founded on oblivion, fear, lies and impunity will never be a healthy society and coexistence will never be fully democratic. And history needs to rely in the memory of the victims.

Memory is not just visibility, it is justice (for the memory of the injustices done to the dead is justice) but also duty (the “never again” of the death camps).

International and national law on human rights, offers victims the guarantee of protection of their rights when they deny impunity laws. The law of human rights is the alternative; know and master it is a professional and moral obligation of lawyers and judges.

Without law and without its respect there will be no justice and peace in society.

Transitional justice understood as a response to impunity from memory and against oblivion, is the highest category of law as a just right and safeguard of fundamental rights. But it is a justice that requires the participation of civil society.

In this regard, the Act 29/2011 of 22 September on the recognition and comprehensive protection of victims of terrorism, inspired by the principles of memory, dignity, justice and truth¹⁷ and seeking full reparation for victims,¹⁸ has come to partly solve the victims’ need to have justice.¹⁹

In that sense, the law gives a key role to victims associations, recognizing them

¹⁶ *Ibíd.* p. 12

¹⁷ “Moreover, public authorities shall contribute to the knowledge of truth, paying attention to the real causes of victimization and to reporting what actually occurred, avoiding moral or political equidistance, value neutrality or ambiguity. Such an account should be absolutely clear about the existence of both victims and terrorists, about who has been damaged and who has caused the damage, favouring an outcome in which victims feel supported and respected, and in which there is no place for any kind of justification of either terrorism or terrorists. In this respect, the present Act also expresses Spanish society’s firm condemnation of terrorist acts committed throughout our history, which are incompatible with democracy, pluralism and the most basic values of civilisation.” Preamble of Act 29/2011.

¹⁸ “The regulation of these principles in this Act, and in the terms established therein, must seek the victims’ moral, political and legal reparation, being also an expression of due solidarity with them and their families, taking into account the damage they have suffered and aimed at achieving their prompt and satisfactory recovery.” *Ibíd.*

¹⁹ “The Act gives a key role to victims’ associations, recognising them as legitimate stakeholders of the victims as an “instrument to promote participation and to channel their demands and claims, and to make them more visible and organised, as well as contribute to delegitimizing terrorism socially and disseminating the principles of democratic coexistence within the framework of the Constitution and Rule of Law.” See, in this respect, Preamble of Act 29/2011.



as an instrument to promote participation and to channel their demands and claims, and to make them more visible and organized, as well as contributing to the social delegitimation of terrorism and the dissemination of the principles of democratic coexistence within the framework of the Constitutional Rule of Law.

The preamble to the law states that memory “guarantees that Spanish society and its representative institutions will never forget those who have lost their lives, suffered physical or psychological injuries or had been deprived of their freedom due to terrorist fanaticism. The State preserves the memory of the victims of terrorism, paying special attention to their political significance, and thus the State defends everything that terrorism seeks to eradicate in its attempt to impose its totalitarian and exclusionary project.

The political significance of the victims demands for their social recognition also constitutes an essential tool for discrediting terrorism ethically, socially and politically. Remembrance is, therefore, an act of justice, as well as a civilizing instrument to teach values and definitively eradicate the use of violence to impose political ideas, by discrediting this in the eyes of society.

A transitional justice is not interested in the truth elaborated in the centers of political power. In constructing the truth it is an ethical imperative to take sides in favor of the rights of victims. We must prevent the truth which is imposed as official being the truth of victimizers.

Memory must begin the process of repairing the three types of damage suffered by the victim, culminating in reconciliation. As Mate Rupérez says:

A personal damage: only a type of modest but fundamental justice is possible, which is the awareness of the irreparable. Doing justice to the victims means to recognize a non-repairable debt.

A political damage, in which the fairest solution is placing in the center of the new political project the full recognition of citizenship of the victims (eg the Basque Country needs to articulate a new political discourse that criticizes both the political ideology of terrorists and the nonviolent nationalist parties that socially and ideologically support the violent).

A social damage that heals by recovering for society both the victim and the victimizer through a process of reconciliation.²⁰

But this must be done without forgetting the legal obligation of the victimizer to repair the damage caused to the victims of their actions.

That reconciliation “is a movement by the victimizer not of repentance, but recognizing his damage. From that moment we can speak of forgiveness as a po-

²⁰ Mate Rupérez, M-R, “Memoria, terrorismo y Estado de Derecho,” paper presented in the Manuel Giménez Abad Foundation on the occasion of the Seminar “Memory, Law and Terrorism,” November 9-10, 2009, pp. 7-8 (<http://www.fundacionmgimenezabad.es>).



litical virtue. A free but not gratuitous gesture that will make him understand the unfairness of the violence used and that should lead him to rethink the relationship between violence and politics but in the sense of the political significance of victims. When we see in the death of a citizen a victim, what we are questioning is the use of violence in politics, and therefore are engaging not only in building a politics without violence but a policy based on justice. To make this possible it is necessary to keep the memory of the victims alive.”²¹

For “what prevents crime from repeating if, in the end, everything prescribes, everything heals, everything is forgotten?”²²

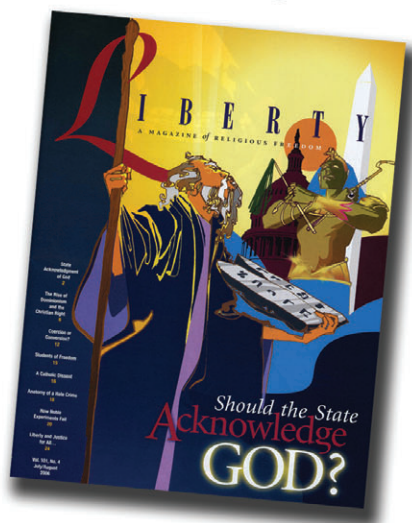
²¹ *Ibíd.* pp. 8-9

²² *Vid.* in Alonso, “¿Qué justicia ante el final del terrorismo?...”, *cit.* p. 17

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FIDES ET LIBERTAS



PART TWO: EFFECTIVE RELIGIOUS FREEDOM ADVOCACY



More than 250 people attended the 2016 International Religious Liberty Summit, held May 24, 2016 at the Newseum's Religious Freedom Center in downtown Washington, D.C. The one-day event explored a key challenge for religious freedom advocates: the relatively little attention given by the media and political leaders to rising global rates of religious discrimination and persecution. The goal of the summit was to encourage advocates to identify shared objectives, and thus find ways to work together, maximizing their efforts, resources, and impact.

Panelists included Michael Wear, Founder of Public Square Strategies, LLC and former director of faith outreach for President Obama's 2012 campaign; Chris Seiple, President Emeritus at the Institute for Global Engagement; and Elizabeth Cassidy, Acting Co-Director for Policy and Research at the U.S. Commission on International Religious Freedom. Among the journalists who addressed the issue of effective media engagement were Lynn Sweet, Washington, D.C. Bureau Chief for the Chicago-Sun Times, Clarence Page, Pulitzer Prize-winning syndicated columnist for the Chicago Tribune, Doyle McManus, syndicated columnist for the Los Angeles Times, and David Cook, Washington, D.C. Bureau Chief for the Christian Science Monitor.

The summit was live-streamed by both the Newseum and ABC News. Video of the entire event is available on the Newseum's Religious Freedom Center website religious-freedomcenter.org.

Published here are two keynote presentations from the summit.



THE CRIES OF THE PERSECUTED

FRANK R. WOLF¹

“Again I looked and saw all the oppression that was taking place under the sun; I saw tears of the oppressed and they have no comforter, power was on the side of their oppressors- and they have no comforter.” Ecclesiastes 4:1.

In Luke 4, Jesus said the Lord sent him, “to proclaim freedom for the prisoners,” and “to release the oppressed.”

Many of you might know the words of the song “The Boxer” that Simon and Garfunkel sang in Central Park. It says, “Man hears what he wants to hear and disregards the rest.”

There are cries of the persecuted that we are refusing to hear.

I stand before you today with a grave and growing sense of urgency regarding the erosion of religious liberty at home and abroad. All over this world, people of faith are denied the fundamental and inalienable human right to confess and express their faith according to the dictates of their conscience. According to Pew polling data, over seventy percent of the world’s population, 5.5 billion people, at this very moment live in a religiously repressive country.

While our national interests are complex and manifold, we can be assured that it always befits a great nation to boldly stand with the forgotten, the oppressed, the silenced and the imprisoned. If not America, then who?

The steady chipping away of religious freedom around the globe is particularly striking given what former U.S. Ambassador to the Holy See, Mary Ann Glendon (who teaches at Harvard Law) noted: “Religious liberty has been repeatedly affirmed in international rights documents and though it is enshrined in constitutions of nearly every country, there are many signs that concrete commitment to its importance is weakening, internationally and domestically.”²

¹ Frank R. Wolf served as representative for Virginia’s 10th congressional district in the US House of Representatives for 36 years before his retirement in 2015. Mr. Wolf is now Distinguished Senior Fellow at the 21st Century Wilberforce Initiative. He gave these remarks May 24, 2016 at the 2016 International Religious Liberty Summit: Effective Advocacy & Beyond, an event co-sponsored by the Newseum Religious Freedom Center and the Seventh-day Adventist Church.

² Mary Ann Glendon, “Religious Freedom: Yesterday, Today and Tomorrow” (The 2015 Cardinal Egan Lecture delivered June 16, 2015 at the Edward Cardinal Egan Catholic Center at New York University). Full text retrieved July 7, 2016 from http://magnificat.net/foundation/pdf/M_A_Glendon_2015.pdf

In fact, Ambassador Glendon went so far as to say that this bedrock first freedom is in danger of becoming a second class right, one that can be trumped by other rights, claims, and interests. She observed “mounting evidence that less value is being attached to religion and religious freedom in the places where one might have expected to be more secure—namely in the minds and hearts of citizens of liberal democracies.”³

This is tragic because religious freedom is not only deeply imbedded in our own legal tradition reaching all the way back to the Magna Carta, but is also understood as a necessity for human dignity by the international community.

Article 18 of The Universal Declaration of Human Rights explicitly states: “Everyone has the right to freedom of thought, conscience, and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others, in public or private, to manifest his religion or belief in teaching, practice, worship and observance.”

But tragically, this is not the case for billions of people in the world. The Middle East is aflame with radicalism. Entire swaths of territory are presently controlled by murderous men who have committed unspeakable acts in an attempt to cleanse the region of Christians and other minorities.

Throughout my career, I have borne witness to the tragic state of religious persecution that is a daily reality for so many people all over the world.

IRAQ

In January of last year, I went to Iraq with a delegation from the 21st Century Wilberforce Initiative. I saw firsthand how desperate the situation is there. We did not use the American Embassy and we were not bound by the State Department restrictions prohibiting delegations from spending the night in Iraq. As a result, we had several days to get a thorough feel for the situation on the ground, which is still very grim.

The summer of 2014 was marked by the swift and largely unanticipated rise of ISIS. Unspeakable brutality followed. A caliphate was declared. Christians were told to leave and if they stayed, to convert, pay, or die. Yezidi men were killed and Yezidi women and children were bought, sold, raped, and tortured. Religious freedom suffered a devastating blow. Men, women and children had their lives upended, homes confiscated, and dignity assaulted. Christmas wasn't celebrated in the ancient churches, monasteries, and convents of the Nineveh Plains as it had been for millennia. Rather, it was in makeshift camps, abandoned buildings, and unfinished malls that one of the world's oldest Christian communities marked this holy day.

More Biblical activity took place in Iraq than any other country other than Israel. The great patriarch Abraham came from Ur in southern Iraq. Isaac's bride, Rebekah, came from northwest Iraq. Abraham's grandson, Jacob, spent twenty years

³ Ibid.



in Iraq, and his sons, the 12 tribes of Israel, were all born in northwest Iraq. The remarkable spiritual revival portrayed in the book of Jonah occurred in the city of Nineveh, which is present day Mosul. The burial tombs for Jonah, Nahum (whose tomb we saw while we were there, just miles from ISIS-controlled territory), Daniel, and Ezekiel are all in Iraq. Many of the Christians in Iraq speak Aramaic, the language of Jesus.

A phrase not often heard outside of the Middle East is, “first the Saturday people, then the Sunday people.” The Jewish community in Iraq numbered 150,000 in 1948; now there are fewer than 10 elderly Jewish individuals living there. The Iraqi Christian community, which numbered 1.5 million in 2003 when the war broke out, is now at 250,000 and falling. Right now, Christian families are leaving Iraq every single day. Many of those who remain have become involuntary nomads in their own land, displaced one, two, even three times.

One man I met told me that he tried taking his wife to a hospital in ISIS-controlled Mosul so she could receive treatment for her breast cancer. When they arrived at the hospital, they were met by an ISIS guard who refused to allow them entrance because they were Christian. They were told that the price for entrance and treatment was conversion to Islam. They refused and returned to their village 16 miles away. Ten day later, she passed away with her husband and her two sons at her bedside. She was 45.

One Yezidi leader with whom we spoke told us that his pregnant sister-in-law was captured and sold by ISIS. He said, “They were selling the virgin girls for \$20... unbelievable.” In the city of Dohuk, I listened to the stories of two young Yezidi girls who had been captured by ISIS and later escaped. Several months ago, I met with one young Yezidi girl in my office in Falls Church. She had been raped by an American who had joined ISIS who showed her pictures on his phone of his family back in the United States.

In 1944, a Polish-Jewish lawyer named Raphael Lemkin coined the word “genocide” to describe the Nazi policies aimed at the destruction of the European Jews. I believe what is happening in Iraq right now is genocide.

The legal definition of genocide according to Article 2 of the United Nations Convention on the Prevention and Punishment of the Crime of Genocide is, “any of the following acts committed with the intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- a. Killing members of the group;
- b. Causing serious bodily or mental harm to members of the group;
- c. Deliberately inflicting on the group conditions of life calculated to bring about physical destruction in whole or in part;
- d. Imposing measures intended to prevent births within the group;

e. Forcibly transferring children of the group to another group.

This is what we have seen against Christians, Yazidis, and other religious minorities.

In March, the House of Representatives passed a resolution calling what is taking place in Iraq genocide. Then, Secretary of State Kerry called it genocide (I want to thank David Saperstein, Ambassador-at-Large for International Religious Freedom, and Special Advisor Knox Thames for their leadership in this effort). Pope Francis, Cardinal Dolan, and Cardinal Wuerl have called it genocide.

The Administration has called it genocide and the House voted to call it genocide—but now what? When will the Senate and the United Nations make the same designation?

Is there a team at the Justice Department working on the next steps with regard to the genocide? Does the State Department have a next step? Will the Congress hold in-depth hearings on the issue? Will the editorial pages of *The Washington Post*, *The New York Times*, and *The Wall Street Journal* speak out? Will there be further action on the genocide in Iraq and Syria?

The West missed the genocide in Cambodia, the West missed it in Rwanda, the West missed it in Srebrenica. The West is missing it now in Iraq and Syria, and the West is still missing it in Darfur.

Outside of the Dachau concentration camp there is a sign which says, “Never Again,” in five languages: Hebrew, German, English, French, and Russian. And yet time and time again, genocide has occurred and the West has stood idly by.

However, Iraq is far from the only country plagued by religious persecution. These are perilous times for people of faith around the world.

NIGERIA

During a trip to Nigeria this February, with colleagues from the 21st Century Wilberforce Initiative, we interviewed many Christians from the middle belt and the north. They told of people from their villages being harassed, kidnapped, and killed in attacks from Boko Haram and the militant Fulani herdsman. They feel forgotten by their own government and by the West and by the Western Church.

Boko Haram attacks villages, conducts drive-by shootings, and uses young girls as suicide bombers. They target politicians and clerics for assassination, focusing on the symbols of Western advancement such as schools, hospitals, and churches, but also mosques. While no one has an exact number, thousands of young girls have been abducted by Boko Haram.

According to *The Washington Post*, young girls and women who have been raped, but released, by Boko Haram face extreme stigmatization from their communities. Many label them as “Boko Haram wives” and fear they have been radicalized and will be potential attackers. They are the victims twice—when they are captured and when they are released and return to their community.



Just last month, we commemorated the two-year anniversary of the kidnapping of the 200 Chibok girls from their Christian school. Despite the loud protests in the West and the #bringbackourgirls campaign championed by First Lady Michelle Obama and Prime Minister Cameron, it is extremely doubtful that any of the Chibok girls have been released.

And meanwhile the outcry from the West has almost disappeared and the Christian community in Nigeria feels abandoned.

One counselor with whom we spoke on the ground told us that the girls who have been captured may never return without a major concerted effort by the Nigerian government and the West. If and when they do, they will have been the victims of sexual violence, and are often times pregnant and will have been forced to convert to Islam. Nigeria has been fractured and forgotten.

Bono, the Irish singer, said that if Nigeria unravels, the refugee crisis will be an existential threat to Europe. A political and human rights activist from Nigeria told us, "Nigeria is very fragile. If these 180 million are displaced they will overrun Africa. They will overrun Europe. And business interests in the United States will be directly and negatively impacted. Nigeria is ready to break into pieces and it won't be violence-free. We are trying to prevent that."

CHINA

According to the United States Commission on International Religious Freedom, some see China's pattern of persecution against Christians that started in 2014 "as the most egregious and persistent since the cultural revolution." In China, Catholic bishops sit under house arrest, and Protestant pastors and laypeople are in prison for holding services in their homes.

When I slipped into Tibet in the mid-nineties, what I saw going on there was frightening. Buddhist monasteries are regulated by cadres of police. Simple acts like possessing pictures of the Dalai Lama are forbidden and harshly punished. At least 140 Tibetan Buddhist monks and nuns have poured gasoline on themselves and set themselves on fire in protest of governmental persecution. Uygur Muslims and Falan Gong are repressed by the Chinese government simply for following the dictates of their conscience. And the world is silent.

On my last trip to China, all but one of the religious leaders scheduled to meet with me were imprisoned the day before. The only one who made it was later beaten and arrested by the police. And the American Embassy was silent. This pattern has continued. As we speak today, Christian lawyers and activists are still being arbitrarily arrested by the Chinese government.

PAKISTAN

Asia Bibi, a Pakistani Catholic woman, has been in prison since 2009 for mak-

ing a public profession of her faith. She was imprisoned for an entire year before being formally charged and tried. In 2010, she was sentenced to death by hanging. She just marked her sixth year in prison. And the West is silent.

My friend, Shabaz Bhatti—the only Christian member of the Pakistani cabinet at the time—spoke out against the blasphemy laws and in support of Bibi. He was assassinated in 2011, gunned down while leaving his mother's house. The same year, Salmaan Taseer, the Muslim governor of Punjab, was assassinated by his own security detail for the same reason. In addition, the Ahmadi Muslims have been facing discrimination and violence in Pakistan for decades. They are not allowed to call their places of worship “mosques” or publicly quote from the Koran.

AFRICA

In Ethiopia, which sowed the seeds for my lifelong passion for human rights, Christians face persecution from a host of different sources. And, just across the border in Eritrea, Christians are regularly arrested, beaten, and kept in storage containers in what is known by many as “the North Korea of Africa.” In Egypt, the ancient community of Coptic Christians numbering 8-10 million continues to face persecution and many are leaving in droves for the West. The Baha'i population in Egypt cannot even get driver's licenses since they do not fit the government's narrow requirement of being either Christian or Muslim.

In Sudan, which I have visited multiple times since the eighties, Christians in the Nuba Mountains are still facing violent persecution at the hands of Omar al-Bashir, who is still wanted by the International Criminal Court. He is a war criminal. When Bashir visited China, instead of arresting him, the Chinese government rolled out the red carpet, inviting him to attend a ceremonial parade. And just last week, Bashir was welcomed in Uganda.

ANTI-SEMITISM

In Europe we see growing anti-Semitism and it is even in America. A recent study by the Simon Wiesenthal Center finds an increase in anti-Semitism on college campuses across the United States. In a separate report from the U.S. Commission on Civil Rights from 2005, Nathan Sharansky, a champion for human rights in the Soviet Union who spent nearly a decade in prison, called American college campuses “islands of anti-Semitism” where young students are intimidated into silence and “Israel is epitomized as the epicenter of everything that is hateful in the universe.” A recent poll found that 54 percent of Jewish-American college students witnessed or experienced anti-Semitic incidents last year. These incidents include vandalism, acts of violence, hate speech, and even cases of students being spit upon for supporting the existence of a Jewish state in the Middle East.

We have seen in the past that the Jewish people have been the favored scapegoat of tyrants who know that successful persecution of Jews also serves to intimidate



others. Not many in the West are speaking out on this issue. This blatant disregard for the importance of religious freedom coupled with the virtual silence on the part of many in the Church in the West has left faith communities in these countries feeling abandoned and doomed. Is the West, is the church, are Western governments truly troubled by the issue of religious persecution?

I am increasingly convinced that the discussion, or lack thereof, among government leaders and opinion makers on this issue is simply a downstream manifestation of what is happening in the broader culture, and specifically the faith community domestically.

One of the last bills I passed in Congress was a bill to set up a Special Envoy to advocate for Christians and other religious minorities in the Near East and South and Central Asia. I had a press conference with religious leaders who supported the bill, but leaders of my own denomination, the Presbyterian Church of the United States of America, refused to support the bill because they said it would offend Muslims in the Middle East. If the church in the West fails to prioritize the plight of the church globally—if it fails to mobilize and sensitize its followers to the constant and ongoing suffering—can we reasonably expect our elected officials to do so?

In Rev. Martin Luther King Jr.'s "Letter from a Birmingham Jail," he admonishes the clergy and the church by stating, "I must honestly reiterate that I have been disappointed with the church...When I was suddenly catapulted into the leadership of the bus protest in Montgomery, Alabama, a few years ago, I felt we would be supported by the white church. I felt that the white ministers, priests and rabbis of the South would be among our strongest allies. Instead, some have been outright opponents...all too many others have been more cautious than courageous and have remained silent behind the anesthetizing security of stained glass windows."

King goes on, "In deep disappointment I have wept over the laxity of the church. But be assured that my tears have been tears of love..."

We need to be clear-eyed about the times in which we live, to be thoughtful about the challenges and prayerful about our response and never be satisfied with allowing religious persecution to remain a global norm.

BIPARTISAN HISTORY

The issue of human rights and religious freedom in our country used to be a bipartisan effort. Some of the great leaders and legislators of the second half of the 20th century made the promotion and protection of global human rights a bipartisan issue. Men like President Ronald Reagan, former Senator Scoop Jackson, and former Congressmen Henry Hyde and Tom Lantos all came together to ensure that this cause was not left wanting either in the United States or anywhere else. Sadly, these giants are no longer there and their absence has left a vacuum that still remains to be filled.

President Reagan fearlessly championed human rights and religious freedom in

his dealing with the Soviet Union making it a central component of U.S. foreign policy. Reagan's international efforts were buoyed by an engaged and committed domestic constituency, which we no longer have, who labored tirelessly and effectively to make the issue of Soviet refuseniks politically potent for Republicans and Democrats alike. No member of Congress at the time could afford not to know the names of heroes like Andrei Sakharov and Nathan Sharansky. I remember when members of congress and administration officials wore bracelets with the names of dissidents and prisoners as a constant reminder that, while we enjoy our freedom in the United States, many are suffering to attain theirs. Congressional visits and delegations used to be opportunities to advocate on behalf of these people whose lives were improved simply because people wouldn't stop speaking out. For those forced to flee from abuse and tyranny, our embassies used to be islands of freedom. Sadly, this isn't the case anymore.

Our ambassadors spoke out repeatedly for human rights and religious freedom. When is the last time the American Ambassador in China spoke out on the issue?

In the 1970s and 1980s, the Jewish community waged a powerful campaign on behalf of Soviet Jews. They did an outstanding job of sensitizing the nation to the plight of those wanting to emigrate to escape persecution. There was a rally on the National Mall in 1987 that drew hundreds of thousands. Faith leaders raised their voices on behalf of individuals trapped behind the iron curtain. Would there be enough interest to hold a rally like this today for people of faith being persecuted around the world?

President Reagan said the words in the Declaration of Independence and in the Constitution were a covenant we have made not just with those gathered in Philadelphia in 1776 and 1787 but with the world—with the student protestor in Tiananmen Square in 1989, and with the displaced Iraqi nun in 2016. But that covenant is now being shredded.

Despite an increase in abuse, an increase in killing and an increase in the number of refugees globally, there is no comparable mobilization happening now. I believe the church in the West is not burdened by the great injustice of religious persecution. Without hearing from the faith base, the political leadership won't move on it. There should still be an overwhelming interest and focus on these issues. Not because we are driven by guilt, but because we are motivated by our faith. Not because of some tired sense of obligation, but because of a vibrant Biblical mandate. Central to a person's dignity is their ability to worship and act according to the dictates of their conscience. As such, where religious freedom comes under attack, God's law itself is violated.

In a 2012 statement "In Defense of Religious Freedom," by Evangelicals and Catholics together, it says, "Proponents of human rights, including governments, have begun to define religious freedom down, reducing it to a bare freedom of worship. This reduction denies the inherently public character of biblical religion and



privatizes the very idea of religious freedom, a view of freedom such as one finds in those repressive states where Christians can pray only so long as they do so behind closed doors. It is no exaggeration to see in these developments a movement to drive religious belief, and especially orthodox Christian religious and moral convictions, out of public life.”

I am convinced that as the persecuted become more than faceless, nameless victims in distant wars and hard to pronounce prison cells and that as we commit to knowing their stories, weeping at their wounds and interceding on their behalf through prayer and advocacy, that we will find ourselves shaped by these giants of faith. Having been with many of these people in dark corners of the world, I know the church in the West—and all of us in the West—have much to learn from them. Not only how they endure persecution, but how they continue to unashamedly live out their faith.

Martin Luther King Jr. famously said that, “in the end, we will not remember the words of our enemies, but the silence of our friends.” Are we the friends of the persecuted?

German Lutheran pastor and anti-Nazi dissident Dietrich Bonhoeffer said, “silence in the face of evil is evil itself. Not to speak is to speak. Not to act is to act.”

Are we speaking? Are we acting?



PASSION, HUMILITY, AND BALANCE IN THE RELIGIOUS LIBERTY CULTURE WARS

E.J. DIONNE JR.¹

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof... First Amendment to the U.S. Constitution, 1791

I teach a class on religion in American politics and one of my favorite questions to ask my students is, Are the two clauses of the Liberty Amendment complementary or are they in conflict?

This is one of the questions we need to work out. How do these two clauses—non-establishment and free exercise—work together? When we look at our own public life in America, we often see these phrases as being in conflict. But through our history, we have seen that non-establishment and free exercise *can* work together. Most of the time, we have made them work.

A key argument in the United States right now—and I think it has a bearing on how we present the argument for religious liberty to the world—is: “At what point does separation get in the way of free exercise?” Many of my conservative friends say that advocates of separation are trying to drive religion out of the public square, that they are trying to limit the area in which people can express their religious freedom.

My friend and colleague the late Jean Elshtain once offered a thought that I believe is extremely helpful as we talk about religious liberty. She argued that the separation of church and state is one thing, but this is different from the separation of religion and politics.

The first—separation of church and state—is designed to protect the liberty of all of us.² But protecting liberty from the coercive power of the state is different from the right of people to bring their religious convictions to the public square. Anyone who is serious about their religious beliefs will have their views in the public square affected by their faith. I once debated Ralph Reed of the Christian Coalition and in the course of my talk I said that I will always defend Ralph’s right to base his

¹ E.J. Dionne Jr. is an op-ed columnist for *The Washington Post*, a Senior Fellow in Governance Studies at the Brookings Institution, a University Professor in the Foundations of Democracy and Culture at the McCourt School of Public Policy, a Senior Research Fellow at Saint Anselm College, and a regular political commentator on NPR, MSNBC, and PBS. This article is an edited transcript of Dionne’s speech May 24, 2016 at the 2016 International Religious Liberty Summit held at the Newseum’s Religious Freedom Center in Washington, D.C.

² With all the religious liberty lawyers in the room, I want to point out I know “separation” is not in the First Amendment, but comes from the letter to the Danbury Baptists by Thomas Jefferson.



political conclusions, in part or in whole, on his religious beliefs. Why? Because that is what I've done all my life.

I think the important issue is, What is the role of religious people in a polity? It is not simply having the right to worship. It is not simply the right to observe the Sabbath on the day they choose. But what is the role of religion in the public square?

It is odd that religious liberty these days so often comes down to the question, What should the florist and the baker do? It is extraordinary that in some ways we have allowed the discussion to be confined there. Do the florist and the baker provide a public accommodation and therefore become obligated to cater gay weddings? Or is this as a form of expressive speech? I come down in favor of strong religious exemptions for religious groups, but I would draw the line before the florist and baker. I think these services are public accommodations, although I understand the alternative point of view.

It is troubling that when we talk about religious liberty these days, we think immediately of the florist and the baker, or we think of the contraception mandate in the healthcare law and how that should work. This conference is about international religious freedom, which is literally a matter of life or death for so many people around the world. I believe that if we allow our culture wars to narrow and define what is meant by religious liberty, we lose our power to witness and we weaken our witness in the world.

I don't like culture wars. I don't like culture wars because in culture wars politics tends to be about exploiting our discontents and our divisions. I believe, instead, that the task of democratic politics is to try to heal divisions.

Whichever side people are on in the culture war, it often seems to come down to finding ways to use the state to enforce a particular worldview. Now some of that is inevitable; you cannot separate morality from law. When we hear Dr. Martin Luther King preach, we are indeed hearing an argument that the law must embody a vision of morality. But I am troubled that we are losing any capacity we have, as Doug Laycock writes, to "live and let live" on these culture war questions such as the baker and the florist.³

FINDING THE BALANCE

Both President Obama and President George W. Bush offer two important lessons on how we witness for religious freedom. I'll go first to President Bush.

Those of you who read my column know I was a Bush critic, and a fairly consistent Bush critic. But one of the truly finest moments of George W. Bush's presidency was immediately after 9/11 when he visited the Islamic Center in Washington, D.C. Think about the state we were in as a country. We were shaken, we were shocked, we were angry, and there was a great danger that we would take the legitimate anger we

³ See, Douglas Laycock, "Religious Liberty and the Culture Wars" *University of Illinois Law Review*, Vol. 2014, No. 3, 839-880.



felt over this horrible attack and turn it on our fellow citizens who are Muslims.

George W. Bush right at the beginning, right in the immediate aftermath of 9/11, went to the Islamic Center and said, “When we think of Islam, we think of a faith that brings comfort to a billion people around the world. Billions of people find comfort and solace and peace, and that’s made brothers and sisters out of every race. America counts millions of Muslims among our citizens, and Muslims make an incredibly valuable contribution to our country. Muslims are doctors, lawyers, law professors, members of the military, entertainers, shopkeepers, moms and dads, and they need to be treated with respect. In our anger and emotion, our fellow Americans must treat each other with respect.”

He went on, “This is a great country. It’s a great country because we share the same values of respect and dignity and human worth, and it is my honor to be meeting with leaders who feel just the same as I do. They’re outraged, they’re sad. They love America just as much as I do.”

I think we are missing that voice in parts of our politics these days. A lot of people have said, and I think there’s some truth to this, that those of us who are on the liberal side have not paid enough attention to the persecution of Christians around the world. I do think we have to stand up for the religious liberty of everyone, and that does include Christians, but our voice will be diluted, our voice will be less powerful as a country, if we forget what George W. Bush said on that day after 9/11.

Today, there are other voices out there; voices expressing ideas that are very different to those spoken by President Bush.

The other person I want to quote is President Obama. I believe President Obama’s “Call to Renewal” speech back in 2006 is one of the most balanced and thoughtful statements by a politician about how we should think about religious questions at home, and by extension, how we should think of them around the world. I won’t quote the entire speech, but here’s what I particularly liked about what President Obama said ten years ago when he was a senator.

He was trying, on the one hand, to argue to progressives that they need to take religion seriously and they need to respect religious people. I sometimes refer to myself as a pro-religion liberal. Now many liberals would be offended by that, in the same way that conservatives are offended by having to be called “compassionate conservatives.” They argue, why do you need that adjective? Why are liberals automatically assumed to be anti-religion? But you need the prefix.

I’ve thought about what I mean when I say I’m a pro-religion liberal, and I think it means tending to focus on the ways in which religious faith and religious traditions have contributed to the world, to the common good, to love, to our mutual understanding, rather than to focus only on the ways in which our religious traditions have done exactly the opposite. Sometimes, some of my progressive friends are so skeptical of religion that they overlook its contribution.



President Obama that day specifically took progressives to task for taking that view. He said, “When we ignore the debate about what it means to be a good Christian or Muslim or Jew, when we discuss religion only in the negative sense of where or how it should not be practiced rather than in the positive sense of what it tells us about our obligations toward one another, when we shy away from religious venues and religious broadcasts because we assume that we will be unwelcome, others will fill the vacuum, those with the most insular views of faith or those who cynically use religion to justify partisan ends.

“The discomfort of some progressives with any hint of religion has often prevented us from effectively addressing issues in moral terms. Imagine Lincoln’s second inaugural address without reference to the judgments of the Lord or King’s “I Have a Dream” speech without references to all of God’s children. Their summoning of a higher truth helped inspire what had seemed impossible and moved the nation to embrace a common destiny. Our failure as progressives to tap into the moral underpinnings of the nation is not just rhetorical, though. Our fear of getting preachy may also lead us to discount the role that values and culture play in some of our most urgent social problems.”

That was his lecture to his fellow progressives, but then he also argued that people of strong faith, particularly conservative people of strong faith, needed to accept the religious diversity of our nation. Obama went on, “While I’ve already laid out some of the work that progressive leaders need to do, I want to talk a little bit about what conservative leaders need to do, some truths they need to acknowledge.

“For one, they need to understand the critical role the separation of church and state has played in preserving not only our democracy but the robustness of our religious practice. Folks tend to forget that during our founding, it wasn’t the atheists or the civil libertarians who were the most effective champions of the First Amendment. It was the persecuted minorities. It was Baptists like John Leland, who didn’t want the established churches to impose their views on folks who were getting happy out in the fields and teaching the scripture to slaves.

“It was the forbearers of the evangelicals who were the most adamant about not mingling government with religion. Moreover, given the increasing diversity of America’s population, the dangers of sectarianism have never been greater. Whatever we once were, we are no longer just a Christian nation. We are also a Jewish nation, a Muslim nation, a Buddhist nation, a Hindu nation, and a nation of non-believers.”

It seems to me that religious liberty has to encompass both halves of that speech from President Obama. At a time when thirty to thirty-five percent of millennials do not even consider themselves part of any religious tradition, I think this issue of religious liberty presents itself in a particularly complicated way. I would urge us in talking about international religious liberty to remember these two models laid out by President Bush and President Obama.



PASSION AND HUMILITY

I want to close with a couple of thoughts. I would really like us as a nation to put an end to religion and culture wars, or at least to abate them. At least we might begin to have some understanding of each other. That is where, unlikely as it is for a columnist to talk about, humility comes in. One of my favorite theologians, familiar to many of you, is Reinhold Niebuhr. My single favorite Niebuhrism is about our flawed human nature. Quoting someone else, he once said, "Original sin is the only empirically verifiable doctrine of the Christian church." I'm afraid if you look around Washington or look around any other city, that lesson comes back to you over and over again.

His other great aphorism is "Man's capacity for justice makes democracy possible and man's capacity for injustice makes democracy necessary." We have the capacity to aspire to democracy, but we need the protections of democracy and religious liberty because of our capacity to persecute and be mean and be intolerant.

To end the religious and culture wars, and to allow religion to flower in public life, we need to combine passion and humility. These virtues do not always come together, but they must. We need a passion for moving our nation out of the period in which public problems go unsolved and the possibilities of broad alliances are lost because narrow political imperatives triumph over the idea of the common good. We need humility to understand how prejudices of believers against unbelievers and of unbelievers against believers obstruct our path and blur our vision.

"The final enigma of history," Reinhold Niebuhr wrote, "is therefore not how the righteous will gain victory over the unrighteous, but how the evil in every good and the unrighteous in the righteous is to be overcome."⁴ We must realize that self-righteousness is the enemy of righteousness and the enemy of religious liberty, and that hope is the virtue on which faith and love depend.

The paradoxes of religious faith are obvious. It can create community and it can divide communities. It can lead to searing self-criticism and it can also lead to pompous self-satisfaction. It can encourage dissent and conformity, generosity and narrow-mindedness. It can engender righteous behavior and self-righteousness. Its very best and very worst forms can be inward-looking. Religion's finest hours have been the times when intense belief led to social transformation. Yet, some of its darkest days have entailed the translation of intense belief into the ruthless imposition of orthodoxy.

I believe the United States has a special mission to the world because despite many outbreaks of prejudice and nativism, some of which we're seeing around us today, our history is largely a history of religion's role as a prod to social justice, to inclusion, and to national self-criticism. I always say that my own political views were changed and shaped when I was fifteen years old in a religion class at my Catholic

⁴ Reinhold Niebuhr, *The Nature and Destiny of Man: A Christian Interpretation* (New York: C. Scribner's Sons, 1949) 43.



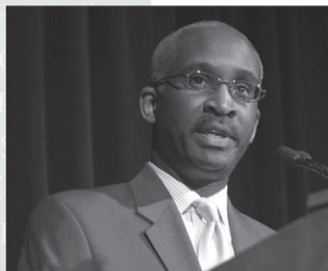
high school. We had to pick a religious book to read and write a report on and the book I chose was *Strength to Love*, that great collection of Martin Luther King's sermons. For me, a kid in an old, almost entirely white factory town in Massachusetts, it opened a whole world about racial justice and social justice and what it means to be a Christian. I think that the King story, the story of the abolitionists, the story of the people who fought for social justice in the progressive era and beyond form a very rich part of our story, as President Obama pointed out in his 2006 speech.

The historian Richard Wightman Fox has noted that "Religion can be seen both as a democratic social power, a capacity to build community, and as a tragic perspective that acknowledges the perennial failing of human beings to make community endure. Religion," Fox continued, "allows people to grapple with the human mysteries that neither science nor politics can address, but it also provides a force that science and politics can call on in their effort to understand and transform the social world."⁵

For that reason, I think religious liberty, arguments about religious liberty, and the fight for religious liberty will always have a great deal to do with our American experiment, and it ought to shape what we feel are our obligations as Americans to the entire world.

⁵ Quoted in E.J. Dionne Jr., *Souled Out: Reclaiming Faith and Politics after the Religious Right* (Princeton, NJ: Princeton University Press, 2008), 42–43.

GLOBAL FAITH & FREEDOM



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FIDES ET LIBERTAS



PART THREE:
ACTIVITIES OF THE INTERNATIONAL
RELIGIOUS LIBERTY ASSOCIATION



REPORT FROM THE SECRETARY GENERAL

GANOUNE DIOP, PHD.

A new phase in the history of the IRLA began in July 2015 when, on the retirement of Dr. John Graz, I was entrusted with the mandate of Secretary General of the International Religious Liberty Association. I am grateful for the opportunity to continue the work begun by Dr. Bert Beach and expanded by Dr. John Graz. I am adding bricks to an edifice that is already well in place, with a rich history of achievements. Obviously, this is not a work for soloists; a team of people with various talents is necessary to fulfill our goals. To this end I have asked Dr. Nelu Burcea, Attorney Dwayne Leslie, Mrs. Bettina Krause, and Mrs. Gail Banner to bring their giftedness to the work of the IRLA.

GRATITUDE

I am grateful for the able leadership of our president Ambassador Robert Seiple. I feel privileged to be associated and to partner with him in the task of promoting religious freedom around the world. The various functions of the IRLA truly benefit from his wide range of experience. In addition to the contributions of many other friends and supporters of the IRLA, I am especially grateful for the dedication of our vice-president Rosa Maria Martinez de Codes for her commitment to the work of the IRLA. The team that contributes to the Meeting of Experts program also has my deepest thanks. Professor Nick Miller is one of these consistent allies and major contributors.

I would like to thank my associates for their dedicated contributions to the work of IRLA. Dr. Nelu Burcea who joined the IRLA in October has already been very active. In addition to his numerous speaking appointments to promote religious freedom since he came to the US, he has also organized the yearly meeting at the Romanian parliament with guests including the prime minister of Romania, the minister of foreign affairs, and the former minister of higher education. Several other dignitaries attended the meeting raising the profile of IRLA. His work promises to significantly take the work of the IRLA to a higher standing of professionalism and impact. He is the kind of person who influences leaders and we are grateful to have him with us.

Attorney Dwayne Leslie continues his work as our representative in Washington. This year, he assisted in filing an amicus (or “friend of the court”) brief advocating



for the religious liberty rights of a young Muslim girl who was subject to religious discrimination in an employment decision. The brief was joined by a diverse collection of 14 other religious and public policy organizations. The Supreme Court ruled overwhelmingly, in an 8-1 decision, in favor Samantha Elauf.

Dwayne played an active role in helping achieve passage of a bill granting a four-year reauthorization of the U.S. Commission on International Religious Freedom. They had several meetings on the Hill to help navigate competing bills and other political interests. It was important that USCIRF be reauthorized so that it can continue to highlight the need to promote and protect those who are discriminated against or persecuted for their beliefs.

IRLA is privileged to have Mrs. Bettina Krause as Assistant to the Director for Communication. She working to bring up to date our websites, logo, and various programs. Her giftedness expands to writing on a regular basis an impressive number of articles to inform a broad readership, and the production of TV programs to promote the work of the IRLA.

Gail Banner secures for all of us the vital administrative work of our office. She is to be commended for her consistent work and her ability to navigate from assignment to assignment, which come from the rest of the team.

Last but not least, I would like to thank our treasurer, Mrs. Daisy Orion, who ensures that we keep ourselves within budget. We greatly appreciate her help in finding ways to fund our various needs, and her central role in the preparations for our 2017 IRLA World Congress.

IRLA GOALS AND ENGAGEMENTS WITH THE INTERNATIONAL COMMUNITY

A quote from our website is fitting:

“A primary aspect of the IRLA’s work is to ensure that religious freedom has the highest possible visibility on the world scene. To that end, we hold congresses, regional conferences, national symposiums, and local meetings—all aimed at making sure issues of religious freedom remain high on society’s agenda. For despite the importance of international covenants and national legislation, without public support for religious freedom, any gains remain at the level of theory rather than practice.”

Accordingly, the overarching goals of our association are the following:

- To provide IRLA with more visibility in the international arena, among international and national organizations and peoples everywhere.
- To continue to position IRLA to a standing of credibility, trust, and relevance. (Our president, Ambassador Seiple, repeatedly reminds us of the importance of being relevant in today’s world and of being deliberate in attending to its needs).
- To be part of the global conversation and expertise on religious freedom issues. IRLA has much to offer and I would like to facilitate the process of finding



forums for IRLA's various contributions.

RECENT IRLA ACTIVITIES

IRLA's 17th Meeting of Experts

This intensive four-day series of presentations and discussions began August 10, 2015, and brought together an international group of 20 scholars, lawyers and religious freedom advocates. This year, we were hosted by the Pepperdine University School of Law in Malibu, California, and our discussions focused on an especially critical and timely question: How can people with deep religious or philosophical differences live together without violence? Among those who gave thought-provoking presentations were Dr. David Little, Professor Emeritus of Harvard Divinity School; Reverend Canon Brian Cox, Senior Vice President of the International Center for Religion and Diplomacy; Professor Cole Durham, President of the International Consortium for Law and Religion Studies based in Milan, Italy; Professor T. Jeremy Gunn, professor of International Relations at Al Akhawayn University in Ifrane, Morocco; and, Dr. Amal Idrissi, law professor at the University of Moulay Ismael in Meknes, Morocco. We were privileged to have with us also Ambassador Robert Seiple, former US Ambassador-at-Large for International Religious Freedom, who serves as IRLA's President.

New Relationships within Pan-African Community

Earlier this year, I was invited as a plenary speaker at a landmark Pan-African symposium held in Cotonou, Benin. The "African Initiative for Peace and Development Education through Inter-religious and Inter-cultural Dialogue" brought together some 400 heads of state, prime ministers, political leaders, religious leaders, academics, representatives of non-governmental organizations, and other thought leaders from across Africa and around the world to explore how interfaith and inter-cultural dialogue can combat social conflict and violent extremism on the African continent. In September this year, a consensus document was released based on the work of the symposium, entitled Manifest for Peace and Development through Inter-religious and Inter-cultural Dialogue. This document outlines a 25-step blueprint for developing a better understanding between Africans of many different religious, spiritual, cultural, social and political backgrounds. The IRLA will continue to develop its relationship with this key group of African leaders, religious leaders, and members of the international community.

IRLA Supports International Gathering of Lawmakers in New York

In September, the IRLA was a member of the organizing secretariat for a unique gathering of lawmakers from around the world meeting in New York City. The "International Panel of Parliamentarians for Freedom of Religious or Belief" brought together more than 100 legislators from some 50 countries to call for greater global



efforts to end religious persecution and repression. This organization is new to the international scene. It was launched last year in Oslo, Norway, with just 30 legislators, who committed themselves to building an informal worldwide network in support of religious freedom. Since then, the network has expanded rapidly. The conference concluded with attendees issuing letters to the governments of three countries—Myanmar, Iran, and Vietnam. These letters highlighted specific religious liberty abuses, and called on each government to honor its obligations under the Universal Declaration of Human Rights and other international instruments. Next year, the group plans to hold an expanded gathering in Berlin, Germany.

IRLA Sponsors First Madagascar Religious Freedom Festival

Also in September, the IRLA co-sponsored an event that brought together more than 17 thousand people in a sports arena in Antananarivo, the capital of Madagascar, to pledge their support for religious liberty. The day-long “Festival of Religious Freedom” was the first such event to be held in this Indian Ocean island nation, and was attended by both community and national leaders, including government minister Olivier Mahafaly, who heads the Ministry of the Interior and Decentralization. Dr. John Graz, our recently retired Secretary General, traveled to Madagascar on behalf of the IRLA to take part in the event. During his five days in the country, Graz spoke to journalists at an airport arrival press conference, attended three academic lectures on religious freedom, and gave the keynote address at the Festival, which was broadcast by the national media, and met with Madagascar’s Prime Minister, Jean Ravelonarivo.

Protocol Receptions

The IRLA was delighted to host one of India’s most experienced diplomats, retired **Ambassador T.P. Sreenivasan**, at a September luncheon. During his 37-year career in key diplomatic postings—including a stint as India’s Permanent Representative to the United Nations—Ambassador Sreenivasan has been a strong voice for human rights, tolerance, and religious freedom. Ambassador Sreenivasan told guests at the lunch that “tolerance” and “inclusiveness” are two of fundamental pillars of civil society, and he used an old Sanskrit phrase, “Vasudhaiva Kutumbakam”—or, “the world is one family”—to describe how people from different cultures or religions should relate to one another.

In October, the IRLA hosted long-time United Nations administrator **Mr. Iqbal Riza**, who is currently a special advisor to UN Secretary-General Ban Ki-moon, and who has served within the UN structure for more than 35 years. “The world is at a stage today when the enmities of the past have not completely disappeared, and new enmities have appeared,” said Riza. He spoke about the “larger part of humanity that lives, perhaps not in subhuman conditions, but certainly in dire poverty.” In describing the goals of the United Nations, Riza quoted the so-called “four freedoms”



first expressed by US President Franklin D. Roosevelt in 1941: “Freedom of speech; freedom of worship; freedom from want; freedom from fear.”

IRLA Participates in Moscow Talks

A gathering of leaders from across Russia’s religious and political spectrum met October 29 in the Great Hall of Moscow’s President Hotel, and included scholars, public officials, and religious leaders representing the Orthodox, Protestant, Jewish, Catholic, and Islamic communities. This Third International Forum on Religion and Peace, was jointly organized by Russia’s Presidential Council for Cooperation with Religious Organizations, and Moscow’s department of National Policy, Inter-Regional Relations, and Tourism. It was supported by Russian President Vladimir Putin and Russian Orthodox Patriarch Kirill of Moscow, along with other religious and public leaders. The IRLA was represented by myself and my colleague Oleg Goncharov, who heads IRLA’s partner association in Russia. I was privileged to address the delegates and I spoke about the foundational place of religious freedom within the pantheon of human rights. While in Moscow, I also visited the national Duma to meet with various public officials responsible for church-state relations in Russia. We also met with Alexander Kudryavtsev, who heads one of Russia’s most active public organizations focused on religious liberty, the Russian Association for the Protection of Religious Freedoms (RARF).

Presentations at the European Academy of Yuste Foundation

Also in October, I was delighted to be invited to present at a unique three-day academic event on the campus of the European Academy of Yuste Foundation, located in the Royal Monastery of Yuste, Spain. For three days, a select group of students, researchers, and other grant-holders from universities across Europe, gathered in Yuste to hear lectures from experts in religion, law, politics, and international institutions. This course is supported by a broad partnership of social and educational institutions in Europe, including not only the European Academy of Yuste Foundation, but also the Swiss Henry Dunant University College Foundation and the OIDEL NGO, which promotes the right to education and freedom in partnership with the United Nations, UNESCO, and the Council of Europe. Longtime friend of the IRLA, Dr. Rosa María Martínez de Codes, Professor of American History at the Complutense University of Madrid, was the director of the course. The lectures were recorded and are available on YouTube.

IRLA Co-Sponsors Romanian Religious Liberty Conference

In November, I joined my colleague, Dr. Nelu Burcea (recently elected Deputy Secretary General of the IRLA) as a plenary presenter at the Third International Religious Liberty Conference held in Romania’s renowned Palace of the Parliament, one of the world’s largest buildings and seat of the nation’s legislative assembly. Dr. Burcea was the key organizer of this event, which brought together Romanian



politicians and thought leaders, along with academics and religious liberty advocates from around the world to focus on the pivotal role laws play in building a free and just society for people of faith. The papers presented during the conference have been published in the third edition of the *Journal of Freedom of Conscience*, one of Romania's premier publications in the area of freedom of religion and belief.

IRLA Represented at G20 Interfaith Summit in Turkey

The G20 Interfaith Summit, held November 16 to 18 in Istanbul, was the second time religious leaders had gathered on the sidelines of the main G20 Economic Summit meetings. Again, the event brought together academics, public leaders, and representatives from a broad range of faith groups, including Muslims, Christians, Buddhists, and Hindus to explore the role of religion and religious values in driving positive economic development. I was invited to deliver a plenary address on the final day of the summit. The title of my paper was: "Moral Foundations for the Sustainable Development Goals: On Dignity, Freedom and Solidarity," which among other things, developed the argument that religious freedom is a pivotal human right—one that is central to all other freedoms, and which is essential in tackling the root causes of poverty, and nurturing sustainable development. Other speakers at the G20 Interfaith Summit included David Saperstein, Ambassador-at-Large for International Religious Freedom at the United States Department of State; Rahmi Yaran, the Grand Mufti of Istanbul; Cole Durham, one of the organizers and, Heiner Bielefeldt, Special Rapporteur on freedom of religion or belief at the United Nations.

Visit to the African Union Headquarters in Addis Ababa, Ethiopia

On December 7-20, I visited the African Union Headquarters at the invitation of the vice-chair. It was a special networking opportunity. I met with key leaders from the African continent. I am exploring the possibility of facilitating the expansion of IRLA group of experts' work and contributions to scholars and leaders in the continent of Africa in addition to other continents Latin America and Asia. Our experts from Spain are making significant contributions in Europe and beyond. IRLA visibility ought to benefit every part of the world, for the sake of the development a culture of human rights in general and religious freedom in particular.

Planning for IRLA's 8th World Congress for Religious Freedom

This premier religious freedom event, which the IRLA convenes every five years, will take place in August 2017, near Ft. Lauderdale, Florida. The IRLA team is working to have all in place for registration to open September 1, 2016.

I invite you browse the IRLA website to find out more about this not-to-be-missed event.

FIDES ET LIBERTAS SUBMITTING MANUSCRIPTS

Fides et Libertas encourages the submission of manuscripts by any person, regardless of nationality or faith perspective, who wishes to make a scholarly contribution to the study of international religious freedom. *Fides et Libertas*, as the scholarly publication of the International Religious Liberty Association, seeks to obtain a deeper appreciation for the principles of religious freedom that IRLA has enunciated, including the following: religious liberty is a God-given right; separation of church and state; government's role of protecting citizens; inalienable right of freedom of conscience; freedom of religious community; elimination of religious discrimination; and the Golden Rule. *Fides et Libertas* is open to a wide perspective in upholding those principles including:

- Historical studies
- Articles that deal with theoretical questions of theology and freedom
- Essays on the meaning of such concepts as human rights and justice
- Works focused on politics and religion; law and religion

Articles should be accessible to the well-educated professional as well as to the lay person who seeks to know more. They are to be a means of continuing a scholarly conversation of the subject at hand. Therefore it is incumbent on the author to bring a new insight or knowledge to the conversation.

ARTICLE SUBMISSION

Submitted articles are evaluated by academic and professional reviewers with expertise in the subject matter of the article. *Fides et Libertas* will seek to ensure that both the identity of the author and the identity of the reviewer remain confidential during this process. *Fides et Libertas* accepts simultaneous submissions but requires the author to notify the editorial staff immediately if he/she accepts another offer.

Fides et Libertas prefers to accept articles under 11,000 words. Articles should be submitted as an electronic attachment. Articles must be submitted in U.S. or U.K. English. A paper copy only manuscript will not be accepted. In order to ensure an anonymous and expedited review process, we request a copy with no headers or other author-identifying information (make sure tracking feature is turned off). Although published articles will appear in footnote format, manuscripts may be submitted in endnote format. Citations in each article should conform to the latest edition of *The Chicago Manual of Style*.

REVIEW PROCEDURE

After an initial review of the article by the editors of the *Fides et Libertas* to ensure that articles minimally meet its mission, standards and priorities, each article is referred to an outside peer reviewer. Final decisions on accepting or rejecting articles, or sending them back with encouragement to re-submit, are made by the editors. Upon acceptance, articles then undergo a thorough technical and substantive review, although authors retain full authority on editorial suggestions on the text. If technical deficiencies, such as significant errors in citations or plagiarism, are discovered that cannot be corrected with the help of staff, the Executive Editor reserves the right to withdraw the manuscript from the publication process. Generally, *Fides et Libertas* publishes material which has not previously appeared and it does not simultaneously publish articles accepted by other journals.

Articles or author's requests for information should be addressed to:

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BOOKS IN REVIEW

Fides et Libertas book reviews are meant to carry on the conversation with the authors under review. A simple description of the book fails to reach the goal envisioned by *Fides et Libertas*. We are looking for essays that take positions and provide clear reasons for such—being in the range of 2,500-5,500 words. Smaller review essays will be considered provided they actively engage with the topic and the author.

The Editor will make a decision on publishing the review based on the quality of the review and whether it is in keeping with the mission of *Fides et Libertas*.

Book reviews should be submitted by email attachment or CD in Microsoft Office Word or compatible format.

Book review manuscripts should be double-spaced, with the following information at the top whenever it is available:

1. Name of book
2. Book's author or editors
3. Publisher with date
4. Number of pages and price

Review essays may have a title (which is not necessary) which should be placed immediately above the identifying information.

Reviewer's name for book reviews should appear at the end of the review, togeth-

er with a footnote giving the reviewer's title(s), if any, and institutional affiliation(s) together with the institution's location.

For further information about the *Fides et Libertas* book review policies and procedures, or to submit your name as a reviewer, or an idea for a book to be reviewed, please contact:

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