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FIDES ET LIBERTAS



2014

RELIGIONS AND FREEDOM OF RELIGION:
CONTRIBUTIONS TO PEACE AMONG ALL PEOPLE, PART II

THE JOURNAL OF THE INTERNATIONAL
RELIGIOUS LIBERTY ASSOCIATION

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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:

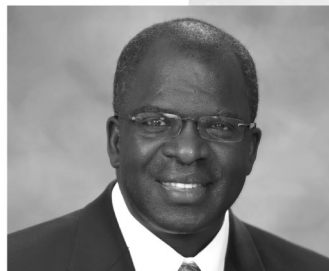
- 1 Dissemination of the principles of religious liberty throughout the world;
- 2 Defense and safeguarding of the civil right for all people to worship, to adopt a religion or belief of their choice, to manifest their religious convictions in observance, promulgation, and teaching, subject only to the 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.



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INTRODUCTION TO *FIDES ET LIBERTAS*

The breath of IRLA work to help develop a culture of human rights in general and freedom of religion in particular is remarkable. In 2014 it extended from festivals and symposiums in several countries, to congresses and yearly meetings of experts in academic settings, to liberty dinners for ambassadors in several capitals around the world. Dr John Graz chronicles the plethora of activities the association has offered the international community. These needed activities are a response to the current geopolitical and religious challenges our world faces.

Many nations have not fully embraced the fundamental right of freedom of religion or belief. It is reported that half of all countries still penalize what they interpret as blasphemy, apostasy or defamation of religion. It is also reported that in 13 countries, atheists can be put to death for their lack of belief.¹ The inhumanity of such evil plagues the existence of millions around the world. The incalculable suffering as a result of religious discrimination is poignantly illustrated in Ambassador Seiple's story of the life of an 18-year-old girl, shattered in Lebanon and now irremediably paralyzed.

Bishop Gunnar Stålsett provides us with a fine reflection on the rationale and recipients of the Nobel Peace Prize, its processes and prospects. He insightfully draws attention to the need for a renaissance and reformation from within each religion. He identifies freedom of religion and expression as indispensable tools for democracy and human well being.

Even though today at a global scale there are more Muslims who are killed as a result of wars or terrorist acts in the Middle East and in North Africa, Christians are the most persecuted group according to most recent polls. The situation of Christians in Northern Nigeria is particularly alarming. Members of the Church of the Brethren, for example, have suffered a heavy toll. Of the more than 260 girls who were abducted in that region, 176 of them belonged to this Christian faith tradition. The situation in the Middle East is particularly troubling. To this day, the Syrian-Orthodox Christian community has no news regarding the abduction of Archbishop Mar Gregorios Yohanna Ibrahim, a member of the IRLA Panel of Experts, nearly two years ago. The birthplace of the religions that claim peace has become one of the most troubled regions of the world. Aram I of the Armenian Apostolic Church provides us with an insider perspective concerning the precarious situation of Christians in the Middle East where in recent decades millions migrated to other horizons due to insecurity, intimidation, humiliation, persecution, and murder. His penetrating analysis is

¹ See <http://brianpellot.religionnews.com/2014/01/07/8-worst-countries-religious-freedom>.



a gift both to people in the Middle East and to the international community.

Tracking human dignity in the trajectories of religious thoughts is a fascinating journey with vital surprises. Professor John Witte Jr traces the contemporary focus on human dignity, not only through the historic statements in documents such as the UDHR or the Roman Catholic *Dignitatis Humanae* during the Second Vatican Council (1962-1965), but in the early Protestant tradition. His fascinating contribution sheds a much-needed light on a concept that, in his words, “has become ubiquitous to the point of cliché—a moral trump frayed by heavy use, a general principle harried by constant invocation.” He specifies that “In the past 40 years, there have been more than 1,000 books and more than 10,000 scholarly articles on dignity and related concepts published in English alone.”

Professor Nicolas Miller explores the paradox of human dignity being, on the one hand, the most widespread international value in theory, but, on the other hand, the most widely violated and ignored value in practice. He sorts through the competing ideas of dignity, opening interesting perspectives on the contributions of dissenting Protestantism to the concepts of dignity and freedom.

Professor Jaime Rossell’s input and insights on the legal order concerning food helpfully surprise the reader. This is an important topic that has a deep impact on the daily life of religious minorities and majorities alike. Matters of food matter to people because of deeply held beliefs about pure and impure, clean and unclean.

The complex religious landscape of contemporary societies in Latin America, with the current phenomenal growth of Pentecostal and Charismatic churches, challenges any oversimplification. Professor Rosa Maria Martinez de Codes walks us through the maze with an acute sense of discernment of undergirding issues of social changes: secularization, modernization and urbanization. The case study of Columbia is an eye opener. How do these changes affect, say, the deeply rooted Catholic identity? Is inherited religious identity the determinative factor of contemporary Latin America identity?

In the final article, the global map of restrictions to religious freedom presents a paradox. Organizations that promote freedom of religion or belief have never been so numerous, but at the same time the tide of violations of fundamental freedoms is on the rise as never before. Revisiting the foundations and scope of religious liberty is urgently needed.

This volume of *Fides et Libertas* promises to add significant elements to the global conversation on freedom, dignity and responsibility. This is both the conviction and the hope of the editorial team.

Dr Ganoune Diop
Director, United Nations Relations
Deputy Secretary General
International Religious Liberty Association

FIDES ET LIBERTAS



RELIGIONS AND FREEDOM OF RELIGION:
CONTRIBUTIONS TO PEACE
AMONG ALL PEOPLE, PART II



THERE IS HOPE, AND HOPE IS WHAT WE NEED

JOHN GRAZ¹

I would be pleased if I could report positive news about religious freedom for the year 2014. But in spite of my goodwill and my naturally optimistic outlook on the world, it is difficult to find positive information. Still, there are a few lights in the darkness, and they bring hope.

This morning I decided to write a few lines for *Fides et Libertas* as requested by its Executive Editor, Dr Ganoune Diop. Then I noticed this title in the *Washington Post*: “Synagogue Attack Stirs ‘Religious War’ Fears.”² Trying to bring a note of hope, the author added the following subtitle: “Leaders from Various Faiths Attend Jerusalem Prayer Meeting.”

When religious extremists exert a major influence in the political system, it is important that believers of goodwill and those who associate religion with peace meet together, pray together, and speak together. Such meetings should be held in India, Sri Lanka, Myanmar, the Middle East, and everywhere that extremists are determined to eliminate those who don’t believe like them.

I have often heard that religious freedom is dangerous as it may open the door to religious confusion, social chaos, and religious war. Is this really so?

As a European, I studied in school the tragedy of religious wars. They almost destroyed our continent. The Peace of Westphalia in 1648 was a way out of the madness of religious wars. One of the implications was that people had to accept the religion of their lords or leave their country. This Peace Treaty stopped religious wars. But other wars continued to destroy our continent. It did not stop the wars which were motivated by ambition, nationalism, and personal interest. It did not end persecution against religious minorities. But it brought some order and stability to the continent.

The American experience of separation between Church and State provided the best answer to religious conflict. It became a model for the western world—at least for some countries and for a time. I believe it can still provide a good answer as long as separation does not mean hostility between a militant secular ideology of the State and religion. Such a perversion of the secular model could open the door to a new “religious war.”

¹ Dr John Graz is Secretary General of the International Religious Liberty Association.

² *Washington Post*, November 20, 2014, page 1.



The fact is that in 2014 religious freedom has become a major issue and challenge. According to the Pew Research Center,³ 76 percent of the world population lives in countries where there is no religious freedom. In the past few years we saw an increase in sectarian or communal violence which threatened religious minorities. It happened in eight percent of the countries of the world in 2007 and 15 percent in 2011. It reached 18 percent in 2012.

The IRLA's answer to religious fanaticism and intolerance is to promote religious freedom for all people everywhere. This is what we are trying to do on five continents. I would like to share with you a few examples:

1. The IRLA Meeting of Experts. It began in 1999 and we held our 16th meeting in Florence, Italy, in 2014. It has become one of the major think tanks on religious liberty, and it has produced six important statements. The 2015 meeting will be held at Pepperdine University in California.
2. Congresses, Symposiums, and Forums. The IRLA has held seven world congresses. The last one in 2012 had 900 participants and became the largest religious liberty congress ever held. Since 1997, the IRLA has initiated and organized about 50 regional and national congresses, symposiums, and forums. I don't know that any other religious freedom association has held so many public events around the world. The 8th IRLA World Congress will be held August 2017 in Florida.
3. Festivals of Religious Freedom. The IRLA has supported the Festivals of Religious Freedom from the first one held in Sao Paulo, Brazil in 2006, to Luanda, Angola in 2008, to Lima, Peru in 2009, and to Birmingham, England in 2014, and the last one in Kingston, Jamaica. In these festivals, more than 275,000 people have met to celebrate that fundamental freedom.

The festival in Kingston was a great success. On Saturday, January 24, a crowd of about 12,000 filled the National Arena inside and outside to celebrate religious freedom. It was the first Festival of Religious Freedom ever held in Jamaica. The government leaders, the leader of the opposition and the Governor General, the Most Honorable Patrick Allen, were together publicly and united with the people to say they want to keep religious freedom in their beautiful island and to defend it everywhere. Deputy Prime Minister Robert Pickersgill, who represented the Prime Minister, underlined the enormous impact of religious freedom on Jamaica's development.

It was an extraordinary and well-organized event. It began at 8:30 am and ended at 9:00 pm. The morning was focused on the religious aspect of this freedom. Dr Ganoune Diop and I had a part in the program as did Pastor Roberto Herrera, the IRLA Secretary General for the Inter-America Region. The climax was the sermon

³ January 2014.



offered by Pastor Glen Samuels. I had the impression I was hearing Martin Luther King Jr. His theme was: “How Do We Treat Others?”

The afternoon was focused on the launching of the newly created National Religious Liberty Association. The Board members, President and Secretary General were introduced. I welcomed them into our international network on behalf of the IRLA. Then our IRLA President, Ambassador Robert Seiple, who was the keynote speaker, captivated all of us with his stories and enthusiasm. The speeches were followed by choirs, musicians, and singers. It was beautiful. But it was not finished. The festival entered into its last session with the Religious Liberty Concert.

Pastor Roberto Herrera, Dr Diop, Ambassador Seiple, and I arrived in Kingston on Wednesday. Nigel Cook, our local religious liberty leader, had prepared a program that led us from a TV interview to a radio interview, from a meeting with the Senate President to a meeting with the Governor General to a meeting with the Prime Minister. We were the visitors, but everywhere we went, Nigel was welcomed as a friend. I have never seen such media coverage for a festival.

From February 2015 to June 2015, other festivals will be held in Medellin, Colombia; Manaus, Brazil; and Fort de France, Martinique. It is expected that these events will gather an additional 90,000 people—making a total attendance of 350,000. In some ways we will be able to say that the organizers made history.

The promotion of religious freedom through events is important, but we don’t want to neglect the academic aspect of our mission. An association like the IRLA needs a journal. It was one of my priorities when I came in 1995. I was inspired by *Conscience et liberté* published by our partner association, the AIDLR, in Europe. We followed their example and began with the first annual edition of *Fides et Libertas* in 1998. The articles were written by the best experts on religious freedom. We also have a weekly TV show on the Hope Channel titled *Global Faith & Freedom*, produced by Attorney Dwayne Leslie.

Our work has been recognized and our team has received honors and awards:
2011: I received the National Religious Freedom Award from the First Freedom Center.

2013: I received the International Award for Religious Freedom from the J Reuben Clark Law Society and the International Center for Law and Religions Studies.

2014: Ganoune Diop and I each received the Doctorate Honoris Causa by Targoviste University in Romania.

Dr Ganoune Diop has been elected to membership on the CoNGO Board, which works with the United Nations.

Attorney Dwayne Leslie is a member of the Washington Round Table on Religious Freedom and a regular guest at the White House Breakfast Prayer.

At the IRLA Legal Meeting in October, the constituency voted the list of IRLA members and the Board of Directors. The new board reelected our current team,



including our President, Ambassador Robert Seiple, for the next two years.

In July 2015 I will retire and step down after serving for 20 years as Secretary General of the IRLA, and the Board will choose my successor. But before I leave, I wish to say thank you to God who gives us the freedom to choose and thank you to all of the IRLA members and leaders around the world. I give a special thanks to the team I have worked most closely with. They have made a difference in promoting and defending religious freedom.

As long as people like you give their interest and time to this great cause, there is hope and hope is what we need.

I started this article with a headline from the *Washington Post*, and I will conclude with another. “Tunisia Struggles to Retain Democracy.”⁴ The article says that after the first term, all celebrated “a clean, peaceful election.” To his supporters, the Islamist leader said “We are celebrating freedom! We are celebrating Tunisia! We are celebrating democracy!” Is this not a sign of hope?

⁴ *Washington Post*, November 22, 2014.



MARY'S STORY

ROBERT A SEIPLE¹

Mary taught me all I know about religious freedom. I met her in her native Lebanon in the 1990s soon after that terrible civil war had come to an end. Civil conflict is the ultimate in societal pathos. No one ever escapes unscarred. Like everything else in Lebanon, the war was also complicated, made worse by a religious element that unleashed destructive passion.

Mary was just 18 years old when those passions spilled over to her village. A rival militia attacked the village, shooting at everyone in sight. The chaos was immediate. People were in instant flight, trying to escape the deadly barrage of bullets coming from the militia. Mary ran as well, but she tripped over a tree root and fell to the ground. What happened next is both inspiring and chilling.

While Mary lay on the ground, a young militiaman ran up to her and put a gun to her head. Knowing that she was a Christian, the young man shouted at Mary, “Renounce the Cross or die.” At a young age, her life traumatized by conflict, Mary was experiencing the ultimate coercive behavior, what religious freedom advocates call the forced renunciation of faith. Renounce or die.

Mary looked straight back at her assailant, “I’m a Christian,” she said. “I was born a Christian and I will die a Christian.” Remarkable! Faith, to be authentic, needs to be freely embraced. It also has to work in difficult places. In the most difficult moments of her life, Mary’s faith was more than credible. She demonstrated unusual strength and resolve, not giving an inch to the evil that was engulfing her village.

But no sooner were the words out of her mouth than the young man pulled the trigger of his revolver. The gun exploded in Mary’s face. The bullet struck her in the head, entering on the left side of her chin and passing through her lower neck—but not before it severed the spine. Instantly and irreparably, Mary had become a quadriplegic. The young man had one final task. He took out his knife and carved a cross on Mary’s chest. Then he left her there to die.

The next day the militia had a decision to make. If they were going to stay in the village they now controlled, they would have to bury the dead they had killed

¹ Ambassador Robert A Seiple was the first United States Ambassador-at-Large for International Religious Freedom. He also served as President of the Council for America’s First Freedom, based in Richmond, Virginia. He is currently President of the International Religious Liberty Association.



the day before. Bodies were already decomposing in the hot sun. The stench of death hung like a pale over the village. They decided to stay, and bodies were quickly loaded on trucks for final disposal.

There was a large pile of this human carnage in one location. As the bodies were removed, they heard a soft groan. It was Mary, and miraculously she was still alive! Just as miraculously, the militia decided to take her to the local hospital for treatment.

Mary is telling me this part of her story from the sterile confines of a rehab facility. An Arab woman, strapped to a wheelchair, held hostage by her own body, consigned to institutional living for the rest of her life. Her religious identity got her a bullet in the head. Her spoken faith produced the certainty of a much-diminished life. Frankly, her story was almost too challenging to absorb.

"Mary," I said with some exasperation, "this makes no sense at all. Why would the people who tried to kill you one day, take you to the hospital the next?" With a smile that was as constant as her faith, Mary quietly replied, "Sometimes God uses bad people to do good things."

Our conversation shifted to the young assailant. "What are your feelings towards him?" I asked. Again, the smile and the quiet answer: "I've forgiven him. I hope he is still alive so I can forgive him face to face." My exasperation returned. "Mary, how can you forgive someone who has destroyed so much of your life?"

She immediately brought the conversation back to her faith. "This is what God did for me. I can do no less for Him." Once again, I could only listen and admire this faith that had been literally under fire.

A few years later I returned to Lebanon as our State Department's Ambassador for International Religious Freedom. We were granting funds for two areas of Lebanon where reconciliation strategies were to be applied. The grants were made before I realized that one of the areas included Mary's village. Obviously, I would not pass up an opportunity to see Mary again, and the necessary arrangements were made to allow that to happen.

The smile was still there. The quiet confident voice was still in evidence. She had lost weight and was more frail than I remembered her. Wheelchair life, I'm told, will do that to you. Our conversation quickly turned back to that fateful day when she stared down her young assailant. "Mary, tell me again how you feel toward that person?" Her answer mirrored our first conversation. "I forgave him. I fear he is dead. I would have loved to have forgiven him face to face." No second thoughts, no doubts, no equivocating. I felt obliged to ask again, "Why?" "It is what my God did for me. I can do no less for Him."

Much of what one would call the fullness of life has been taken from Mary. But, one could also say that her faith was intact, her religious freedom secured. For Mary, that is enough!

So what does Mary's story teach us about this larger issue of religious freedom?



The first insight is obvious: the world is no longer safe for diversity. Legitimate differences, like those found in religion, can get one killed. Living with our deepest differences is not easy, and the lack of respect and acceptance when it comes to religious issues has been the cause of brutal, unpredictable and prolonged conflicts in many parts of the world. In this regard, religious freedom and global security are two sides of the same coin.

Second, we live in a world where people are still willing to die for their faith. Unfortunately, this is also a world where people kill for their religion. At the very least, we neglect this issue in the geopolitical calculus at our considerable peril.

Third, Mary has clearly demonstrated that the best of faith can overcome the worst of religion. Nothing subtle here, the way to overcome bad theology is to make sure the replacement represents good theology.

Fourth, legitimate faith (authentic and non-coercive) that allows for freedom of choice and conscience must be present and part of the solution in the dampening down of religious zealotry.

Fifth, reconciliation strategies must be embraced as solutions are implemented. Reconciliation is the responsibility that ensures the accountability of religious freedom. There is always a cost associated with ensuring something is legitimately free. That cost will always be a challenge and will, inevitably, demand an unusual amount of courage.

Finally, Mary's rationale for forgiveness is a simple summation of what the Apostle Paul penned to the Church at Corinth. "God who reconciled us to himself... gave us the ministry of reconciliation . . . we are therefore Christ's ambassadors, as though God were making his appeal through us" (2 Cor 5:17-23).

Succinctly put, to quote theologian Miroslav Volf, "What has been done for us must be done by us." Suffice it to say, the insights that come from Mary's story are many, all of them profound. Each is needed as we envision a world where we can live with our deepest differences.



LITERATURE FOR PEACE – NOBEL PERSPECTIVES¹

GUNNAR STÅLSETT²

If literature is the lung by which a nation breathes, freedom of expression is the oxygen. If peace is the heart of people's dreams, hope is the energy of life.

I am honored to participate in this unique event, the Nobel Myanmar Literary Festival, at this auspicious time in the history of your nation.

Thank you for inviting me to contribute to your discussion on the role of literature for freedom, and to do so from my perspective as a longtime member of the Nobel Peace Prize Committee. While my Nobel experience is essential in this context, you may also hear in my message an echo from other functions which have shaped my life, such as General Secretary of the Lutheran World Federation, Bishop of the Church of Norway, Honorary President of Religions for Peace, Co-President of the International Religious Liberty Association and Envoy for Peace and Reconciliation of my country.

I cherish this opportunity to present—in broad strokes—the nature of the Nobel Peace Prize and the function of the committee.

The title of the conference, connecting Nobel, Myanmar and literature, suggests the lens through which I will try to present my reflections.

Literature is close to my heart, having authored a few books. But in this context my most relevant experience over the last six years is that I have served on the Board of the House of Literature in Oslo. Through this new establishment on the cultural scene in my country, we have seen literature in all forms embraced by ever larger segments of the population, including the youth and children.

Myanmar has a proud history of authors, essayists, poets and journalists who have interpreted the deepest dimensions of tragedy and inspired the resilience of the human spirit. This festival demonstrates the longing of people, young and old, for a new era of freedom of expression where all forms of state censorship belong to the past. I therefore applaud the initiative taken at this festival to establish in this ancient cultural capital a Myanmar House of Literature

MYANMAR AND NORWAY—A SHARED COMMITMENT

Worth recalling today is a shared commitment of Norway and Myanmar to

¹ Speech given at the Nobel Myanmar Literary Festival, Yangon, Myanmar, January 19, 2015.

² Gunnar Stålsett is a Norwegian theologian and politician. He was leader of the Centre Party 1977–1979, general secretary of the Lutheran World Federation 1985–1993 and bishop of Oslo, in the Church of Norway 1998–2005.



principles of international law. Together with all other family members of the United Nations we say in unison these solemn words of the Charter, words of promise and hope:

“We, the peoples of the United Nations determined to save succeeding generations from the scourge of war....reaffirm faith in fundamental human rights, in the dignity and worth of the human person... and for these ends to practice tolerance and live together in peace with one another as good neighbors.”

This we say together.

In the same spirit, The UNESCO Declaration of Principles of Tolerance, 1995, emphasizes: “the responsibility of Member States to develop and encourage respect for human rights and fundamental freedoms for all, without distinction as to race, gender, language, national origin, religion or disability, and to combat intolerance.”

This we say together.

These universal principles are reflected in the Human Rights Charter of ASEAN, of which Myanmar is a proud member and successfully held the chairmanship last year.

The global quest for a *culture of peace* and the pursuit of an *alliance of civilizations* reflects a shared longing for harmony and tolerance in today’s chaotic world. The tragic events propelled by extremism which we see unfolding on a daily basis in all regions of the world violate our deepest cultural, religious and moral values.

A PERSONAL PERSPECTIVE

In my work with the organization Religions for Peace, I have gained more respect for the spiritual wisdom in all religions. And in my service as peace envoy of my nation, I have seen the multidimensional nature of peace building. I have been privileged to follow the situation in this country for several years as initiator and moderator of a low profile international Burma/Myanmar Forum.

I share the joy with so many in this country and around the world with the winds of change, and I rejoice with the direction of the democratization process. With so many friends of Myanmar around the world, I share your wish for this process to bring forth a vibrant, pluralistic and inclusive democracy, a unified nation with equal citizenship for all within your borders. It is my prayer that the commitment of so many national and ethnic leaders to solve deep political issues, honestly addressing the past and courageously shaping a new future, must succeed.

AN AUSPICIOUS YEAR FOR MYANMAR

This is the year of the centenary celebration of the founding father and national hero, Aung San, whose legacy carries deep significance for today’s struggle. With the new role of Myanmar on the international stage, both within The United Nations and within the Association of South East Asian Nations (ASEAN,) this is also a time to remember the legacy of your respected citizen, U Thant, for his contributions to



world peace as the Secretary General of the United Nations.

But of course, what is foremost in everyone's mind: this is the year of your second general election. In this year, therefore, your democratic progress will be reinvigorated or slowed down. I do not believe there is a turning back to the ways of the totalitarian rule of the past.

This process is widely hailed for what has been achieved and for the direction given. There are high expectations around the world to see a continued progress towards democracy and towards the full enjoyment of human rights for all who live within the boundaries of the Republic of the Union of Myanmar. It is my fervent hope and prayer that you as a nation have passed the point of no return.

THE NOBEL PEACE PRIZE AND THE COMMITTEE

It has been my privilege to serve intermittently on the Nobel Peace Prize Committee since 1985, 17 years as voting member, including the last three years. The fact that I have not been a voting member for 13 of these 30 years, has served me well. When people are critical of some of the decisions, I can say: "Maybe, I was not on the committee that year!" That does not always let me off the hook. I often encounter strong views in appreciation or in opposition to a given prize.

When the Swedish industrialist and inventor, Alfred Nobel, one of the richest Europeans at his time, wrote his last Will and Testament in 1895, he decided that his assets should be "of lasting service to mankind," financing five prizes for those who "during the preceding year, shall have contributed the greatest benefit on mankind."

Four of the prizes should be managed in Sweden, the Peace Prize in Norway, which at that time was in union with Sweden.

There were three prizes of natural science—medicine, physics and chemistry—and one for literature "of an idealistic nature," and one for peace. The two latter could be categorized as prizes for cultural and humanitarian achievements.

The criteria for the prizes for literature and peace differ from the natural science prizes; literature and peace are generically more related to social science. They are as such more dependent on the committee members' understanding of cultural and political dynamics, more contextual and time sensitive. These two prizes are therefore more often contested.

The wording of the testament regarding the peace prize states: "one part to the person who shall have done the most or the best work for fraternity between nations, for the abolition or reduction of standing armies and for the holding and promotion of peace congresses." It is referred to as the prize for "champions of peace."

And the Nobel testament ordains that "this prize shall be awarded by a committee of five persons to be elected by the Norwegian Storting."

Why Norway? This has been a puzzle for many. One plausible reason—of significance to this festival of literature—is that Alfred Nobel was an admirer of Nor-



wegian literature and that he is thought to have been influenced by the Norwegian author and champion for peace, Bjørnstjerne Bjørnson.

The Nobel Peace Prize is held as the most important peace prize in the world. The *Oxford Dictionary of the Twentieth Century World History* states that the Nobel Peace Prize is “The World’s most prestigious prize awarded for the preservation of peace.” The decisions of the committee contribute globally to a broad definition of peace and to reflections on what serves for peace.

The number of nominations reached last year was a record high of 278. On average, a quarter of the nominations are for organizations or institutions and the rest for individuals, alone or in groups, up to three as the maximum. Among the nominees are statesmen, politicians, peace activists, and academicians. There has been a widening of the scope from a predominantly western to a more global selection. Asia is still underrepresented given its vast population and the many conflicts that have brought forth worthy candidates. The number of women is gradually increasing.

The five-member committee works towards a decision based on a consensus. Any division within the committee is not made public, except in the cases when a minority of the committee finds it untenable to be associated with a decision and therefore resigns, as happened in the case of the Prize to the US Secretary of State Henry Kissinger and the Vietnamese leader Le Duc To in 1973, and with the prize to the two Israeli leaders Yitshak Rabin and Simon Perez together with the Palestinian leader Yassir Arafat in 1994

LITERATURE IN THE LIFE OF NOBEL PEACE PRIZE LAUREATES

Given this background, let me then, in the context—and I hope in the spirit—of this Nobel/Myanmar Literary Festival, reflect on lessons learned from the Nobel Peace Prize.

You have wanted to link literature to the legacy of the Nobel prizes. Your program includes focus on both. As I have already suggested, I see this as your wish to reflect on important human rights and justice issues in order to give your positive contribution to the ongoing democratization process. And again, freedom of expression and peace are inseparable. Both are fundamental to the creation and functioning of a democratic society.

One may define literature narrowly, simply as books. Today a wider definition may be applied which includes journalism and social media. The rhetoric of the written and the spoken word includes pictures, images, cartoons and symbols. In the new era of global communication, social media has expanded the field of expression beyond the normative control of long established mechanisms of censorship.

In the more than 100 years of the Nobel Peace Prize, every individual laureate has made use of the spoken and written word in their role as peace makers. But some have more extensively used the pen and the written word as their instruments for peace. They have been writers of books, articles, pamphlets, placards and fliers!



Today the pencil is perhaps not the most used instrument of writing of books, but as we have seen in the ongoing debate in Europe about what freedom of expression entails, the pencil has become a mighty weapon. As with all weapons, the pencil as the weapon of cartoons and satire has caused tragic collateral damage.

As Europe is debating how to balance freedom and responsibility, I see the need for this debate to be broadened with voices from other parts of the world and other cultural and religious contexts.

The foundation and framework must, however, be the standards of freedom and tolerance, as quoted above. These are fundamental values that bind us together as one family of nations.

Taking literature in the widest sense as my perspective, let me lift up a few of the most outstanding laureates for whom the written word, and indeed literature in the broad sense, has been of utmost importance in their advocacy for peace.

By the way, the World War II hero, Winston Churchill, was nominated both for the Nobel Prize in Literature and for the Peace Prize. He only got the literature prize.

Already the first prize in 1901, honoring the founder of the Red Cross movement, Henri Dunant, linked literature and peace. His book on the horrors of the war scene in Solferino touched the conscience of many. His advocacy for humanitarian outreach to all victims of war regardless of the frontlines, set the standards of neutrality and independence by which the International Red Cross/Crescent movement has flourished and delivered until today.

In 1905, Baroness Martha von Suttner of Austria was the first woman to receive the prize as a champion for peace. She was a close friend of Alfred Nobel. He was, however, rather unconvinced about her approach and argued that his inventions—including dynamite—would do more for peace than her activism. Nevertheless it is likely that she was the one that led him to include a prize for peace in his Testament. By her anti-war novel, *Die Waffen Nieder* or *Lay Down Your Arms*, she gained prominence in Europe and the USA. In this book she presented her nonviolence strategies and her vision for a world without arms that inspired the peace movement of the time.

Incidentally, when she came to Norway to receive the prize, it was one of the most prominent Norwegian authors at the time, Bjørnstjerne Bjørnson, already referred to, who introduced her to the audience. He spoke enthusiastically about her real influence on the growth of the peace movement and how in one of the most militaristic countries of Europe (Austria) she had continued to cry: “Down with the Arms.”

She is a role model for many peace activists until the present time.

Thirty years later the journalist and author Carl Friedrich von Ossietzky in Germany was a most controversial candidate. In the 1930s he fought the ideologies of Nazism and fascism that were about to engulf Europe. The Hitler regime regarded him as an enemy of the state and imprisoned him, a reaction of oppressive regimes



well known up to this day

Ossietzky became one of the untold numbers of men and women who as prisoners of conscience have been incarcerated and tortured—and who still suffer in torture chambers, dungeons and slavery camps around the world. Hundreds of thousands have been killed because they wrote heroically against all manifestations of totalitarian ideologies. Some of you who are here today know from personal experience this ugly part of human history. Your witness is important for future generations.

The nomination of Ossietzky for the prize was divisive both in the public realm and in the Nobel committee. Two of the members absented themselves from the final meeting when the prize was actually decided upon.

As an omen of future reactions of totalitarian rulers, Germany formally protested to the Norwegian government. And Hitler decided that Germans were no longer allowed to receive any Nobel Prizes!

The case of Ossietzky was not lost on media when the prize in 2011 was awarded to the Chinese author and dissident Liu Xiaobo for “his long and nonviolent struggle for fundamental human rights.”

Liu Xiaobo was a leading author behind Carter 08, a manifesto of Human Rights in China, published on the 60th anniversary of the Universal Declaration of Human Rights. For his writings he was in 2009 sentenced to 11 years in prison for “inciting subversion of state power.” His wife was also punished.

I could not come to Myanmar to speak about the perspectives of peace and literature, without mentioning your own hero of freedom, Daw Aung San Suu Kyi. She too has suffered forms of persecution and imprisonment. She remains worldwide a most respected citizen of your country. Her epic book, *Freedom from Fear*, is an enduring testimony to her courage and perseverance.

Her writings, speeches and testimonies witness to the spiritual strength of her Buddhist faith. They also mirror her political formation, inspired by the nonviolence teachings of another great Asian, Mahatma Gandhi, who changed the course of history for his nation.

When in 1991 she was awarded the Peace Prize for her non-violent struggle for democracy and human rights, the statement of the committee read in part: “Aung San Suu Kyi’s struggle is one of the most extraordinary examples of civil courage in Asia in recent decades. She has become an important symbol in the struggle against oppression.”

The committee wanted by this decision also to “show its support for the many people throughout the world who are striving to attain democracy, human rights and ethnic conciliation by peaceful means.”

Berta von Suttner and Aung San Suu Kyi could both have been the inspiration for another woman laureate 20 years later, Tawaakol Karman from Yemen. She was, with her 31 years, the youngest laureate until Malala last year at the age of 17 broke



all records.

Mrs Karman was specially honored for her role as an activist and journalist and founder of the organization: Women Journalists without Chains.

In the presentation speech for Mrs Karman, the chairman of the committee made special reference to the Arab Spring and referred specifically to the tragic situation in Syria and Yemen. He also noted the significance of the UN resolution 1325 concerning the role of women for peace.

She was praised for advocating democracy, women's rights and tolerance and for her calls for greater understanding between Shias and Sunnis and between Islam and other religions. In her writings, speeches and appeals she presents herself as a proud representative of modern Muslim women. Hers was indeed a prize for literature without chains.

In this remarkable list of literati let me also mention the Soviet nuclear scientist, Andrej Sakharov, who became one of the staunchest advocates for human rights, together with his author wife Helena Bonner. His thoughts are presented in several books: *Sakharov speaks*, *My Country and the World*, and *Alarm and Hope*. The transformation of a nuclear scientist, serving the communist state, becoming the conscience of his nation and an advocate for peace and human rights is unique. His legacy is relevant to the ongoing campaign to establish a Convention against Nuclear Arms.

Sakharov and his wife were exiled from Moscow and isolated until the dawn of *perestroika* and *glasnost* with Michael Gorbachev who also became a Nobel Peace Prize Laureate.

In the nexus of literature and peace, no one stands taller than Elie Wiesel, the 1986 laureate. As prolific writer, journalist, and essayist, this Jewish American with Romanian roots has dedicated his life to fight against anti-Semitism, genocide and other crimes against humanity. This Holocaust survivor has written more than 60 books, many of them reflecting the experience from the death camps of Nazi Germany. In this month when the world marks the 70th year since the opening of death-camp Auschwitz, his is the voice of victims of every age in every land. As he retells the trauma of survivors, he demonstrates the healing power of their narrative from darkness to dawn.

The titles of Wiesel's trilogy suggest a way forward: *Night* (1960) followed by *Dawn* (1961) and *Day* (1962). These books give us a penetrating rendering of humankind's capacity for destructive treatment of the other. At the same time the sequence of these titles indicates the hope for a new day to dawn. He helps us to cling to the faith that after the darkest night in human history a new day will certainly dawn.

One of his salient and lasting messages to all of us is this: "The opposite of love, is not hate, but indifference."

The committee said: "Elie Wiesel has emerged as one of the most important



spiritual leaders and guides in an age when violence, repression and racism continue to characterize the world.” We commended him for his “unlimited humanitarianism which is at all times necessary for lasting and just peace.”

He also reminds us of those who carried the burden of resistance without any recognition in the day of victory. Many are the forgotten heroes who even today continue to suffer excruciating pains in their body, mind and soul.

LITERATURE AND HOLY SCRIPTURES

There is a deeper source for many of the laureates in their advocacy for human dignity. Several of them have found inspiration in Holy Scriptures and traditions, under whatever name. Albeit the strongest foundation for civilizations in all parts of the world, there can be no denial that Holy Scriptures have been, and still are, quoted as a mandate for crusades and holy wars, and abused as a source of jihadists for all their inhumane acts.

One of the most frightening tendencies today is the surge of nationalist, ethnic and religious extremism. This is in clear evidence among Christians, Muslims, Buddhists, Hindus and Jews today; yes, in almost every religion and in all regions of the world.

Myanmar also suffers today under religiously incited extremism against a minority, seen in the onslaught on the Rohingyas. Even the name by which they identify themselves and by which they want to be known is denied them. Granted that it is a complex issue with historic roots, but this violation of human and moral values—and of international conventions and law—has raised grave concern among friends, and rightly so. Unless this tragic situation is addressed in a balanced way, its short-term and long-term implications may derail the hitherto promising process towards a truly democratic society, a process that is universally supported. Such matters of ethnic, nationalist and religious extremism, call for a counter strategy based on the affirmation of the inherent human dignity of all.

In all religions there is need for a renaissance and reformation from within. Freedom of expression and freedom of religion as well as freedom of assembly are linked together and indispensable for democracy and human wellbeing.

In this light it becomes even more important to observe how so many Peace Prize laureates have read their Scriptures through the lenses of moderation and modernization and thereby been able to distill from contradictory texts a message of peace, respect and tolerance. This is how I understand the importance of Buddhism for Daw Aung San Suu Kyi, and Islam for Malala Yousufzai and Tawakool Karman.

The statement of the Nobel Committee last year was remarkable in its specific reference to the religious adherence of the two laureates: Malala, a Muslim from Pakistan, and Kailash Satyarthi, a Hindu from India. The committee linked their religious and national identity to the fight against extremism.

This link between literature, peace and faith is also reflected in the spiritual



testament of Dag Hammarskjöld, the Secretary General of the United Nations, who received the prize posthumously in 1961. His book, *Markings*, published in 1963 is, as he says: “a sort of White Book concerning my negotiations with myself—and with God.” The Prize honored his negotiations with heads of state and rebels in many countries. For this he paid the utmost price, as he was killed on such a mission.

Through the Nobel history of more than 100 years, there are also a number of prominent Christians, such as Martin Luther King Jr and Desmond Tutu, as well as great humanists of no religion.

The legacy of these freedom fighters shines bright in the history of the Nobel Peace Prize. In my view they are worth remembering at a festival like this which focuses on literature and peace.

To me they are reminders of the words of Jesus in the Sermon on the Mount: “Blessed are the peacemakers.” Every peacemaker is embraced by these words. This is truly a blessing without borders.

THE NOBEL COMMITTEE IS FALLIBLE

After this I need in all truthfulness and humility to recognize that the committee is not infallible. Nor is its selection of laureates a declaration of sainthood. Sometimes it has been a relief for members of the committee that, when the prize has been duly and ceremoniously handed over for the whole world to see, the responsibility of the committee for the laureates’ work is over. And when sometimes there are demands that a prize should be rescinded because of positions or actions taken by a laureate, it is good to know that is not an option for the committee.

There are indeed glaring omissions in the history of the Peace Prize, such as the Indian peace guru and leading light of the nation, Mahatma Gandhi, and the Czech statesman and author, Vaclav Havel, who with the velvet revolution ushered in democracy for his long suffering people under communist rule.

Mahatma Gandhi had been nominated five times and is rumored to have been on the committee’s short list three times. Gandhi was assassinated in 1948. That year the committee decided not to award a prize stating that they “had found no suitable living candidate.” Does this suggest that Gandhi would have become a laureate that year? Even if we do not know the answer this possibility is a solace to me as a member of the committee.

There are, of course, thousands who regard themselves as a blatant omission from the list of laureates! Others revel in the fact that they have been nominated and try to get as much mileage as possible out of that, as is seen in the phrase: “Mr So and So, who also has been nominated for the Nobel Peace Prize;” or, even more daring: “Who has been shortlisted for the Prize.” That is privileged knowledge only for committee members. The committee works under highest confidentiality, not even the list of nominees is published, but those who nominate may of course publicize the name they have put forward.



There are many strategies to get the attention of the committee members; most of these are counterproductive. And there are many attempts to discourage the committee from honoring a specific individual—usually in the area of struggles for human rights—equally without impact on the committee.

Not infrequently, peace activists air their opposition. This reflects a debate about a narrow and a broad understanding of peace or, put differently, about negative peace as absence of the use of weapons, or a positive peace understood as the fullness of life expressed in upholding human dignity, justice, development and a sustainable climate. The “narrowists” want only arms related issues to be recognized; the “inclusionists” want the committee to embrace all that serves for peace. This is an ongoing debate about the interpretation of Alfred Nobel’s Testament.

POLITICAL REACTIONS

Let me for a moment return to the issue of political reaction against a given peace prize. As briefly alluded to above, some governments regard a prize to one of their citizens as interference in national or internal affairs. That is, of course, a well-known fire wall in many countries whereby even friendly nations and allied nations are denied the opportunity to criticize unashamed violation of universal human rights, such as oppression of ethnic or other minorities.

In fact, there have been quite a few governments protesting the choice of the committee. This criticism is usually directed against the Norwegian government, and not against the committee.

The most infamous case of government protest against a Nobel Peace Prize in recent years has been that against the prize to the Chinese dissident Liu Xiaobo, who is imprisoned and was not allowed to travel to Oslo for the ceremony. Regrettably, the Chinese authorities have, because of their erroneous definition of the Nobel Institute as a Norwegian government institute, introduced sanctions against Norway.

The government of Norway and the Nobel Committee both insist that the committee is totally independent. There is, in fact, great apprehension on the political level in the country before the announcement of the prize in October every year, two months prior to the Award Ceremony on December 10, which is the date of the death of Alfred Nobel, but perhaps more programmatically the Universal Human Rights Day.

Sometimes, however, when governments are not too enthusiastic about being in the critical limelight, they choose a more diplomatic way—putting up a good face and interpreting the decision as an honor for the country. This, I believe, was the case with the prize last year to the two human rights champions Mala Yosufzai and Kailash Satyarthi, a Pakistani Muslim and an Indian Hindu, for their fight for children’s rights and against extremism. If you stand up against the oppression and abuse of children and for their human rights, you are most likely to confront the authorities in your country. No government appreciates that, not even my own.



The prize in 1996 to Catholic Bishop Belo, together with the diplomat activist Ramos Horta, for their struggle for the independence of East Timor, pleased neither the occupation force of the government of Indonesia nor the Vatican, for different reasons. Both decided, however, to be represented at the ceremony in Oslo.

The Nobel Peace Prize awarded to Daw Aung Su Kyi was deeply disliked by the military junta. She was not able to come to the award ceremony out of fear of not being allowed to return. Her husband and two sons received the prize on her behalf. Only last year could she safely travel to Oslo to give her obligatory Nobel lecture without risk of no-return to her beloved land.

I see her visit to Oslo for the Nobel Lecture as a testimony to the progress of the democratization process in Myanmar.

FRATERNITY AMONG NATIONS

So what is peace in the tradition of the Nobel Peace Prize Committee, or rather in the Testament of Alfred Nobel? The wording of the Testament does not define the concept of peace; it is more or less self-understood.

The Nobel Peace Prize Committee has had to interpret this important concept every time it has decided who should become a laureate—whether individuals, organizations or institutions.

A key phrase in the testament is “fraternity among nations.” Nations may be understood as nation states but also as nations, ethnic identities, within a unified state. In other words, the promotion of fraternity addresses internal conflict of ethnic, national, religious, and social character. It relates to internal oppression and civil war. It also, of course, relates to war and conflicts between states. Fraternity is at stake in communal violence as well as in interstate wars. The realization of fraternity is a fundamental motivation for interstate cooperation or global structures such as the United Nations and regional expressions, such as ASEAN.

Fraternity may be translated as full and equal citizenship for men and women of all ethnic, social, and religious groups. The United Nations and its many organizations promoting peace, justice, tolerance, and solidarity have received ample recognition.

In the evolution of a Nobel concept of peace through now more than 100 years, two dimensions—the humanitarian and the political—have been concretized and widened. They now include disarmament, conflict resolution and peace mediation, democracy, human rights, and development and environment.

Typically the two issues that have received the most prizes are the struggle against apartheid and for nuclear disarmament. The evil of apartheid is evident today in new forms. Nuclear arms continue to represent the ultimate threat to our civilization. Both remain issues of great concern for peacemakers worldwide.

Let me conclude. This is a festival.

Festival is celebration. It creates a mood of joy and expectations. Let us rejoice



therefore in every sign of progress in everyday life for the people of this land. Let us together invoke a spirituality of hope in our own faiths. Let us reinforce human dignity as our shared birthright.

The Nobel Laureate, Martin Luther King Jr, who fought the insidious racism of his country, famously shared with us his dream of The Promised Land. That dream is yet to be fulfilled. The struggle continues.

Ladies and Gentlemen, Friends,

We are all called to be champions for The Promised Land in every land. We can all become ambassadors for a brighter tomorrow. Should not this be our promise to the resilient people of this great nation of Myanmar?

Thank you.



HOW I SEE THE FUTURE OF CHRISTIANITY IN THE MIDDLE EAST

ARAM I¹

Christianity is on the verge of disappearing from the Middle East, where, for centuries, it has existed in harmony with Judaism and Islam. As the Arab Spring has morphed into a desolate Arab winter, that harmony has given way to extremism and sectarianism, producing a series of crises that have impacted all aspects and spheres of people's lives in the region. Only drastic action has any chance of preventing the further polarization and disintegration of societies with far-reaching consequences. The world must not remain silent when communities are subjected to massacre and extermination.

Extremism has reached its most violent expression in the Middle East where fanatics are exploiting religious beliefs, socio-economic grievances, political apathy, and the failures of the Arab Spring—all in order to fulfill their political and ideological agenda.

The concept of nation-state is being crushed by the sectarianism that has followed in the wake of the fall of autocratic regimes. This sectarianism is defined most particularly by Sunni-Shiite tension, as national identity gives way to confessional belonging. Sectarian radical movements, nurtured by poisonous ideologies, are spreading destruction and death. These movements appeal to popular religious sentiments even as they employ terror as a psychological weapon. Through their support by visible and invisible sources, the extremists have acquired sophisticated political, economic, military, and informational tools.

Religious extremism and sectarianism threaten Islam, the Middle East, and the world. Their threat to Christianity in the region is existential in that they aim to erase minorities from the Arab world and extend their oppressive rule over the whole region. The twin evils of extremism and sectarianism will have far-reaching consequences for the people in the region. If we fail to take collective and swift action to contain and stop their onslaught, the Middle East will be transformed into a haven for radicalism, fundamentalism, and other "isms" of this sort. We must commit ourselves to a common and long-term effort. Extremism cannot be defeated by military action alone. A comprehensive and coherent short-term and long-term global strategy must include political, economic, and military action. Because extremists derive

¹ Aram I Keshishian is the head of the Catholicosate of the Great House of Cilicia and has been Catholicos of the Holy See of Cilicia of the Armenian Apostolic Church since 1995. He resides in Antelias, Lebanon.



their legitimacy from religion by exploiting it, we can confront them by empowering Muslim moderates and by stopping all kinds of support to extremist groups.

In the early stages of the Arab Spring, the Christians were blamed for not associating themselves fully with the opposition, which was in the process of being organized. The Christians observed the increasing influx of extremists into opposition forces and chose not to engage as communities with any side. Now that extremists have hijacked the Arab Spring, the Christians find themselves in a critical situation. As Christians, how can we face this dilemma? Although there are no easy answers or simple solutions, I would like to share with you briefly six perspectives which could serve as a basis for a plan of action to save Christianity in its birthplace.

1. Democratization is crucial for the future of Christianity in the Middle East. The lack of democracy is a fundamental problem in our region. Without democratic institutions, it will not be possible to address regional issues or to combat extremism. Regime change should not be considered as the ultimate goal of democracy. If elimination of poverty, restoration of justice and respecting of human rights do not follow regime change, then that change becomes simply cosmetic and eventually counterproductive. Democratic governance needs to be organized on a solid basis and must empower civil society and become participatory, inclusive, and accountable; otherwise, it will generate violent protest and empower extremist groups. In order to avoid violence and radicalization, democratization must emanate from within, not be imposed from without. It requires education and awareness building. It also entails an accurate grasp of concrete realities, a deep analysis of the region's strengths and vulnerabilities, and a carefully planned strategy.

It is particularly important that a secular and democratic state in the Middle East respect the role of religion in society. All segments of society must participate actively in the state-building process.

The Christians are caught between autocracy and extremism. We must advocate for a model of society that respects fundamental human rights and protects ethnic and religious diversities. Our commitment goes for a democratic, participatory and just society with inclusive governance. Indeed, democracy can become a bulwark against extremism. It may also ensure the future of Christianity in the Middle East and lead the whole region to a better future.

2. Christians are an integral and inseparable part of the Middle Eastern societies. The fall of Constantinople, the capital of the Byzantine Empire in 1453, exposed the Christian East to continuous persecution, oppression, massacre, and migration. Today, fourteen million Christians reside in the Middle East, mainly in Egypt, Lebanon, Syria, and Iraq. They are well-organized communities and run several educational, cultural, social, and humanitarian institutions. Unfortunately, the autocratic regimes that preceded the Arab Spring, like the Ottomans under the "millet" system, considered the Christian communities as minorities with limited internal freedom. Although Christians played a significant part in promoting Arab nationalism, they



were never considered as equal citizens in the region with equal rights and obligations. However, Christians have never and will never accept to live as second-class citizens. They are deeply rooted in the history of the Middle East and refuse to be marginalized.

3. Pluralism will ensure a peaceful co-existence of communities. By promoting pluralism, we may combat extremism and help build peaceful cohabitation and a coherent integration of all segments of society. Extremism rejects all forms of pluralism and by doing so, violates the right of people to preserve their specificities while co-existing with others in mutual respect and acceptance. Only democracy can protect pluralism and, in turn, only pluralism can safeguard the Christian presence. Hence, pluralism must be promoted; religious, political, ethnic and cultural diversity must be respected and equal obligations and rights of all people as co-citizens, irrespective of their religious, confessional, and ethnic belonging, must be protected and constitutionally guaranteed.

Democracy affirms a collective identity through the rule of law and safeguards specific identities based on religion, culture, and ethnicity. If democratization fails to integrate confessional and ethnic divisions within state institutions, it will become a failed state and will generate extremist movements, thereby destabilizing the whole region. The rejection of pluralism is rooted in intolerance, a source of hate and violence. This rejection renders Christians at best as second-class citizens and, at worst, as unwelcome communities, leaving no place for them in society.

4. Cohabitation among monotheistic religions is imperative for the future of the Middle East. The three monotheistic religions, Judaism, Christianity and Islam, which were all born in the Middle East and share common roots, values and traditions, have a common history characterized by both conflict and peaceful co-existence. In spite of important differences, these religions are challenged to work together. The common concerns they face in the region should drive their partnership. Because religions in the region have such a strong impact, close collaboration among them can create an atmosphere of mutual trust and pave the way for the solution of regional conflicts.

Islam is not a religion of violence. Only a very small portion of the Muslim population associates itself with the objectives of extremists. The vast majority reject the violent exploitation of Islamic beliefs. This silent majority has the potential to transform the situation by speaking out clearly and firmly. They must be empowered to challenge all forms and expressions of the abuse of Islam. The Grand Mufti of Al-Azhar recently stated that “an extremist and bloody group such as the (ISIS) poses a danger to Islam and Muslims, tarnishing its image...” (*The Daily Star*, August 13, 2014, p 8). This statement is highly significant. Key Muslim leaders, centers, and organizations should raise their voices to condemn and dissociate themselves from those who kill and kidnap people and destroy religious sites in the name of religion. They should be on the front line of the battle against extremism.



In fact, for the leaders of the monotheistic religions to create a solid basis for action, they must work inclusively and commit themselves to a greater collaboration. Islam accepts Jews and Christians as “people of the Book,” and considers them as legitimate communities, deserving “protection” under Islamic authority. The Qur’an appeals to Christians and Jews: “O people of the Book, let us come to a common word between us and you...” (al-Imran 3:64). Islam by its very nature and vocation is a religion of peace and justice. In all its forms and expressions, extremism is against the teaching of the Qur’an. Reshaping the Middle East is a common responsibility. Actors of civil society, particularly religions, must be partners in combating this global danger in order to build a culture of life that promotes peace with justice and a quality of life sustained by moral values and human rights.

5. The continuous support of *diaspora* communities is indispensable. The churches of the Middle East must not be left alone. They are in dire need of support from their *diaspora*, foreign governments, and fellow churches.

The *diaspora* is a critical asset; its human, economic and political potential must be effectively channeled towards the mother churches of the Middle East. *Diaspora* communities can act in a number of significant ways: They can lobby their governments about the plight of Christians in the Middle East and urge those governments to express their concern and solidarity in tangible ways. They can organize awareness-building and advocacy campaigns and challenge the actors of civil society to be more sensitive and vigilant in respect to the challenges and concerns facing the Christian communities. They can financially support their church’s important projects and programs aimed at community building.

In addition, the ecumenical solidarity of the Western churches is of pivotal importance at this critical point in time of the Christian presence in the Middle East. That is not to say that we are looking for a new crusade. The West should seek to develop a credible, reliable, and effective policy towards the Middle East and a unified and concerted action to prevent attempts aimed at marginalization and even the forced migration of Christians.

6. A comprehensive and consistent policy towards the Middle East is urgent. Although Western governments have reacted with a firm unanimity to the terror of extremists in Iraq, the reaction of the Western media and politicians to the plight of Christians has been weak. Humanitarian aid and air strikes have been forthcoming, but Christians are not looking for humanitarian aid; they are seeking humanitarian action. For the Western powers to truly help, they must act not only where and when their “vital interests” are at stake, but where and when basic human rights and values are ignored and violated. The policy of the West towards the Middle East, which seems to waver between engagement and disengagement, has failed to grasp the complexities, interconnectedness, and inner layers of regional realities. The West must shift from reactive to proactive, from crisis management to crisis prevention. In fact, crisis prevention is easier, less costly and more effective than crisis management.



Promoting democracy is the right path to embark on. Cosmetic approaches and short-term engagement may be good public relations, but they are not productive. The Western powers must develop a policy towards the Middle East which is comprehensive and consistent, contextual and holistic, which is based on an accurate assessment of the realities of the region, and which reconciles strategic interests with human rights values. Indeed, the future of the Middle East and the Christian communities will be ensured when its states and societies are built on plurality, equality, and liberty.

The churches of the Middle East are called to deepen their unity and broaden their collaboration. Christian migration is a terribly serious problem. Every conflict has brought with it a new wave of Christian migration. The recent exodus of Christians from Syria and Iraq is the largest Christian exodus in the Middle East since the Armenian Genocide. Giving in to pessimism and hopelessness is not the Christian way. We neither compromise our rights nor do we resign from our obligations and responsibilities. We are determined to remain firmly attached to our lands, which are imbued with the creative spirit of our fathers and mothers and the blood of our martyrs.

History eloquently testifies that Christianity in the Middle East has brought a unique contribution to all spheres of human life. It has played a pivotal part in nation-building. The world should realize that the end of Christianity in this region would be a terrible blow for the future of the region. It would mean that intolerant ideologies and terrorism will have triumphed. The Christians of the Middle East, in their turn, must realize that there is no future for Christianity in this region except in partnership with other monotheistic religions.



BETWEEN SANCTITY & DEPRAVITY: HUMAN DIGNITY & HUMAN RIGHTS IN CLASSICAL LUTHERAN PERSPECTIVE¹

JOHN WITTE JR²

HUMAN DIGNITY AS MODERN “UR-PRINCIPLE”

“A sense of the dignity of the human person has been impressing itself more and more deeply on the consciousness of contemporary man,” reads the preface to *Dignitatis Humanae* (1965). “And the demand is increasingly made that men should act on their own judgment, enjoying and making use of a responsible freedom, not driven by coercion but motivated by a sense of duty.”³

This was an historic statement about human dignity, signaling a momentous swing in the pendulum of world opinion. Only two decades before, the world had stared in horror into Hitler’s death camps and Stalin’s gulags where all sense of humanity and dignity had been brutally sacrificed. In response, the world had seized anew on the ancient concept of human dignity, claiming this as the “ur-principle” of a new world order.⁴ The Universal Declaration of Human Rights of 1948 opened its preamble with classic words: “recognition in the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice, and peace in the world.”⁵

By the mid-1960s, church and state alike had translated this general principle of human dignity into specific human rights precepts. In *Dignitatis Humanae* and several other documents produced during and after the Second Vatican Council (1962-1965), the Roman Catholic Church took some of the first decisive steps. Every person, the Church now taught, is created by God with “dignity, intelligence and free will ... and has rights flowing directly and simultaneously from his very nature.”⁶ Such rights include the right to life and adequate standards of living, to moral and

¹ This article draws in part on my “Between Sanctity and Depravity: Human Dignity in Protestant Perspective,” in Robert P Kraynak and Glenn Tinder, editors, *In Defense of Human Dignity* (Notre Dame IN: University of Notre Dame Press, 2003), 119-138 and *Law and Protestantism: The Legal Teachings of the Lutheran Reformation* (Cambridge/New York: Cambridge University Press, 2002), 87-117, 293-303 and the excerpts are used herein with permission.

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³ Walter M Abbott and J Gallagher, editors, *The Documents of Vatican II* (New York: Herder & Herder, 1966), 675.

⁴ The term “ur-principle” is from Louis Henkin, et al, *Human Rights* (New York, Foundation Press, 1999), 80.

⁵ Reprinted in Ian Brownlie, editor, *Basic Documents on Human Rights*, 3rd edition (Oxford: Oxford University Press, 1992), 21.

⁶ *Pacem in Terris* (1963), paragraph 9, in Joseph Gremillion, editor, *The Gospel of Peace and Justice: Catholic Social Teachings since Pope John* (Maryknoll NY: Orbis Books, 1976), 203.



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. It urged the abolition of discrimination on grounds of sex, race, color, social distinction, language, or religion.⁷ Within a decade, various Ecumenical groups, some Protestants, and a few Orthodox Christian groups crafted comparable comprehensive declarations on human rights—albeit with varying emphases on the concept of human dignity.⁸

Not only the world’s churches, but also the United Nations and several nation-states issued a number of landmark documents on human dignity and human rights in the 1960s. Foremost among these were the two great international covenants promulgated by the United Nations in 1966, each of which confirmed the belief in the “inherent dignity” and “the equal and inalienable rights of all members of the human family,” and the belief that all such “rights derive from the inherent dignity of the human person.”⁹ The International Covenant on Economic, Social, and Cultural Rights (1966) posed as essential to human dignity the rights to self-determination, subsistence, work, welfare, security, education, and cultural participation. The International Covenant on Civil and Political Rights (1966) set out a long catalogue of rights to life and to security of person and property, freedom from slavery and cruelty, basic civil and criminal procedural protections, rights to travel and pilgrimage, freedoms of religion, expression, and assembly, rights to marriage and family life, and freedom from discrimination on grounds of race, color, sex, language, and national origin. Other international and domestic instruments issued in the later 1960s took close aim at racial, religious, and gender discrimination in education, employment, social welfare programs, and other forms and forums of public life—viewing such discrimination as a fundamental betrayal of the “dignity and equality inherent in all human beings.”¹⁰

So matters stood two generations ago. Today, the concept of human dignity has become ubiquitous to the point of cliché—a moral trump frayed by heavy use, a

⁷ Ibid; *Documents of Vatican II*, 675.

⁸ See e.g., Jürgen Moltmann, *On Human Dignity, Political Theology and Ethics*, translator M Douglas Meeks (Philadelphia: Fortress Press, 1984); Wolfgang Huber and Heinz Eduard Tödt, *Menschenrechte: Perspektiven einer menschlichen Welt* (Stuttgart: Kreuz Verlag, 1977); Wolfgang Vögele, *Menschenwürde zwischen Recht und Theologie: Begründungen von Menschenrechte in der Perspektive öffentlicher Theologie* (Gütersloh: Chr. Kaiser, 2001); Walter Harrelson, *The Ten Commandments and Human Rights* (Philadelphia, 1979); Paul Middleton, editor, *The God of Love and Human Dignity* (London/New York: T & T Clark, 2007); George Newlands, *Christ and Human Rights: The Transformative Engagement* (Burlington VT: Ashgate, 2006).

⁹ *Basic Documents on Human Rights*, 114, 125.

¹⁰ International Convention on the Elimination of all Forms of Racial Discrimination (1969), preface, in *Basic Documents on Human Rights*, 148. See comparable language in International Convention on Suppression and Punishment of the Crime of Apartheid (1973), in Ibid 162; Convention on the Elimination of all Forms of Discrimination Against Women (1979), in Ibid 169.



general principle harried by constant invocation. In the past 40 years, there have been more than 1,000 books and more than 10,000 scholarly articles on dignity and related concepts published in English alone.¹¹ We now read regularly of the dignity of animals, plants, and nature; the dignity of luxury, pleasure, and leisure; the dignity of identity, belonging, and difference; the dignity of ethnic, cultural, and linguistic purity; the dignity of sex, gender, and sexual preference; the dignity of aging, dying, and death. At the same time, the corpus of human rights has become swollen to the point of eruption—with many recent rights claims no longer anchored in universal norms of human dignity or comparable ontological foundations but aired as special aspirations of an individual or a group.

On the one hand, the current ubiquity of the principle of human dignity testifies to its universality. And the constant proliferation of new human rights speaks to their power to inspire new hope for many desperate persons and peoples around the world. Moreover, the increased pervasiveness of these norms is partly a function of emerging globalization. Since the first international documents on human dignity and human rights were issued, many new voices and values have joined the global dialogue—especially those from Africa, Asia, and Latin America, and from various Buddhist, Confucian, Taoist, Hindu, Sikh, Islamic, and Traditional communities.¹²

On the other hand, the very ubiquity of the principle of human dignity today threatens its claims to universality. And the very proliferation of new human rights threatens their long-term effectiveness for doing good. Human dignity needs to be assigned some limits if it is to remain a sturdy foundation for the edifice of human rights. Human rights need to be founded firmly on moral principles like human dignity, lest they devolve into a gaggle of wishes and wants. Fairness commands as broad a definition of human dignity as possible, so that no legitimate human good is excluded and no legitimate human rights claim is foreclosed. But prudence counsels a narrower definition of human dignity, so that not every good becomes part of human dignity, and not every aspiration becomes subject to human rights vindication.

The task of defining the appropriate ambit of human dignity and human rights today must be a multi-disciplinary, multi-religious, and multi-cultural exercise. Many disciplines, religions, and cultures around the globe have unique sources and resources, texts and traditions that speak to human dignity and human rights. Some endorse dignity and rights with alacrity and urge their expansion into new arenas. Others demur, and urge their reform and restriction. It is essential that each community be allowed to speak with its own unique accent, to work with its own distinct methods on human dignity and human rights. It is also essential, however, that each of these disciplines, religions, and cultures develops a capacity for conceptual bilingualism—an ability to speak with insiders and outsiders alike about their unique un-

¹¹ See a good sampling of the recent literature in Michael Rosen, *Human Dignity: Its History and Meaning* (Cambridge MA: Harvard University Press, 2012).

¹² See a good sampling of their views in John Witte Jr and M Christian Green, editors, *Religion and Human Rights: An Introduction* (Oxford: Oxford University Press, 2012).



derstanding of the origin, nature and purpose of human dignity and human rights.

My task in this article is to test the meaning and take the measure of human dignity and human rights in the early Protestant tradition. I start with German Reformer, Martin Luther's famous little tract, *Freedom of a Christian* (1520). This tract was something of a Protestant *Dignitatis Humanae* in its day, a grand theory of human dignity, liberty, equality, and responsibility, ultimately grounded in the sovereignty of God. Luther's early theory provided an alternative both to earlier Christian teachings that based human dignity on a person's reason, class, and vocation, and to later Enlightenment teachings that based human dignity on inalienable rights and popular sovereignty. The Conclusion draws out some of the enduring insights of these early Protestant writings, and their pertinence for contemporary discussions of human dignity and human rights.

SAINT AND SINNER, PRIEST AND KING

Martin Luther's *Freedom of a Christian* (1520) was one of the defining documents of the Protestant Reformation, and it remains one of the classic tracts of the Protestant tradition still today.¹³ Written on the eve of his excommunication from the Church, this was Luther's last ecumenical gesture toward Rome before making his bombastic exit. Much of the tract was written with a quiet gentility and piety that belied the heated polemics of the day and Luther's own ample perils of body and soul. Luther dedicated the tract to Pope Leo X, adorning it with a robust preface addressed to the "blessed father." He vowed that he had to date "spoken only good and honorable words" concerning Leo, and offered to retract anything that might have betrayed "indiscretion and impiety." "I am the kind of person," he wrote in seeming earnest, "who would wish you all good things eternally."¹⁴

Luther was concerned, however, that the papal office had saddled Leo with a false sense of dignity. "You are a servant of servants" (*servus servorum*) within the Church, Luther wrote to Leo, citing the classic title of the Bishop of Rome.¹⁵ And as a "servant of God for others, and over others, and for the sake of others," you properly enjoy a "sublime dignity" of office.¹⁶ But the "obsequious flatterers" and "pestilential fellows" of your papal court do not regard you as a humble servant. Instead, they treat you as "a vicar of Christ," as "a demigod [who] may command and require whatever you wish." They "pretend that you are lord of the world, allow no one to be considered a Christian unless he accepts your authority, and prate that

¹³ *De Libertate Christiana* (1520), in *D Martin Luthers Werke: Kritische Gesamtausgabe*, 78 vols (Weimar, 1883), 7:49-73 [hereafter WA], translated in Jaroslav Pelikan et al, editors, *Luther's Works*, 55 vols (Philadelphia: Muhlenberg Press, 1955), 31:327-377 [hereafter LW]. A shorter German edition, *Die Freiheit eines Christenmenschen*, appears in WA 7:20-38.

¹⁴ LW 31:334-336.

¹⁵ LW 31:341.

¹⁶ LW 31:341, 342. The quote is from *Luther: Lectures on Romans* [1515-1516], translator Wilhelm Pauck (Philadelphia: Westminster Press, 1961), 8. Many of the teachings from these lectures are repeated in Luther's *Freedom of a Christian*.



you have power over heaven, hell and purgatory. Surely, you do not believe any of this,” Luther wrote to Leo, tongue near cheek. Surely, you can see that “they err who ascribe to you alone the right of interpreting Scripture” and “who exalt you above a council and the church universal.” “Perhaps I am being presumptuous” to address you so, Luther allowed—presumptuously—at the end of his preface. But when a fellow Christian, even a pope, is exposed to such “dangerous” teachings and trappings, God commands that a fellow brother offer him biblical counsel, without regard for his “dignity or lack of dignity.”¹⁷

In later pages of the *Freedom of a Christian* and in several other writings in that same crucial year of 1520, Luther took aim at other persons who were “puffed up because of their dignity.”¹⁸ He inveighed at greatest length against the lower clergy, who, in his view, used the “false power of fabricated sacraments” to “tyrannize the Christian conscience” and to “fleece the sheep” of Christendom.¹⁹ He criticized jurists for spinning the thick tangle of special benefits, privileges, exemptions, and immunities that elevated the clergy above the laity, and inoculated them from legal accountability to local magistrates.²⁰ He was not much kinder to princes, nobles, and merchants—those “harpies,” as he later called them, “blinded by their arrogance,” and trading on their office, pedigree, and wealth to lord it over the languishing commoner.²¹ What all these pretentious folks fail to see, Luther wrote, is that “there is no basic difference in status ... between laymen and priests, princes and bishops, religious and secular.”²² Before God all are equal.

Luther’s *Freedom of a Christian* thus became, in effect, his *Dignitatis Humanae*—his bold new declaration on human nature and human freedom that described all Christians in his world regardless of their “dignity or lack of dignity,” as conventionally defined. Pope and prince, noble and pauper, man and woman, slave and free—all persons in Christendom, Luther declared, share equally in a doubly paradoxical nature. First, each person is at once a saint and a sinner, righteous and reprobate, saved and lost—*simul iustus et peccator*, in Luther’s signature phrase.²³ Second, each person is at once a free lord who is subject to no one, and a dutiful servant who is subject to everyone. Only through these twin paradoxes, Luther wrote, can we

¹⁷ LW 31:341-342. See similar sentiments in Luther’s Address to the Christian Nobility of the German Nation Concerning the Reform of the Christian Estate (1520), LW 44:123-217, at 136.

¹⁸ Quotation is in LW 7:182.

¹⁹ See esp. LW 44:126-155; *The Babylonian Captivity of the Church* (1520), LW 36:11-126; *Treatise on Good Works* (1520), LW 44:21-114, at 87-94, with expansion in *The Keys* (1530), LW 40:321-370. In LW 44:158, Luther recommended that a new imperial law be passed against papal appointments of clergy so that “no confirmation of any dignity whatsoever shall henceforth be secured from Rome.” In LW 44:129 and LW 36:117, Luther attacked the notion that the clergy were special because of the “indelible mark” of their ordination, terming this “a laughingstock.”

²⁰ LW 44:157ff., 202ff.

²¹ LW 7:182ff.; LW 44:203ff. See also Luther’s fuller statement in *Temporal Authority: To What Extent it Should be Obeyed* (1523), in LW 45:75-129.

²² LW 44:129.

²³ LW 31:344-347, 358-361. The theme recurs repeatedly in Luther’s later writings. See, e.g., LW 12:328, 27:230ff., 32:173; WA 39/1:21, 492, 552.



“comprehend the lofty dignity of the Christian.”²⁴

Every Christian “has a two-fold nature,” Luther argued in expounding his doctrine of *simul iustus et peccator*. We are at once body and soul, flesh and spirit, sinner and saint, “outer man and inner man.” These “two men in the same man contradict each other” and remain perennially at war.²⁵ On the one hand, as bodily creatures we are born in sin and bound by sin. By our carnal natures we are prone to lust and lasciviousness, evil and egoism, perversion and pathos of untold dimensions.²⁶ Even the best of persons, even the titans of virtue in the Bible—Abraham, David, Peter, and Paul—sin all the time.²⁷ In and of ourselves, we are all totally depraved and deserving of eternal death. On the other hand, as spiritual creatures, we are reborn in faith and freed from sin. By our spiritual natures, we are prone to love and charity, goodness and sacrifice, virtue and peacefulness. Even the worst of persons, even the reprobate thief nailed on the next cross to Christ’s, can be saved from sin. In spite of ourselves, we are all totally redeemed and assured of eternal life.²⁸

It is through faith and hope in the Word of God, Luther argued, that a person moves from sinner to saint, from bondage to freedom. This was the essence of Luther’s doctrine of justification by faith alone. No human work of any sort—even worship, contemplation, meditation, charity, and other supposed meritorious conduct—can make a person just and righteous before God. For sin holds the person fast and perverts his or her every work. “One thing, and only one thing, is necessary for Christian life, righteousness, and freedom,” Luther declared. “That one thing is the most holy Word of God, the gospel of Christ.”²⁹ To put one’s faith in this Word, to accept its gracious promise of eternal salvation, is to claim one’s freedom from sin and from its attendant threat of eternal damnation. And it is to join the communion of saints that begins imperfectly in this life and continues perfectly in the life to come.

A saint by faith remains a sinner by nature, Luther insisted, and the paradox of good and evil within the same person remains until death. But there is “a difference between sinners and sinners,” Luther wrote. “There are some sinners who confess that they have sinned but do not long to be justified; instead, they give up hope and go on sinning so that when they die they despair, and while they live, they are enslaved to the world. There are other sinners who confess that they sin and have sinned, but they are sorry for this, hate themselves for it, long to be justified, and under groaning constantly pray to God for righteousness. This is the people of God,” the saints who are saved, despite their sin.³⁰

²⁴ LW 31:355.

²⁵ LW 31:344.

²⁶ LW 31:344, 358-361; see also LW 25:120-130, 204-213.

²⁷ See, e.g., LW 19:47-48, LW 23:146.

²⁸ LW 31:344-354, 368-377.

²⁹ LW 31:345.

³⁰ Luther, *Lectures on Romans*, 120. See also LW 23:146; LW 12:328-330; LW 8:9-12.



This brought Luther to a related paradox of human nature—that each Christian is at once a lord who is subject to no one and a priest who is servant to everyone. On the one hand, Luther argued, “every Christian is by faith so exalted above all things that, by virtue of a spiritual power, he is [a] lord.”³¹ As a redeemed saint, as an “inner man,” a Christian is utterly free in his conscience, utterly free in his innermost being. He is like the greatest king on earth, who is above and beyond the power of everyone. No earthly authority—whether pope, prince, or parent—can impose “a single syllable of the law” upon him.³² No earthly authority can intrude upon the sanctuary of his conscience, can endanger his assurance and comfort of eternal life. This is “the splendid privilege,” the “inestimable power and liberty” that every Christian enjoys.³³

On the other hand, Luther wrote, every Christian is a priest who freely performs good works in service of his or her neighbor and in glorification of God.³⁴ “Christ has made it possible for us, provided we believe in him, to be not only his brethren, co-heirs, and fellow-kings, but also his fellow-priests,” Luther wrote. And thus, in imitation of Christ, we freely serve our neighbors, offering instruction, charity, prayer, admonition, and sacrifice even to the point of death.³⁵ We abide by the law of God so far as we are able so that others may see our good work and be similarly impelled to seek God’s grace. We freely discipline and drive ourselves to do as much good as we are able, not so that we may be saved but so that others may be served. “A man does not live for himself alone,” Luther wrote, “he lives only for others.”³⁶ The precise nature of our priestly service to others depends upon our gifts and upon the vocation in which God calls us to use them.³⁷ But we are all to serve freely and fully as God’s priests.

“Who can then comprehend the lofty dignity of the Christian?” Luther wrote. “By virtue of his royal power he rules over all things, death, life, and sin.” The person is entirely free from the necessity of doing good works and fully immune from the authority of anyone. But by virtue of “his priestly glory, he is omnipotent with God because he does the things which God asks and requires.”³⁸ He devotes himself entirely to doing good works for his neighbor; he submits himself completely to the needs of others.

Such are the paradoxes of the Christian life in Luther’s view. We are at once sinners and saints; we are at once lords and servants. We can do nothing good; we can do nothing but good. We are utterly free; we are everywhere bound. The more a person thinks himself a saint, the more sinful in fact he becomes. The more a person

³¹ LW 31:354.

³² LW 36:70, echoing LW 31:344-346.

³³ LW 31:355-358.

³⁴ LW 31:355-356. Luther returned to this theme repeatedly in his later writings. See, e.g., LW 36:112-116, 138-140, LW 40:21-23; LW 13:152, and esp. the long diatribe in LW 39:137-224.

³⁵ LW 31:355; see also LW 36:241.

³⁶ LW 31:364-5; see also LW 51:86-87.

³⁷ LW 38:188; LW 28:171-172.

³⁸ LW 31:355; see also LW 17:209ff.



thinks herself a sinner, the more saintly she in fact becomes. The more a person acts like a lord, the more he is called to be a servant. The more a person acts as a servant, the more in fact she has become a lord. This is the paradoxical nature of human life. And this is the essence of human dignity.

Luther intended his *Freedom of a Christian* to be a universal statement for his world of Christendom—a summary of “the whole of the Christian life in a brief form,” as he put it in his preface to Leo.³⁹ He grounded his views in the Bible, liberally peppering his tract with all manner of biblical citations and quotations. He wove into his narrative several strong threads of argument pulled selectively from a number of Church Fathers and late medieval Christian mystics. He published his tract both in Latin and in simple German, seeking to reach both the scholar and the commoner alike. He wrote with a pastoral directness and emotional empathy, convinced that if he could point out the good and evil in everyone, his readers would find both ample humility and ample comfort. So convinced was Luther of the veracity and cogency of his views that he believed even the Jews, the one perennial sojourner in his world of Christendom, would convert *en masse* to the Gospel once they heard it in this simple form.⁴⁰ Though this latter aspiration proved fanciful, Luther’s views on human dignity did command an impressive readership among Christians. *Freedom of a Christian* was a best seller in its day—going through twelve printings in its first two years, and five editions by 1524. It remained a perennial favorite of commentaries and sermons long after Luther’s passing and well beyond the world of Lutheranism.⁴¹ It is no small commentary on the enduring ecumenical efficacy of Luther’s views of human nature, dignity, and freedom that they lie at the heart of the “Joint Declaration on the Doctrine of Justification,” signed by Catholic and Evangelical leaders on October 31, 1999.

What all this elegant dialectic theology meant for the nature of freedom of the Christian in this world, Luther’s little tract did not so clearly say. Luther did make clear that all Christians have the freedom and duty to follow the Bible conscientiously and to speak out against human ideas and institutions that conflict with the Bible. The Bible was for Luther the great equalizer of Christians—to the remarkable point of allowing Luther, a lowly Augustinian monk from an obscure German town, to address His Holiness Leo X as if he were the pope’s equal. Luther also made clear that clergy and laity are fundamentally equal in dignity and responsibility before God. The traditional assumption that the clergy were superior to the laity and entitled to all manner of special privileges, immunities, and exemptions was anathema to

³⁹ LW 31:343.

⁴⁰ See *That Jesus Christ was Born a Jew* (1523), in LW 45:129. See further Steven E. Ozment, *Protestants: The Birth of a Revolution* (New York: Doubleday, 1992), 1; id., “Martin Luther on Religious Liberty,” in Noel B. Reynolds and W. Cole Durham Jr., editors, *Religious Liberty in Western Thought* (Grand Rapids MI: Wm B. Eerdmans Publishing, 1996), 75.

⁴¹ Mark U. Edwards Jr., *Printing, Propaganda, and Martin Luther* (Berkeley CA: University of California Press, 1981), 39, 64, 100–101.



Luther. Luther at once laicized the clergy and clericized the laity, treating the office of preaching and teaching as just one other vocation alongside many others that a conscientious Christian could properly and freely pursue.⁴²

Luther's *Freedom of a Christian*, however, was no political manifesto on freedom. Spiritual freedom may well coexist with political bondage, Luther insisted. The spiritual equality of persons and vocations before God does not necessarily entail a social equality with all others.⁴³ Luther became doubly convinced of this discordance after witnessing the bloody Peasants' Revolt in Germany in 1525 and the growing numbers of radical egalitarian and antinomian experiments engineered out of his favorite theological doctrines of the priesthood of all believers and justification by faith alone. In the course of the next two decades, Luther defended with increasing stridency traditional social, economic, political, and ecclesiastical hierarchies as a necessary feature of this earthly life.

Luther came to defend this disparity between the spiritual and temporal dimensions of human freedom, dignity, and status with his doctrine of the two kingdoms. God has ordained two kingdoms or realms in which humanity is destined to live, Luther argued, the earthly or political kingdom and the heavenly or spiritual kingdom. The earthly kingdom is the realm of creation, of natural and civic life, where a person operates primarily by reason, law, and passion. The heavenly kingdom is the realm of redemption, of spiritual and eternal life, where a person operates primarily by faith, hope, and charity. These two kingdoms embrace parallel forms of righteousness and justice, truth and knowledge, but they remain separate and distinct. The earthly kingdom is distorted by sin and governed by the law. The heavenly kingdom is renewed by grace and guided by the Gospel. A Christian is a citizen of both kingdoms at once, and invariably comes under the distinctive jurisdiction of each kingdom. As a heavenly citizen, the Christian remains free in his conscience, called to live fully by the light of the Word of God. But as an earthly citizen, the Christian is bound by law, and called to obey the structures and strictures of ecclesiastical, political, and parental authority, even if they are sometimes hard and abusive.

LUTHER'S LEGACY: PROTESTANT INSTINCTS ABOUT HUMAN DIGNITY AND FREEDOM TODAY

Nearly half a millennium after its publication, Luther's *Freedom of a Christian* still shapes many Protestants' instincts about human dignity and human rights.

First, Luther's doctrine of *simul iustus et peccator* renders many Protestants instinctively skeptical about too optimistic a view of human nature and too easy a conflation of human dignity and human sanctity. Such views take too little account of the radicality of human sin and the necessity of divine grace. They give too little credibility to the inherent human need for discipline and order, accountability and

⁴² See further *Concerning the Ministry* (1523), in LW 40:21ff.

⁴³ LW 31:354-356, 364-365.



judgment. They give too little credence to the perennial interplay of the civil, theological, and pedagogical uses of law, to the perpetual demand to balance deterrence, retribution, and reformation in discharging authority within the home, church, state, and other associations.⁴⁴ They give too little insight into the necessity for safeguarding every office of authority from abuse and misuse. A theory of human dignity that fails to take into account the combined depravity and sanctity of the human person is theologically and politically deficient, if not dangerous.

This cardinal insight into the two-fold nature of humanity was hardly unique to Martin Luther, and it is readily amenable to many other formulations. Luther's formula of *simul iustus et peccator* was a crisp Christian distillation of a universal insight about human nature that can be traced to the earliest Greek and Hebrew sources of the West. The gripping epics of Homer, Hesiod, and Pindar are nothing if not chronicles of the perennial dialectic of good and evil, virtue and vice, hero and villain in the ancient Greek world. The very first chapters of the Hebrew Bible paint pictures of these same two human natures, now with Yahweh's imprint on them. The more familiar picture is that of Adam and Eve who were created equally in the image of God, and vested with a natural right and duty to perpetuate life, to cultivate property, to dress and keep the creation (Gen 1:26-30; 2:7, 15-23). The less familiar picture is that of their first child Cain, who murdered his brother Abel and was called into judgment by God and condemned for his sin. Yet "God put a mark on Cain," Genesis reads, both to protect him in his life, and to show that he remained a child of God despite the enormity of his sin (Gen 4:1-16).⁴⁵ One message of this ancient Hebrew text is that all human beings are not only the beloved children of Adam and Eve, who bear the image of God, with all the divine perquisites and privileges of Paradise. They are also the sinful siblings of Cain, who bear the mark of God, with its ominous assurance both that they shall be called into divine judgment for what they have done, and that there is forgiveness even for the gravest of sins they may have committed.

Luther believed that it is only through faith and hope in Christ that we can ultimately be assured of divine forgiveness and eternal salvation. He further believed that it was only through a life of biblical meditation, prayer, worship, charity, and sacramental living that a person could hold his or her depravity in check and aspire to greater sanctity. I believe that, too, as do many Christians today. But this is not to say that, in this life, Christians have the only insights into the two fold nature of humanity and the only effective means of balancing the realities of human depravity and the aspirations for human sanctity. Any religious tradition that takes seriously the Jekyll and Hyde in all of us has its own understanding of ultimate reconciliation

⁴⁴ See sources and discussion in my *God's Joust, God's Justice: Law and Religion in the Western Tradition* (Grand Rapids MI: Wm B Eerdmans, 2006), 263-294.

⁴⁵ This is but one of numerous interpretations of the story of Cain and Abel. For alternatives, see Ruth Mellinkoff, *The Mark of Cain* (Berkeley CA: University of California Press, 1981); Claus Westermann, *Genesis 1-11: A Commentary*, repr. ed. (Minneapolis: Augsburg Publishing House, 1990).



of these two natures and its own methods of balancing them in this life. And who are we Christians to say how God will ultimately judge these?

Luther also believed that the ominous assurance of the judgment of God is ultimately a source of comfort not of fear. The first sinners in the Bible—Adam, Eve, and Cain—were given divine due process: They were confronted with the evidence, asked to defend themselves, given a chance to repent, spared the ultimate sanction of death, and then assured of a second trial on the Day of Judgment, with appointed divine counsel—Christ himself, our self-appointed “advocate before the Father” (1 John 2:1). The only time that God deliberately withheld divine due process was in the capital trial of His Son—and that was the only time it was and has been necessary. The political implications of this are very simple: If God gives due process in judging us, we should give due process in judging others. If God’s tribunals feature at least basic rules of procedure, evidence, representation, and advocacy, human tribunals should feature at least the same. The demand for due process is a deep human instinct, and it has driven Protestants over the centuries, along with many others before and with them, to be strident advocates for procedural rights.

Second, Luther’s doctrine of the lordship and priesthood of all believers renders many Protestants instinctively jealous about liberty and equality—but on their own quite distinct theological terms. In the modern liberal tradition, liberty and equality are generally defended on grounds of popular sovereignty and inalienable rights. The American Declaration of Independence (1776) proclaimed it a “self-evident truth” “that all men are created equal [and] ... are endowed with certain unalienable rights.” The Universal Declaration of Human Rights (1948) proclaimed “[t]hat all men are born free and equal in rights and dignity.” Many Protestants can resonate more with the norms of liberty and equality in these documents than with the theories of popular sovereignty and inalienable rights that generally undergird them.

The heart of the Protestant theory of liberty is that we are all lords on this earth. We are utterly free in the sanctuary of our conscience, entirely unencumbered in our relationship with God. We enjoy a sovereign immunity from any human structures and strictures, even those of the church when they seek to impose upon this divine freedom. Such talk of “sovereign immunity” sounds something like modern liberal notions of “popular sovereignty.” And such talk of “lordship” sounds something like the democratic right to “self-rule.” Protestants have thus long found ready allies in liberals and others who advocate liberty of conscience and democratic freedoms on these grounds. But, when theologically pressed, many Protestants will defend liberty of conscience not because of their own popular sovereignty, but because of the absolute sovereignty of God, whose relationship with his children cannot be trespassed. Many Protestants will defend unalienable rights not in the interest of preserving their personal privacy but in the interest of discharging their divine duties.

The heart of the Protestant theory of equality is that we are all priests before God. “You are a chosen race, a royal priesthood, a holy nation, God’s own people” (1



Peter 2:9; cf Rev 5:10; and Rev 20:6). Among you, “[t]here is neither Jew nor Greek, there is neither slave nor free, there is neither male nor female; for you are all one in Christ Jesus” (Gal 3:28; cf Col 3:10-11; Eph 2:14-15). These and many other biblical passages, which Luther highlighted and glossed repeatedly, have long inspired a reflexive egalitarian impulse in Protestants. All are equal before God. All are priests that must serve their neighbors. All have vocations that count. All have gifts to be included. This common calling of all to be priests transcends differences of culture, economy, gender, and more.

Such teachings have led a few Protestant groups over the centuries to experiment with intensely communitarian states of nature where life is gracious, lovely, and long. Most Protestant groups, however, view life in such states of nature as brutish, nasty, and short, for sin invariably perverts them. Structures and strictures of law and authority are necessary and useful, most Protestants believe. But such structures need to be as open, egalitarian, and democratic as possible. Hierarchy is a danger to be indulged only so far as necessary. To be sure, Protestants over the centuries have often defied these founding ideals and have earnestly partaken of all manner of elitism, chauvinism, racism, antisemitism, tyranny, patriarchy, slavery, apartheid, and more. And they have sometimes engaged in outrageous hypocrisy and casuistry to defend such shameful pathos. But an instinct for egalitarianism—for embracing all persons equally, for treating all vocations respectfully, for arranging all associations horizontally, for leveling the life of the earthly kingdom so none is obstructed in access to God—is a Lutheran gene in the theological genetic code of Protestantism.

Third, and finally, Luther’s notion that a person is at once free and bound by the law has powerful implications for our modern understanding of human rights. For Luther, the Christian is free in order to follow the commandments of the faith—or, in more familiar and general modern parlance, a person has rights in order to discharge duties. Freedoms and commandments, rights and duties belong together in Luther’s formulation. 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.

Protestants have thus long translated the moral duties set out in the Decalogue into reciprocal rights. The First Table of the Decalogue prescribes duties of love that each person owes to God—to honor God and God’s name, to observe the Sabbath day of rest and holy worship, to avoid false gods and false swearing. The Second Table prescribes duties of love that each person owes to neighbors—to honor one’s parents and other authorities, not to kill, not to commit adultery, not to steal, not to bear false witness, not to covet. Church, state, and family alike are responsible for the communication and enforcement of these cardinal moral duties, Protestants have long argued. But it is also the responsibility of each person to ensure that he and his neighbors discharge these moral duties. This is one important impetus for Protestants to translate duties into rights. A person’s duties toward God can be cast



as the rights of religion: the right to honor God and God's name, the right to rest and worship on one's Sabbath, the right to be free from false gods and false oaths. Each person's duties towards a neighbor, in turn, can be cast as a neighbor's right to have that duty discharged. One person's duties not to kill, to commit adultery, to steal, or to bear false witness thus gives rise to another person's rights to life, property, fidelity, and reputation. For a person to insist upon vindication of these latter rights is not necessarily to act out of self-love. It is also to act out of neighborly love. To claim one's own right is in part a charitable act to induce one's neighbor to discharge his or her divinely-ordained duty.

* * * *

The great American jurist Grant Gilmore once wrote: "The better the society the less law there will be. In Heaven, there will be no law, and the lion will lie down with the lamb. In Hell, there will be nothing but law, and due process will be meticulously observed."⁴⁶ This is a rather common Protestant sentiment, which Luther did much to propound in some of his early writings. But a Protestant, faithful to Luther's most enduring insights, might properly reach the exact opposite projection. In Heaven, there will be pure law, and thus the lamb will lie down with the lion. In Hell, there will be no law, and thus all will devour each other eternally. Heaven will exalt due process, and each will always receive what's due. Hell will exalt pure caprice, and no one will ever know what's coming.

⁴⁶ Grant Gilmore, *The Ages of American Law* (Chicago: University of Chicago Press, 1977), 110-111.

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THE CONTRIBUTIONS OF DISSENTING PROTESTANTISM TO WESTERN VIEWS OF HUMAN DIGNITY AND FREEDOM

NICHOLAS MILLER¹

I. INTRODUCTION – DIGNITY AND HUMAN RIGHTS IN THE MODERN WEST

A. Human Dignity and the *Universal Declaration of Human Rights*

The concept of human dignity has become central to modern systems of civil and religious rights in the western world, indeed in most of the world at large. The centrality of human dignity to systems of rights was enshrined internationally in the Universal Declaration of Human Rights adopted by the United Nations in 1948. In its preamble, that document declares that the “recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.” Later, in Article 1, it states that “All human beings are born free and equal in dignity and rights.” The word “dignity” is used no less than five times throughout the document. A careful reading of the document reveals that the concept of the “equal” dignity “inherent” to or “endowed” in man serves as the central ideological foundation and justification for the rights outlined in the Declaration.

The Declaration was dramatically influential. Not only was it adopted by the UN with no negative votes (48 in favor, 8 abstentions), but it soon became the model for national constitution writing since then. It has been adopted by or influenced most national constitutions written since 1948, and during that time it has become the world’s “most translated document.”² Since then about 200 other documents have been written protecting human rights in the world, and at least 65 of these mention the Universal Declaration in their preambles.³

B. Failure of Dignity and Rights in the Modern World

Thus, the concept of human dignity has become perhaps one of the most widespread, articulated, shared values in the international community. One cannot really find anyone arguing against it, perhaps with the exception of a few post-modern nihilists. And yet as I write this, the US State Department is on the verge of releasing a detailed report of the brutal and coercive “enhanced interrogation” techniques that

¹ Nicholas Miller, PhD, is Director of the International Religious Liberty Institute at Andrews University.

² <http://www.guinnessworldrecords.com/records-1000/most-translated-document/> (viewed on 8/1/2014).

³ http://ccnmtl.columbia.edu/projects/mmt/udhr/preamble_section_4/discussion_5.html (viewed on 8/1/2014)



the CIA carried out in the war on terror in the years after 9/11. The report, the findings of which were accidentally leaked, details a much more systematic, widespread use of these tactics than previously thought. According to the findings, there is “no doubt that the methods used to extract information from some terrorist suspects caused profound pain, suffering and humiliation. It also leaves no doubt that the harm caused by the use of these techniques outweighed any potential benefit.”⁴

One need not linger on American human rights abuses in the war on terror to know that the concept of human dignity is in trouble in the 21st century. If one of the pillar countries for human rights protections has fallen into this kind of officially sanctioned inhumane behavior, then the situation around much of the world is probably equally as poor and, in some instances, much worse. Indeed, monitoring groups confirm that in the last decade torture has been used by more than 150 countries around the world, including in many instances against political prisoners. Those countries we view as modern strongholds of civil rights are implicated in 20th century torture, including France, England, Germany, Spain, and the United States.⁵

The fact that the American government is preparing a self-critical report of its agency’s actions, however, is not all bad news. It is evidence that American leadership still takes the notion of human rights and dignity as being of some importance. Still, one is left with the sense that while human dignity may be the most widespread international value in theory, it may at the same time be the most widely violated and ignored value in practice.

What has caused this radical disjuncture between ideal and practice? Is there something about the concept of human dignity that is too thin and insubstantial to serve as a robust foundation for rights? Is there a way of connecting concepts of dignity with existing values that people may take with more seriousness, given their apparent disregard of this widespread idea that seems most remembered by its violation?

Some have criticized the notion of human dignity as being too vague and insubstantial a soil to provide firm rooting for ideas about human rights. This critique seems supported by the observed widespread abuse of human rights. But is it possible that our current prevailing conceptions of human dignity are shallower than those that informed the Universal Declaration? Is it possible that there are competing, or at least overlapping, notions of dignity, some of which are thicker and more substantial than others?

C. Competing Ideas of Dignity – Thin and Thick

I want to propose that this is indeed the case. That fully secularized notions of dignity, devoid of metaphysical content or connection, have come to dominate general thinking in legal and political circles when it comes to talking about hu-

⁴ <http://rt.com/usa/176884-leaked-post-911-torture-report/> (viewed on 8/1/2014).

⁵ <http://www.amnesty.org/en/library/info/ACT40/001/2003> (viewed on 8/3/2014).



man dignity and rights. These secularized conceptions have come to obscure thicker, deeper conceptions of human dignity flowing out of metaphysical conceptions of human nature and identity.

The Universal Declaration was drafted to be as inclusive as possible as it sought to attract support from all the nations of the world. Because of this desire for inclusivity, it has been claimed that “One of the Declaration’s most remarkable features is its failure to posit a metaphysical foundation—religious or natural law-based—for the ‘inherent dignity’ invoked within its Preamble.”⁶ This is at least a partially true statement. Nowhere in the Declaration is there a mention of God or religion, except as the latter was part of the human identity to be protected.⁷

And yet there are still key terms and phrases in the Declaration that reveal at the very least an implicit metaphysical grounding to the document. The first line about all humans having “inherent dignity” is suggestive of an essentialist construct to human nature that cannot be explained on purely materialistic grounds. Indeed, it has been recognized, I believe rightly so, as a reference to the 18th century metaphysical Enlightenment “doctrine of inherent human rights.”⁸

This sense of universal, metaphysical grounding is heightened by the language in Article 1 that says that all humans are “endowed” with “reason and conscience.” “Endowed” is an active verb that suggests an actor outside the human that places within it these qualities of thought and conviction. This word would seem to provide more than a coincidental connection with the United States’ Declaration of Independence that asserts “all men are created equal and *endowed* by their Creator with certain inalienable rights...”

The word “reason” refers at the least to the human ability to engage with the external reality of natural laws and processes, an idea which contains at least certain metaphysical assumptions. But the word “conscience” has a distinct moral connection that ties it to metaphysically-based views of right and wrong. It has been noted that the Declaration’s notion of conscience contains within it the 18th century Enlightenment notion of epistemic universality. That is, as stated in the preamble, it is the “conscience of mankind”—not just elite experts, or western thinkers—that has

⁶ Jenna Reinbold, “Political Myth and the Sacred Center of Human Rights: The Universal Declaration and the Narrative of ‘Inherent Human Dignity,’” *Hum Rights Rev* (2011) 12:147–171, 150.

⁷ Mary Ann Glendon, in her account of the creation of the Universal Declaration and the role played by Eleanor Roosevelt, quotes Roosevelt as explaining the absence of a reference to God in the Declaration as follows: “Now, I happen to believe that we are born free and equal in dignity and rights because there is a divine Creator, and there is a divine spark in men. But, there were other people around the table who wanted it expressed in such a way that they could think in their particular way about this question, and finally, these words were agreed upon because they... left it to each of us to put in our own reasons, as we say, for that end.” *A World Made New: Eleanor Roosevelt and the Universal Declaration of Human Rights* (New York NY: Random House, 2001), 147.

⁸ Johannes Morsink, *Inherent Human Rights: Philosophical Roots of the Universal Declaration* (Philadelphia PA: University of Pennsylvania Press, 2009) 17; Charles Malik was responsible for drafting the Preamble, and it was he who inserted the language about “inherent dignity.” While the concept of dignity was earlier mentioned in the Preamble to the UN Charter, Malik evidently added the word “inherent,” which does not appear in that earlier Preamble. Malik was a very committed Greek Orthodox believer and religious thinker, and it is evident that the word is intended to have metaphysical implications. Glendon, *A World Made New*, 117–118, 125–127.



been outraged by recent barbarous acts.⁹

The above-discussed language in the Declaration that reveals metaphysical assumptions of inherent rights and dignity that are recognized universally by human reason and conscience provides a pathway back to early modern conceptions of human dignity that I believe have a bit more grounding and force than some of our more modern notions. It causes the document to contain within it a transcendent grounding that may have somewhat more bite, or energy, or rhetorical and persuasive power.

II. EARLY MODERN CONCEPTS OF DIGNITY – THREE VIEWS

But belief in the transcendent alone is not sufficient to protect the conception of human dignity or the practice of human rights. The long and sordid history of the Crusades, Inquisitions, and Jihads of the medieval world—all carried out in the name of God, or gods—well illustrates this point. The wrong kind of metaphysical grounding can merely provide higher justification and motive to coerce, abuse, and mistreat fellow humans. I believe that the system of rights referenced by the Declaration, one in rights universally “inherent” in humans, as “endowed” by a Divine being, and that are potentially understood and known by all humanity references a certain strand of human dignity and rights as best expressed, or most widely known, through the thought of English philosopher John Locke.

I have elsewhere written on Locke’s contribution to our modern conception of religious freedom and rights generally and its grounding in a certain strand of dissenting Protestant thought.¹⁰ That work takes on significance in the present context for its insight into the competing conceptions of rights and human dignity with which Locke contended.¹¹ These other conceptions also posited a transcendent realm, overseen by a Creator who had created humans in His image. Yet they resulted in a much more limited conception of rights than Locke advocated. What was the difference between these varying schemes of rights and dignity?

A. Dignity of Paternalism, Stewardship, and Self-Ownership

In short, the answer has to do with the kind of relationship between the individual, the community, and the transcendent. In the late 17th century, three conceptions of the relationship among these elements resulted in three types of human dignity: the dignity of paternalism, seen especially in ideas of the divine right of kings and sacerdotal privilege; the dignity of stewardship, a concept of self-ownership in relation to others, but of God’s ownership in relation to the transcendent; and, the

⁹ Ibid 18.

¹⁰ Nicholas P Miller, *The Religious Roots of the First Amendment: Dissenting Protestantism and the Separation of Church and State* (New York NY: Oxford University Press, 2012), 63-90.

¹¹ See especially, Ibid 156-168; Also see, Nicholas P Miller, “The Dawn of the Age of Toleration: Samuel Pufendorf and the Road Not Taken,” *Journal of Church and State* 50 (Spring 2008), 255-275; Nicholas P Miller, “Competing Secularisms and the Place of Religious Freedom,” chapter in *Trends of Secularism in a Pluralistic World* (Madrid, Spain: iberoamericana/Vervuert, 2013).



dignity of self-ownership, where the individual, autonomous self is the highest authority in relation to the self. This latter category was only partially developed in the 17th century and awaited fuller expression in the 18th and especially 19th centuries, especially in the philosophy of John Stuart Mill.

The dignity of paternalism is the outlook that dominated the Middle-Ages. It is well expressed in the legal philosophy and writing on human rights by Samuel Puffendorf, the 17th century Lutheran political philosopher. Puffendorf defended a system of human rights and religious liberty, but it was filtered through a conception of the king and religious leaders as being in paternal oversight over their subjects. He conceived of the metaphysical realm being mediated through religious and civil elites to the individual subjects.

This view resulted, despite its language of rights and human dignity, in a system that was inherently paternalistic, both civilly and religiously. Civil and religious rulers, at least those that were Christian, were ultimately responsible to God on behalf of the community; citizens and church members were the beneficiaries of these mediations and were expected to play subservient roles to these elites, civilly, intellectually, and spiritually.

The king was expected to oversee a state religion, in cooperation with bishops and priests, and guard and promote it with the civil laws and force of the state. This view cut across confessional lines and was characteristic not just of Catholic countries, but also of magisterial Protestantism as found in Calvin's Geneva, Luther's Germany, much of Elizabeth's England, and even Puritan New England.

But not all of Protestantism embraced this dignity of paternalism. There was a more individualistic brand of Protestantism, flowing from some of the writings of early Luther and kept alive by the Anabaptists and others in the branch of the radical reformation. As it spread beyond those historically termed "radicals," I term it a strand of dissenting Protestantism, meaning that they dissented from the magisterial Protestants who combined church and state over the individual believer.

Elsewhere I have argued¹² that John Locke, in his views on religious freedom, was influenced by and influenced in return, this dissenting brand of Protestant thought. (He was more influenced than influencer, in my view, though his influence in causing otherwise magisterial Protestants to adopt dissenting Protestant views was very great.) Locke deals at length with the notion of paternalism in government and religion, and he decisively rejects it and substitutes a combination of self-ownership and divine ownership that can best be described as stewardship.¹³

John Locke's most famous political work is arguably his *Second Treatise of*

¹² To some degree of success, I believe, as indicated by various positive reviews of my book *The Religious Roots of the First Amendment* and its argument, including those relating to Locke, in a number of scholarly journals. Ragosta, John, *American Historical Review*, Feb 2013, 177-178; Balmer, Randall, *Journal of Ecclesiastical History* (64), 2013, 857-858; Bette Novit Evans, *Journal of Church and State*, June 30, 2013, 570-572.

¹³ S Adam Seagrave, "Self Ownership vs Divine Ownership: A Lockean Solution to a Liberal Democratic Dilemma," *American Journal of Political Science*, Vol 55, No 3, July 2011, 710-723.



Government, which most college students read at one time or another. But most people don't think to ask about the *First Treatise*, which is a much more obscure tract today. It is an extended attack, using Scripture and logical argument, on the notion of patriarchy in government, using as a foil Robert Filmer's *Patriarcha: or the Natural Power of Kings*. Filmer represents a long line of medieval thought that viewed the king as holding paternal authority, derived from Adam, over his subjects. This authority gives him right as king and ruler to the unquestioning obedience of his subjects and oversight over their religious beliefs and practices.

After dismantling Filmer's notions of patriarchy in the *First Treatise*, Locke spends much of the *Second Treatise* replacing Filmer's paternalistic oversight with conceptions of dual ownership, the ownership of the individual as against his or her neighbors and rulers, and the ultimate divine ownership of all persons. This dual ownership concept has caused some confusion, as scholars wonder which Locke really believed—in self-ownership or divine ownership. The apparent conflict is readily resolved once one understands the biblical notion of stewardship. A steward is one to whom property is entrusted, and the steward has the rights of ownership against all other persons, though he or she is responsible ultimately to the owner for the good management of the property.

B. The Dignity of Stewardship

The dignity of stewardship is a profound concept that gives significant freedom in relation to others, but also responsibility in relation to the divine and others that avoids the excesses of paternalism and a hyper-individualism. While one is free in body and soul from the intrusions of others, one has responsibilities to God to treat one's body as well as one's neighbor with appropriate respect and dignity. This stewardly relationship goes beyond a mere "right to be left alone," or a duty to merely leave others unmolested. Stewardship of self implies a responsibility to act with care of oneself, living in a manner to flourish as a human, but also to create conditions where the dignity of others can be realized, all being subject to the same divine oversight and expectation.

The ideal of stewardship means that the political question that comes to us from near the dawn of human time, "Am I my brother's keeper?" is answered with a resounding "yes." But it is a "yes" that recognizes that while I am my brother's keeper, I am not his father or ruler, at least in a manner that would interfere with his own stewardship obligations in this world and beyond. Negative liberties are not enough to fulfill these obligations, leaving persons alone who are struggling with conditions that threaten or impair their human dignity. The steward recognizes a need to help foster conditions where the dignity of all can be realized, though to do it in a way that does not undermine the impetus or motivation of others to exercise their roles as stewards of their persons, property, and liberty.

In opposing this paternalism in *Treatise One*, Locke engages in an extended and



close reading of Scripture to refute Filmer's arguments about Adam and his descendants. These theological disputes seem arcane to us today, and thus the book has faded into obscurity. Yet, wherever there is an authoritarian, paternalistic government, the Locke/Filmer debate is still very much relevant. The paternalism can be a right wing dictatorship, such as we saw in the 20th century with fascism and Nazism.

But this paternalism can also take the form of the statism of left wing communism or oppressive socialism, or even a progressive, social welfare state model that engages in a kind of soft-tyranny of cultivating citizens' dependence on the state, undermining their own sense of stewardship, while imposing its transcendent moral framework upon all. While this soft-tyranny may not yet fully characterize the nations of the west today, one can see sufficient elements of it in government and culture to make a revisit of the Locke/Filmer debates a very relevant exercise.

This soft tyranny also was implicated in another debate that Locke was part of. This argument was with those who would collapse all ownership into self-ownership and either deny or ignore transcendent relationships, rights, and duties. This debate was perhaps in his day less fully developed, as full-fledged arguments about human autonomy in the absence of the divine did not become widespread until later in the 18th and even 19th centuries. Still, men like Pierre Bayle and Baruch Spinoza developed systems of thinking about humanity, its nature, purpose, and liberties, in the absence of knowledge or belief about the Divine, at least as conventionally understood.

Locke's response to these purely secular systems was blunt and succinct: "the taking away of God, though but even in thought, dissolves all."¹⁴ The element of stewardship in his system that created any sort of objective obligations to oneself and others, an external morality, discoverable through reason and experience, was in essence denied by these systems. If all one had was the autonomous, self-defining individual, then the limits of conduct were defined essentially by subjective human desire, except where that desire bumped up against the physical person or desire of

¹⁴ John Locke, *Two Treatises of Government and A Letter Concerning Toleration*, edited by Ian Shapiro (New Haven CT: Yale University Press, 2003), 246. Because of his view that atheism would undermine the validity of both morality and rights, Locke drew the conclusion that atheists should not be tolerated. I believe this was a mistaken conclusion that conflicted with his own premise of the importance of private judgment to religious belief. The reality is that the unbeliever and atheist should have the same freedom as the theist or super-naturalist to make their own judgments about ultimate reality, including a divine realm. The religious believer should extend, by principle, the same right he or she has to make judgments about the existence and details of a divine realm to those who view that realm differently, including those who would deny it. His own right to belief is based on this premise. It is actually the atheist who lacks a principled basis to extend this right of judgment to the believer, as for the atheist all there is, is the material, temporal world. There is simply no justification for deference in law or public policy to a supposed "metaphysical" or "sacred" or "transcendent realm" of values. So the believer may have good reason to argue against the personal and political philosophy of the atheist, to prevent a materialist, imperialist philosophy from defining public life. But that same believer is compelled by his own principles, in my view, to extend toleration to the beliefs and practices of the unbeliever, as long as they do not harm or unfairly impact others. Locke extended such toleration to other kinds of erroneous opinions, as long as they "do not tend to establish domination over others, or civil impunity to the church in which they are taught, there can be no reason they should not be tolerated" (Ibid 246). Had Locke been consistent, this statement would have encompassed atheists as well.



another. While one had a duty not to harm another, and thus invade the autonomy of another, there was no clear basis of a duty to help another, unless one desired to.

Further, if there was no objective measure as to the worth or value of a desire, which is essentially the case if one rejects a belief in the transcendent, then society would lose the ability to objectively adjudicate between conflicting desires. Perhaps the stronger desire should prevail, but how would that be determined except through how many shared that desire? Thus, all values, including ones that had been viewed as transcendent and having objective elements, are transmuted into subjective desires and become subject to standard, majoritarian political processes.

Belief in rights, including the right of religious freedom, would become just another desire that would need to be balanced and traded off with any other desires that persons in society might have. Notions of individual rights might be paid lip-service in light of the strong western tradition. But, in practice, these systems of right would be subsumed under a regime that attempted to equalize all competing desires. “Equality” would replace “liberty” as the central watchword of the civil rights activist. In implementing this equality, most liberties would be subject to majority rule. This would have the effect of subjecting rights to the same, majoritarian, democratic processes that deal with most questions of public and political policy.

In effect, the democratic system would revert to a new paternalism, not one based on the divine right of kings, bishops, and dictators, but on the collective subjective desires of the community of autonomous individuals. Prevented from acknowledging a transcendent element, there is no objective element of stewardship to consider, nothing to adjudicate between the conflicting desires of the members of the group, except a rule by the majority or the most popular desire.

Under this system, the language of human dignity is retained, because humanity is all we have. Indeed, the human becomes virtually divine in a sense, because it defines and encompasses its own reality. But it is an extraordinarily limited divinity, as it is hemmed and limited by the subjective desires of its divine neighbor. Ultimately, it is a very thin dignity that does not produce many meaningful, measurable duties towards oneself or others, except perhaps the duty to stay alive and to not physically harm others.

In answering the age-old question, “Am I my brother’s keeper?” the new dignity answers with a version of the clever evasion offered by the lawyer to Christ, “But who is my brother?” The answer to this question offered by the new dignity is—those who are aggrieved like me, who I most identify with. Thus, we have the new regime of identity politics, where one’s political view is tightly bound to one’s racial, ethnic, social, religious, gender or class identity. Various competing groups will ally on those questions where the greatest number of desires overlap.

Crucially, the new system provides nothing objective or principled to press back against a majoritarian rule based on a new paternalism over the individual. Any number of issues take on the importance given previously to the most sacred notions



of human rights, such as bodily integrity, the right to be free from torture and abuse, and the right and freedom of religious worship and practice.

Thus, our collective desire for safety and security in the age of terror is seen as justifying a policy and practice of “enhanced interrogation” methods that previously the American government had condemned as torture. Persons are held for years without trial and a failure of due process that would have been viewed, for the entirety of the 20th century, as a gross violation of basic constitution rights.

People, including American citizens, who can be labeled “terrorists,” are targeted far from any active field of battle, for assassination by drone strikes based purely on presidential fiat. These assassinations are, again, acts that in pre-war-on-terror times would have been viewed as illegal and unconstitutional, as well as unethical and immoral. But our “desires” for safety and security are seen, in both the popular mind and in parts of the legal and political community, as overcoming our perceived enemies’ “desires” for liberty, bodily integrity, and even life.

In addition, in America, private sexual preferences and behaviors are given equal, and at times superior, legal pride of place and protection in a manner that impairs the convictions and practices of religious persons. In our new regime of human rights, all desires and preferences are equal, but as in George Orwell’s *Animal Farm*, some desires and preferences are more equal than others.

Those preferences that are more equal would be the ones whose ideological bases are those consistent with the ruling ideology of naturalistic materialism and secularism. Thus, personal sexual preferences, including same-sex behavior and marriage, generally prevail against millennia-old religious and moral convictions regarding sexual behavior and the ordering of the family. All of these results flow logically and consistently, I believe, from the new, thin, purely self-ownership notion of human dignity.

III. DISSENTING PROTESTANTISM AND THE IMPLEMENTATION OF ROBUST CONCEPTIONS OF HUMAN DIGNITY

These claims about the differences between stewardship versus self-ownership forms of dignity are not merely logical and theoretical. They can be seen in the historical record. As the track record of the new human dignity can be seen in the unfolding events around us of human rights abuses and impairment of basic and fundamental liberties, so the track record of the version of dignity based on stewardship has left distinct footprints in the historical record.

These prints have been recently and expertly excavated by a political scientist who has explored the connection between dissenting Protestant missions and the rise of global democracy and human freedoms and liberties. Robert Woodberry, in his groundbreaking article “The Missionary Roots of Liberal Democracy,” published in the flagship secular political science journal the *American Political Science Review*, makes the historical and statistical case for this connection between dissenting



Protestantism and global democracy.¹⁵ He demonstrates a very strong correlation between non-conformist Protestant missions and the implementation of mass education, mass printing, rise of social institutions, and rule of law, all necessary building blocks of functioning democracies. Protestant workers contributed to these factors, Woodberry shows historically, because of their ideology of the equality and dignity of the individual before God.

On the face of it, this seems an ambitious and even audacious claim. Yet Woodberry's thesis withstood secular and skeptical peer reviewers at APSR and in the larger academic community. The strength of his documentation is causing political scientists and historians to re-think and re-evaluate the causative role of religion in political and social development. Previously it had often been dismissed as a "soft" or secondary factor, itself driven largely by "hard" factors such economic, political, or social class interests. Woodberry makes a compelling case that this is not so and that religion matters and often helps shape these other factors.

The paper is too complex to fully summarize here, but the following points are directly relevant to the issues of human dignity and rights.

A. Woodberry notes that it is not just Christianity or Protestantism in general that is associated with the growth and spread of liberal democracy and civil freedoms, but that of what he terms "Conversionary Protestantism," which overlaps significantly with what I called "Dissenting Protestantism."¹⁶ He notes that the positive correlation between widespread education of laity, spread of printing, and resistance to abuse by the commercial and political interests of the colonizers is only connected with non-state connected or sponsored missionaries. So missionaries from state-connected churches, whether they be Catholic or magisterial Protestant churches, did not show such correlations.¹⁷

Thus, those missionaries that advanced democratic structures were from churches that took most seriously the human dignity of stewardship rooted in the Protestant doctrine of the priesthood of all believers. This belief emphasized the importance of individual Bible study leading to personal belief and faith by all. It led to arguments for the separation of church and state, eventually systematized by Locke's political philosophy.

As Woodberry puts it in his discussion of the rise of mass printing catalyzed by non-conformist or dissenting Protestant missionaries: They "expected lay people to make their own religious choices. They believed people are saved not through sacraments or group membership but by 'true faith in God;' thus, each individual had to

¹⁵ Robert Woodberry, "The Missionary Roots of Liberal Democracy," *American Political Science Review*, Vol 106, No 2, May 2012, 244-270.

¹⁶ Ibid 244, no 1; "conversionary Protestantism" is an unfortunate label, as it implies that only non-state churches were concerned with conversion. This is not true, as many state church missionaries, including Anglicans, Lutherans, and Calvinists, were concerned with the individual experience of conversion of the believer. Better language would focus on the relation of the church to the state, which often indicates the ability of the church to be an independent actor. Thus, in this article I use the language "dissenting" or "non-conforming" Protestant.

¹⁷ Ibid 246-247.



decide which faith to follow.” These views “changed people’s ideas about who books were for. According to CPs [Conversionary Protestants], *everyone* needed access to “God’s word”—not just elites. Therefore, *everyone* needed to read, including women and the poor....”¹⁸

B. Woodberry’s analysis makes clear that it is not just a generic belief in human worth and dignity that spread democratic institutions, but a commitment to helping people actualize that dignity by providing them with the education, tools, and resources to do so. Along with commitments to human equality, the dissenting Protestants engaged in mass education (not just education of the elites as other groups carried out), development and spread of mass printing, the activation of non-state civil organizations, and the promotion of the rule of law (equality before the law). All of these elements contributed to the shaping of a culture where liberal democracy could take root and flourish.¹⁹

Thus, it was not just support of human dignity in the abstract that mattered, or even implementation of a legal scheme to protect rights. Rather, such a legal structure could only meaningfully operate when these other conditions were in place: an educated populace who could read and write, who could spread ideas and interests in print, organize societies to share and further their views and interests, and ultimately shape political and legal patterns.

C. The programs and assistance of the dissenting missionaries were not such that made persons dependent on their long-term care, or nurture, or support. Rather, they gave people the ability to care, nurture, and support themselves and others in an engaged and active civil society. Indeed, after the catalyzing influence of these missionaries, other religious and secular groups also became involved with mass education, printing, and institution building, often to compete with the Protestant efforts in these areas. Many countries that developed the features of a liberal democracy soon did not require the Protestant involvement to keep it going, and many forgot that they were involved at all. But Woodberry has statistically documented the strong correlation between Protestant missions and the rise of democracy in no less than 142 non-European societies.²⁰

D. A significant feature of what made the non-state Protestant missionaries effective was their willingness to oppose abusive colonial practices by commercial or governmental officials. It was not that the missionaries were not “racist” in some sense; they were products of their time in many ways.²¹ Yet they did possess a commitment to the equality of human dignity as all persons were made in the image of God.

¹⁸ Ibid 249.

¹⁹ Ibid 247-254.

²⁰ Ibid 245.

²¹ Woodberry notes that, ironically, racism was worse among more educated missionaries who had absorbed ideas about “scientific racism.” Still, “missionaries were typically far less racist than other colonial groups” (Ibid 255, no 28).



Because CP missionaries were not connected with the state, they were able and willing to fight abuses of natives and locals in a variety of ways, including writing to supporters and newspapers back home, rallying legislative support for proposals, reigning in commercial and government leaders, and, in some instances, confronting abuses openly in the field.²²

In carrying out these efforts to curb colonial abuses, the missionaries made explicit their underlying philosophy of the obligations of stewardship in relation to human dignity. As Woodberry puts it, they “popularized the idea of ‘trusteeship,’ [another term for stewardship]—that the only justification of colonization was the ‘social uplift’ of the colonized people.”²³ This notion of “social uplift” may have had a paternalistic air to it, and this was undoubtedly reflected in some of their practices. But the missionaries generally did not forget that the social uplift was to put colonized people into a better position to carry out their own roles as stewards of themselves and their countries. Hence, their emphasis was on education, printing, and the creation of structures and systems which would give those locals willing to apply themselves the tools to manage themselves and their countries in a world rapidly becoming much more globally connected, industrialized, and commercialized.

This is not meant to be a triumphalistic ode to the virtues of Protestantism. Any religion or even ideology that chooses to take human dignity seriously, in terms of stewardship, can support and produce such results. Protestants that were more paternalistic in their outlook and connected with state churches, the so-called magisterial Protestants, did not have such a politically significant impact in the mission field. On the other hand, at various times in history both Jewish and Muslim groups have taken this type of dignity seriously and have had periods of cultural growth and enlightenment as a result. The relative peace and flourishing of Jewish and Christian “heretical” groups in medieval Muslim Spain is one such example.²⁴

In response to Protestant educational and printing efforts, Catholics also made significant contributions to these institutions, in many instances eventually outstripping Protestant achievements. After Vatican II, Catholics also made human dignity and freedom formally a central part of their philosophy of social and political engagement.

The reality is that most religious or even political groups that take this thick sense of human dignity seriously, and acknowledge the stewardship role of helping others actualize their own role as stewards, can promote meaningful growth and protection of human rights and liberties. It is just that during much of the 18th and 19th centuries the evidence strongly indicates that it was dissenting Protestantism that

²² Ibid 254-255.

²³ Ibid 255.

²⁴ Maria Rosa Menocal, *The Ornament of the World: How Muslims, Jews and Christians Created a Culture of Tolerance in Medieval Spain*, (New York NY: Back Bay Books, 2002). While claims of a “golden age” of toleration may be overstated, Jews, and even certain minority Christian groups, were treated with greater freedom and dignity in Medieval Spain, especially, during the 10th and 11th centuries, than in most other places in Europe.



was the primary vessel for the worldwide spread of these values.

Thus, the lesson that should not be lost on us today is not the alleged superiority of any particular religious tradition, but of the importance of a certain kind of human dignity to the creation and maintenance of a meaningful and robust system of human rights in a society. It must strike the balance between too much or too mediated a transcendence and the absence of any notion of transcendence, the collapse of all values into the subjective, autonomous self.

Further, it must recognize that commitment to the importance of human rights in speech or on paper is insufficient in itself to guarantee that these rights will be protected. Rather, there must be a constant safeguard of the institutions that ensure the implementation of these rights: education for all, a vibrant and free print culture, civic organizations that provide a buffer against state institutions, the checks and balances that provide a meaningful rule of law—and all of this sustained in the popular mind by an ethos of the transcendent dignity of the individual.

The potential paradox or irony this represents is that the dissenting Protestants did their jobs in good part because of their separation from the state. So any attempt to enforce or even promote some kind of minimal civil religion will actually undermine the very spirit and ethos it is seeking to promote. But the state does not necessarily need to become “religious” or promote “religion” to recognize that there is a power greater than itself, a transcendent realm which will limit its own power in dealing with its citizens.

It is also a realm that can provide value and guidance to the concept of stewardship. Rightly defined, stewardship will provide guidance to create a minimal set of common values that provide the stronger and richer in society with obligations to the poorer and weaker; but they will be obligations to equip and empower, rather than to dominate and dictate, either in a hard or soft paternalistic tyranny. Let all people of faith do what we can to recover and promote the transcendent dignity of stewardship as a check and guide to the rising tide of paternalism and tyranny in our modern world.



RELIGIOUS MINORITIES IN EUROPE: A TROUBLESOME LEGAL ORDER CONCERNING FOOD

JAIME ROSSELL¹

1. INTRODUCTION

Often the food diet in a country is dependent on a series of conditions resulting from the existence of a set of values and beliefs that exist in society which define what is good or bad for the body. In that set of beliefs, religion figures prominently. In fact, many religions and belief systems have dietary requirements, conceptions of what is good and what is bad, which eating behaviors are necessary to attain holiness and which others denote perversion or sin.

Curiously, these religious dietary rules are almost always restrictive. Meat and products of animal origin, throughout history and by many religions, have been subject to rules regulating and even prohibiting their consumption.

For example, the food system of Catholicism involves a certain asceticism which translates into a set of prescriptions and prohibitions spread throughout the calendar. And, as in other religions, the main ban lies with meat consumption. This type of rule is not exclusive to Catholicism; some Protestant churches restrict the consumption of alcohol and meat products.

To the Jewish religion, food is characterized by the density of its symbolism and a strict maintenance of the obligations set forth in the Torah. In accordance with the sacred texts, only those foods that are considered Kosher according to Jewish religious dietary laws should be consumed.

In the case of Islam, food requirements are contained mostly in various suras of the Quran and remain unchanged, basically distinguishing between lawful food (Halal) and unlawful food (Haram). Although there are different interpretations of what is Halal and what isn't.

In countries with a predominant religion throughout history, meeting religious dietary requirements has not been a problem for believers, since they were incorporated as part of the cultural heritage and the religious precept became mandatory law. By contrast, in those countries where different religions have historically coexisted, the issue of food was transferred to the private sphere, and the legislators did not

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intervene with regulations.

But this situation has changed in recent decades. The new century has brought a change in Western society as a result of two factors: economic and cultural globalization and the phenomenon of human migration. If the first, induced by the media, has caused the spread in our society of non-European cultural patterns, migratory flows have involved the establishment of communities with a tradition, a culture and, in most cases, a different religion. This has brought a new multicultural Europe where religious phenomenon in its specificity has become an important issue.

In that context, eating according to certain religious prescriptions must be recognised as a manifestation of the right to religious freedom of the individual and religious denominations. The problem arises when the dietary requirements of religious denominations and believers collide with the internal laws of the countries. In the case of the Jewish and Muslim communities, the problems arise in connection with the ritual slaughter of animals and the certification and marketing of products as Halal and Kosher.

At this point, believers and religious communities have begun to demand the exercise of their right to religious freedom without State interference, because certain measures taken by some EU countries and related to these issues infringed on the right of religious freedom, the principle of State neutrality and non-discrimination, and the right to autonomy of such groups. Along these lines I will try to highlight the problems and suggest some solutions.

2. RITUAL SLAUGHTER

The ritual slaughtering of an animal, according to Jewish or Muslim religious precepts, collides with the defense that for years the EU and various national laws have been developing in order to spare the animals from unnecessary pain or suffering.

In the 1970s, the Council of Europe and the European Union established a procedure to prevent animals from suffering by stunning them prior to their slaughter. This procedure created a problem in the different countries with Muslim and Jewish communities, so it was necessary to establish rules that would allow these communities to exercise their right to consume meat slaughtered according to their rites. For this reason, both international organizations established an exception to the rule, allowing slaughtering without previous stunning in religious cases, and the affected countries had to adopt specific legislation regulating this issue.

The EU, in its Directive 93/119 of 22 December 1993², established a slaughter

² Council Directive 93/119/CE of 22 December 1993 on the protection of animals at the time of slaughter or killing.



procedure, providing in general terms, prior stunning³ of the animal,⁴ but said nothing about how the ritual sacrifice should be performed. National laws, applying the principle of subsidiarity, will identify the conditions under which this slaughter can take place in each territory.

Countries had to determine what was meant by religious sacrifice,⁵ who was competent to do so (slaughtermen) and where it could be done (slaughterhouses). But while in most European countries there is agreement when regulating most aspects of ritual slaughter, there are some cases where such legislation varies.

In some countries the problem was determining which religious denominations could benefit from this exception; and in relation to slaughtermen there are two aspects that concern the EU countries: the accreditation of their competence to perform the work, and the authorization by the religious community.

The first question should be controlled by the State, but must be limited to checking that the slaughterer meets the technical requirements for the job. The second corresponds only to religious denominations.

Regarding the first question, in Germany slaughtermen must have training verified by a written and practical exam and obtain a license. In Spain the slaughterer is also authorized by the administration. The UK and Ireland also refer to the religious method (Muslim and Jewish) and the requirements that the butcher must possess; Slovenia provides that slaughter is performed with a religious ceremony by a person authorized by the religious community; Slovakia authorizes religious slaughter but does not define the method, although other rules provide stunning after the decapitation; Netherlands allows slaughter without stunning under Islamic and Jewish ritual; Poland permits slaughter according to the rite of the recognized faiths, and also Croatia, if the slaughterman is a person authorized by the religious community.

In relation to the second condition, most countries recognize the jurisdiction of the religious authority to oversee the act of killing or executing religious rituals, although some countries require a slaughterman expressly approved by the religious community.

Germany faced this problem in the mid 1990s.⁶ The exceptional permission related to religious slaughter was granted in order to meet the needs of members of certain religious communities where the argument is based on freedom of religion.

³ Art. 2.5 "stunning: any process which, when applied to an animal, causes immediate loss of consciousness which lasts until death."

⁴ Art. 5.1 "Solipeds, ruminants, pigs, rabbits and poultry brought into slaughterhouses for slaughter shall be: ... c) stunned before slaughter or killed instantaneously in accordance with the provisions of Annex C"

⁵ Regarding the question of how it is regulated in different countries of the European Union, ritual slaughter has been analyzed in the report brilliantly directed by S Ferrari and R Bottoni, published in February 2010, entitled "Legislation Regarding Religious Slaughter in the EU, Associated Candidate and Developing Countries." This report is part of a publication entitled "Religion, Legislation and Animal Welfare: Conflicting Standards" coordinated by K von Holleben and J Luy published on the website www.dialrel.eu.

⁶ Concerning slaughter of animals, it is stated in article 4.2.a in the German Animal Protection Law (1986) that warm-blooded animals must be stunned before slaughter. There are two main exceptions to this act. One exception is emergency situations where stunning is not possible. The other exception is religious slaughter.



The exception was mainly given to protect Jewish practice, which holds a strong position due to Germany's history of extreme anti-Semitism, although some Länder allowed ritual slaughter in the Muslim community.

But in a judgment of 15 June 1995, the Federal Administrative Court upheld the refusal of the German authorities to grant a license to perform the ritual sacrifice to a Turkish Muslim butcher. The Tribunal argued that the refusal of such approval did not suppose State interference in the right to religious freedom of the individual. Firstly, the State understood that Muslim beliefs only prohibited Muslim people from the consumption of meat that had been sacrificed with a stunning method. With this decision the right to religious freedom was not infringed because they could get Halal meat in the market. Secondly, the State argued that this exceptional authorization might be given only to those members of religious communities whose rules require a mandatory and unquestioned way of ritual slaughter without stunning. And this did not happen in the case of Islam, where there are some religious communities that do allow meat consumption in which the sacrifice has occurred with stunning.

By contrast, the Federal Constitutional Court, in a judgment of 15 January 2002,⁷ found that there had been an infringement of the fundamental rights of the plaintiff. Firstly, they understood that there had been an unjustified State interference in the exercise of the right to religious freedom of the individual by not allowing him to exercise his profession (butcher) in accordance with his religious beliefs; and consumers had to trust in a product elaborated, manufactured and marketed outside the country.

Secondly, the Court held that the term "religious community" should not be understood in a restrictive sense—that of Article 137.5 of the Constitution of Weimar—but with a broad sense, as in the judgment of the Federal Administrative Court of 23 November 2000 which states that a religious community is a group of people gathered around a common set of beliefs, regardless of whether such groups or religious communities are part of a larger religious group.

In this regard, the Court argued that unquestioned and compulsory precepts have to be those of that particular religious community. The principle of autonomy of the confession and the religious community must not be questioned. The State is not competent to make a value judgment regarding the requirements or mandatory rules that the members of the religious community must obey. Therefore, the State cannot prohibit a Muslim butcher from slaughtering without stunning if he meets the requirements of the law, even if other Islamic communities accept reversible previous stunning.

As a result of this ruling in Germany from January 2002, although the rule depends upon each land, slaughter without stunning is permitted when it is required by a rule of the corresponding religious community. The competent authority

⁷ BVerfGE 104, 337.



should be notified of this circumstance so it can monitor the number of slaughtered animals required to meet the needs of the community.

By contrast, in the case of Austria and Slovakia, only those groups or communities that have a recognized religious affiliation can sacrifice without stunning. What will happen in those countries to religious communities that do not have an officially recognized status?

Religious sacrifice is not a solved question. Animal welfare organisations, as well as other groups with laicist interests have pushed the different governments not to recognize religious slaughter. The diversity of national legislation governing the matter required a new Council Regulation in 2009,⁸ which came into force in January 2013,⁹ repealing the 1993 Directive.

Unlike the Directive, the regulation defines what should be a religious rite¹⁰ and establishes the obligations that take place in a slaughterhouse.¹¹ Moreover, it regulates the duties of the persons responsible for slaughtering¹² and business operators,¹³ and establishes that slaughtermen must have a certificate of competence¹⁴ issued by the competent authority.¹⁵

But the regulation does not establish who will be the competent authority to issue the certificate, so the problem remains unsolved. Who would certify the slaughtermen? It is evident that the State must intervene in controlling the expedition of those certificates, but such interference must come only to the point of checking that the person has the technical skills required for the position. Any other consideration shall be determined by the religious denomination. I consider that such authorization has to be issued by the State authority but always with the approval of the religious community. Only in this way can the neutrality of the State in a strictly religious matter be ensured.

Countries like France, Belgium and Italy have chosen to delegate this power to the religious authority which proposes a slaughtermen to the administration.¹⁶ The right to autonomy of the confession is thus reinforced. Any other solution would

⁸ Council Regulation n° 1099/2009, of 24 September 2009 on the protection of animals at the time of killing.

⁹ In their Considering n° 18, the Council recognised that "derogation from stunning in case of religious slaughter taking place in slaughterhouses was granted by Directive 93/119/EC. Since Community provisions applicable to religious slaughter have been transposed differently depending on national contexts and considering that national rules take into account dimensions that go beyond the purpose of this Regulation, it is important that derogation from stunning animals prior to slaughter should be maintained, leaving, however, a certain level of subsidiarity to each Member State. As a consequence, this Regulation respects the freedom of religion and the right to manifest religion or belief in worship, teaching, practice and observance, as enshrined in Article 10 of the Charter of Fundamental Rights of the European Union."

¹⁰ Art. 2. g) "Religious rite means a series of acts related to the slaughter of animals and prescribed by a religion."

¹¹ Art. 4.4.

¹² Art. 5.2.

¹³ Art. 15.2.

¹⁴ Art. 7.2 g.

¹⁵ Art. 21.1.

¹⁶ Vid. the study of Ferrari and Bottoni above mentioned "Legislation Regarding Religious Slaughter in the EU...", cit.



infringe on the right to autonomy. But the entry into force of the Council Regulation in 2013 has brought the decline of some countries on this issue. Countries such as Iceland, Norway and Sweden have difficulty recognizing the religious slaughter, while countries like Poland and Denmark have banned it.

We cannot agree with this solution. Though it is necessary to legislate for the protection and welfare of animals, this cannot mean an unreasonable restriction of fundamental rights such as religious freedom. The limitation of fundamental rights must always be appropriate, necessary and proportionate and, in this case, the right to religious freedom should prevail over any other consideration provided that the exercise thereof does not exceed the limits established by law. I do not think that the principle of subsidiarity allows these countries to lift the exemption provided for religious sacrifice.

3. CERTIFICATION AND DISTRIBUTION: HALAL AND KOSHER FOOD MARKET

Over the last 10 years a perceptible change has affected the market for meat products across Europe, targeting consumers from religious minorities. Small markets of Halal and Kosher meat have developed into big markets.¹⁷ In this context certification and distribution has become not only a matter of religious concern but also an economic and marketing issue. Economic interests play an important role for religious communities, particularly in the case of Halal. The European market for Halal food is estimated to be worth around 77 billion dollars and the Kosher market around seven billion dollars. Consumer trust becomes a crucial element for success.

“The rapid increase in consumer demand has been accompanied by a proliferation of certification bodies, often with contradictory views and practices. Though many certification bodies are non-profit organisations and some are registered as charities (in the UK), they are increasingly using arguments about market opportunities alongside religious arguments in order to stress the importance of trust in the certification process.”¹⁸

Halal and Kosher meats gain trust and consumer loyalty—or not, as the case may be—through a chain of successive qualifications and certificates that involve the process of slaughtering and the reputation of wholesalers and retailers. In this context, certification bodies have become crucial players, but they are struggling for status as trustworthy organisations.

The question is: should the State interfere with this certification process? Should it regulate the use of Kosher and Halal stamps, or leave it to the consumer to decide

¹⁷ Vid. the study by J Lever, M Puig de la Bellacasa, M Miele and M Higgin, published in November 2010 and entitled “From the Slaughterhouse to the Consumer: Transparency and Information in the Distribution of Halal and Kosher meat.” This report is part of the collection DIALREL n° 4.3 Reports published on the website www.dialrel.eu.

¹⁸ Ibid 3.



which product he prefers. And if regulated, how should they do it? What role do religious denominations play in this issue?

In the case of Islam, the problem is to determine if the prior stun is necessary or not for the sacrifice. There are doctrinal trends that allow stunning prior to slaughter, while others forbid it.¹⁹ Consequently, there are different Halal certification bodies in each country supporting different brands. All of them fight in a market that is growing fast for the same consumers. And all defend their procedures and certifying processes. Thus, what works is consumer trust in the butcher or in a particular brand.

In the case of Kosher, though religious rules do not provoke major disagreement within the community and trust in Kosher products remains high, there are other issues concerning consumers such as the concentration of certification in a single body.

A) United Kingdom

In the UK, Halal and Kosher certification is decentralized, so there are several certifying bodies. In both cases the State intervenes, regulating or limiting the number of certifying bodies; but religious certification becomes an issue that belongs exclusively to the field of religious denominations.

For the Halal market, as there are various interpretations about whether the sacrifice must be performed with prior stunning, there are different Halal certification bodies.²⁰ The real problem is the transparency of the processes to generate consumer trust.

In the UK it is a necessary *kashruth* (Jewish dietary law) requirement to mark meat indicating its status as Kosher. This needs to be done by an independent rabbinical certification, which is now overseen by “Shechita UK,” a coalition of organisations that was set up to defend the practice of Shechita and the organisations

¹⁹ At the end of the 4th World Halal Forum, celebrated at Kuala Lumpur in 2009, a resolution was passed for the continuing support for the development—through the International Halal Integrity Alliance—of a single unified Halal standard. Novel certifying bodies have emerged in different countries with the stated aim of solving the problem of whether these commercialised forms of Halal meat are really Halal. However, the relatively unclear and complex certification procedures that have emerged have in turn facilitated a failure of trust on an international scale. In the EU was established in March 2010, the European Association of Halal Certifiers grouping, 10 of them belonging to Holland, Germany, England, France, Belgium, Turkey, Spain and Bosnia. Its headquarters is in Brussels and the presidency in the first phase has been assumed by one of the German certification (Halal Control eK).

²⁰ The Halal Food Authority (HFA) and the Halal Monitoring Committee (HMC) share the biggest part of the UK market. The HFA, founded in 1994, was the first organisation of its kind in the UK and its operational discourse straddles the line between tradition and modernity. In its early days, the HFA prohibited stunning because of the uncertainty surrounding it. But in negotiation with abattoirs, this prohibition was eventually lifted, with the proviso that only reversible methods of stunning should be used.

In contrast, the Halal Monitoring Committee (HMC) is a relatively new certification body. It was created in 2003 by a group of Ulama (knowledgeable individuals), including Muslim scholars, leaders and jurists. HMC is a non-profit organisation dedicated to serving the interests of Muslim consumers, retailers and suppliers. HMC exemplifies the emergence of organisations dedicated to clarifying the certification of Halal meat by appealing to the necessity of assuring Muslim consumers’ trust. HMC claims to adopt a definition of Halal that has the possibility of being accepted by all Muslim groups. Stunning is a practice that HMC is clear about rejecting and they base part of their identity as an organisation on the fact that the meat they certify is not from stunned animals.



involved.²¹

B) Germany

The German Halal market is relatively underdeveloped in comparison to the UK market. The major certification body in Germany—the European Halal Certification Institute (EHZ)—covers the entire meat industry. This organisation was founded by the Alliance of the Islamic Communities of Northern Germany and the Islamic Council for the Federal Republic of Germany (Islamrat der Bundesrepublik Deutschland) as a non-profit organisation in the late 1990s and believes that mechanization is necessary and that companies should not blindly follow traditional rules.

Although EHZ dominates certifications, there are an increasing number of public and private sector organisations drawing attention to the potential of this issue in the German market.

In that sense, Halal Control in Russelsheim is the second largest Halal certification body in Germany. The organisation has been around since 1998, but was only fully recognized in 2001. They follow stricter guidelines, not certifying meat that has been pre-stunned. Their certification standard is based on criteria stipulated by guidelines from the Indonesian Council of Ulama on Food, general guidelines for use of the term “Halal” issued by Codex Alimentarius, as well as the Malaysian standard.

Kosher is a market that is also underdeveloped in Germany. There is a growing demand for Kosher products, but this is a small market. There is no discussion of slaughter and stunning methods going on between the customers, and most of them do not want to know where the meat comes from. Only about 10 percent ask about the shochet. A high number of German Jews are poor immigrants from the former Soviet Union and their major concerns are over price; most do not care whether their meat has a stamp that qualifies it as Kosher. Nevertheless, much as in other Kosher meat markets, trust in the local butcher is important and many consumers assume that controls are strict. In this sense, the market is transparent but supply chain integration and product visibility are low.

C) France

The French Halal market is huge and remains particularly obscure in terms of regulation, certification practices and definition. No single religious institution controls the market for Halal products. There are around 50 Halal labels in operation across France. Only some of these are independent—the others are stamps that

²¹ A high percentage of Kosher meat certification in the UK is carried out by the Kashrus Division of the London and Manchester Beth Din's. The London Board of Shechita created in 1804 no longer deals in meat and no longer owns any slaughter houses; they provide specialist shechita services to approved independent abattoirs who wholesale approved, sealed and stamped meat to retailers. Shochets certify directly at the abattoir, but the Board also inspects wholesalers, processors and retail premises; they also issue licences, for which each organisation pays the Board.

The Manchester Beth Din (MBD), created in 1892, is as an important certifier of Kosher foods in the UK outside the London area and certifies a large number of products, factories and retailers.



companies use for auto-certification.²²

Because there are many Halal stamps, the level of clarity about knowledge and agreement around the standard rules of Halal slaughter is low; this is symptomatic of a lack of religious consensus; control is neither homogeneous nor stable throughout the entire process of commercialisation. Halal meat is qualified through practices of stunned and non-stunned slaughter, but the labels rarely specify this, though some certification organisations are starting to profile themselves as offering certification based on non-stunning.

Regarding certification, we observe two conflicting tendencies. On one hand, there is widespread affirmation of the need to put the market in order; for instance, by centralising and regulating certification. This is a difficult task to do, as there is no consensus within the Muslim community regarding the rules of Halal slaughtering. On the other hand, there is an underlying resistance to regulation and to the centralisation of certification, because some believe that regulation could restrict the possibilities for further development.

France is the most important market for Kosher foods in Europe. Marketing reports calculate a €400 million market with an estimated 16 percent annual growth rate for the past 20 years. The level of clarity is high with regards to the knowledge and agreement around shechita rules. Control is relatively good and stable throughout the process of commercialisation and distribution of Kosher meat, due to good control of the production chain and the clarity of rules. But the religious certifying process was centralised for a long time in one single Jewish religious body²³ and that monopoly has been contested for a long time, notably because its tax is considered too high.

In 1995 the Jewish liturgical association, Cha'are Shalom Ve Tsedek, alleged a breach of Article 9 of the Convention on account of the French authorities' refusal to grant the necessary approval for access to slaughterhouses with a view to performing ritual slaughter in accordance with the ultra-orthodox religious prescriptions of its members. It further alleged a violation of Article 14 of the Convention in that only the Jewish Consistorial Association of Paris (*Association consistoriale israélite de Paris*—the ACIP), to which the large majority of Jews in France belong, had received the approval in question. In particular, the applicant association wished to perform

²² AVS (an acronym for "A Votre Service" [to serve you]), active since 1991, is dedicated to the certification of Halal meat and promoting transparency and "strict" control of the process according to religious rigor. This organisation is comparable to the HMC in the UK and it is gaining a reputation for a strict application of Halal rules, professionalism and transparency.

²³ The most important religious Jewish authority remains the Grand Consistoire de Paris—also significantly called the Central Consistory—which certifies around 60 percent of the market. For a long time, shechita in France was completely controlled by the Grand Consistoire and the organisation remains the most important religious organisation in terms of control—and the only one authorised by the State, since 1982, to distribute "access cards" to the abattoirs. The rabbinical court, or Beth Din, which rules on questions of religious law (marriage, divorce and conversions), supervises observance of the dietary laws and appoints and monitors the *kashrut* slaughterers and inspectors employed by the Consistory.



ritual slaughter according to stricter rules than those followed by the slaughterers authorised by the Paris Central Consistory regarding examination of slaughtered animals for any signs of disease or anomalies. In 2000 the Court gave the reason to the French State in a controversial decision.²⁴

The applicant association submitted that the refusal to approve the slaughterers could not be justified by any of the legitimate aims set out in Article 9 § 2 of the Convention and that it was disproportionate and discriminatory for the purposes of Article 14. The applicant association emphasised that the French authorities had been very open-handed in granting approvals for ritual slaughter by Muslims without the number of such approvals endangering public order or public health.

The government did not discuss the fact that Jewish dietary prohibitions and prescriptions formed part of the practice of Judaism by its adherents, but argued that they did not by any means require them to take part themselves in the ritual slaughter of the animals they ate. Accordingly, a refusal of approval was capable of affecting the practice of religion by Jews only if it was impossible for them to find meat compatible with the religious prescriptions they wished to follow.

For the government, the only impact of the refusal to approve the applicant association laid in the fact that it was impossible for Jews to choose meat from animals slaughtered by the applicant association. In the government's view, this freedom of choice was an economic, not religious, freedom.

In that sense,

“the Court notes that the method of slaughter employed by the ritual slaughterers of the applicant association is exactly the same as that employed by the *ACIP*'s ritual slaughterers, and that the only difference lies in the thoroughness of the examination of the slaughtered animal's lungs after death. It is essential for the applicant association to be able to certify meat not only as kosher but also as ‘*glatt*’ in order to comply with its interpretation of the dietary laws, whereas the great majority of practising Jews accept the kosher certification made under the aegis of the *ACIP*.”

“In the Court's opinion, there would be interference with the freedom to manifest one's religion only if the illegality of performing ritual slaughter made it impossible for ultra-orthodox Jews to eat meat from animals slaughtered in accordance with the religious prescriptions they considered applicable. But that is not the case.”

“Since it has not been established that Jews belonging to the applicant association cannot obtain ‘*glatt*’ meat, or that the applicant association could not supply them... the Court considers that the refusal of approval

²⁴ *Cha'are Shalom ve Tsedek v. France*, n° 27417/95, ECHR 2000.



complained of did not constitute an interference with the applicant association's right to the freedom to manifest its religion."

But in our opinion, the decision of the Court in this case contradicts the doctrine of the right to autonomy of religious denominations previously defended. The scope of religious autonomy was determined by the Court in the case *Hasan and Chaush v Bulgaria*²⁵ and *Serif v Greece*.²⁶

In that sense, five dissenting opinions were filed in the case. The judges considered that

"the mere fact that approval has already been granted to one religious body does not absolve the State authorities from the obligation to give careful consideration to any later application made by other religious bodies professing the same religion."

"We consider that, while it is possible for tension to be created where a community, and a religious community in particular, is divided, this is one of the unavoidable consequences of the need to respect pluralism. In such a situation the role of the public authorities is not to remove any cause of tension by eliminating pluralism, but to take all necessary measures to ensure that the competing groups tolerate each other."

"By denying the applicant association the status of a 'religious body' and by rejecting its application for approved status on that account, the French authorities therefore restricted its freedom to manifest its religion."

"In our view, the possibility of obtaining "*glatt*" meat by other means is irrelevant for the purpose of assessing the scope of an act or omission on the part of the State aimed, as in the present case, at restricting exercise of the right to freedom of religion."

"In our view, withholding approval from the applicant association, while granting such approval to the *ACIP* and thereby conferring on the latter the exclusive right to authorise ritual slaughterers, amounted to a failure to secure religious pluralism or to ensure a reasonable relationship of

²⁵ The Court establishes that "where the organisation of the religious community is at issue, Article 9 of the Convention must be interpreted in the light of Article 11, which safeguards associative life against unjustified State interference. Seen in this perspective, the believers' right to freedom of religion encompasses the expectation that the community will be allowed to function peacefully, free from arbitrary State intervention. Indeed, the autonomous existence of religious communities is indispensable for pluralism in a democratic society and is thus an issue at the very heart of the protection which Article 9 affords. It directly concerns not only the organisation of the community as such but also the effective enjoyment of the right to freedom of religion by all its active members. Were the organisational life of the community not protected by Article 9 of the Convention, all other aspects of the individual's freedom of religion would become vulnerable." Vid. *Hasan and Chaush v Bulgaria*, n° 30985/96, ECHR 2000-VII.

²⁶ *Serif v Greece*, n° 38178/97, ECHR 1999-IX.



proportionality between the means employed and the aim sought to be achieved.”

However, it seems that the French State has rectified and, in recent years, it has allowed the emergence of new Kosher certification bodies. Loubavitch (a Hassidic rabbinite) offers the second most well known procedure of control and guarantees “*Glat*” Kosher. With a sphere of influence much smaller than that of the Consistory, from the start it represented a challenge to the monopoly of the Consistory.

4. CONCLUSION

The State shall ensure its neutrality and the principle of autonomy of religious confessions, avoiding an intervention in dogmatic matters, as well as in organizational, administrative or financial issues.

An intervention should only be justified where public order is infringed. Religious certification is a private matter of religious denominations. Moreover, it is a form of financing of religious groups, and the government cannot promote one certifying body against another. Respect for the law and public order must be the only limit that cannot be trespassed.

The proliferation of certification bodies can confuse consumers, but the State cannot limit their number. It could regulate their existence by creating a guarantee mark in which all were included, only controlling technical aspects. That would allow the existence of different Halal or Kosher brands within the guarantee mark.

Consumers and believers, by exercising their right to religious freedom, will then choose the appropriate product.



SECULARIZATION, MODERNIZATION & RELIGIOUS PLURALIZATION IN LATIN AMERICA: A COLOMBIAN OVERVIEW

ROSA MARÍA MARTÍNEZ DE CODES¹

INTRODUCTION

Latin America has experienced, in the last 50 years, a broad religious transformation that is seen in the diversification of religious affiliation and a growing pluralization. Among the events that feed the new religious landscape in Latin America, and which stand out for their growth and expansion, are those religious organizations that fall under the label New Religious Movements (NRM). I refer in particular to the Pentecostal, charismatic and evangelical movements and their potential to slowly undermine the monopoly of the Catholic Church in many of the American republics, which has led in turn to a juxtaposition of groups in a competing religious field.

Following the Center for the Study of Global Christianity data (table 1), about eight-in-ten of the world's Pentecostals live either in sub-Saharan Africa (44 percent) or in the Americas (37 percent). According to this analysis, 11 percent of the total population in the Americas is Pentecostal, as is 15 percent of the population in sub-Saharan Africa. But charismatic Christian figures are higher and almost half (49 percent) of all charismatic Christians in the world live in the Americas, a region in which nearly 16 percent of the population is charismatic.

Pentecostals by Region

<i>Regions</i>	PERCENTAGE OF REGION THAT IS PENTECOSTAL	PERCENTAGE OF WORLD PENTECOSTAL POPULATION
Americas	10.9%	36.7%
Sub-Saharan Africa	14.8	43.7
Asia-Pacific	1.1	15.5
Europe	1.5	4.0
Middle East-North Africa	0.1	0.1
World Total	4.0	100.0

Source: Pew Forum analysis of data from the Center for the Study of Global Christianity. Percentages may not add exactly due to rounding.

Pew Research Center's Forum on Religion & Public Life
Global Christianity, December 2011

Charismatics by Region

<i>Regions</i>	PERCENTAGE OF REGION THAT IS CHARISMATIC	PERCENTAGE OF WORLD CHARISMATIC POPULATION
Americas	15.8%	48.5%
Sub-Saharan Africa	6.5	17.4
Asia-Pacific	2.2	29.5
Europe	1.8	4.3
Middle East-North Africa	0.2	0.3
World Total	4.4	100.0

Source: Pew Forum analysis of data from the Center for the Study of Global Christianity. Percentages may not add exactly due to rounding.

Pew Research Center's Forum on Religion & Public Life
Global Christianity, December 2011

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In addition, one-in-three of the world’s evangelicals live in the Americas (33%) and make up more than 10 percent of the worlds’s total population (table 2).

Evangelicals by Region		
Regions	PERCENTAGE OF REGION THAT IS EVANGELICAL	PERCENTAGE OF WORLD EVANGELICAL POPULATION
Americas	10.0%	32.9%
Sub-Saharan Africa	13.3	38.4
Asia-Pacific	1.5	20.8
Europe	2.9	7.5
Middle East-North Africa	0.3	0.3
World Total	4.1	100.0

Source: Center for the Study of Global Christianity. Percentages may not add exactly due to rounding.

Pew Research Center's Forum on Religion & Public Life
Global Christianity, December 2011

In 1986 Thomas Bamat questioned the roots of evangelical explosion in Ecuador in his book, *Salvación o dominación. Las sectas religiosas en el Ecuador*: “From the house across the street the rhythmic blows of tambourines and the sounds of hal-lelujahs. Shouts to the sky, the ecstasy of a new Pentecost. On the bus, an itinerant vendor of eternal truths. A fistful of incense or a pamphlet of revelations in exchange for some coins. Next to a handsome new temple, a gringo and his local colleague dressed in suits are in search of saints for the ‘latter days.’ At the door, two preachers with a copy of *Watchtower* and a chat if you have time... The newspapers and magazines show sign of alarm: ‘invasion of the sects,’ ‘cultural penetration,’ ‘evangelical explosion,’ ‘religious contest in the nation,’ ‘new imperialist strategy.’ Worry. Confusion. What’s happening?”

By the end of the last century sociologists of religion and anthropologists stopped studying the phenomenon of the invasion of the sects in Latin America, as an exported American ideology and the courageous activity of USA missionary movements, to focus on the causes of endogenous growing Pentecostal organizations; that did not depend for expansion on foreign missionaries or sponsorship of international agencies. Imported religious models that focus on speech that conveys religious “truth” were adapted by Pentecostal societies or Latino churches that worked as branches of American organizations (i.e. Assemblies of God, United Pentecostal Church International, The Foursquare Church, Church of God, Worldwide Missionary Movement, Assemblies of God Churches), as was the case of Colombia from 1932 onwards (table 3).

**Tabla 7. Algunas organizaciones pentecostales de origen norteamericano**

Organización	Año de ingreso a Colombia	Origen
Asambleas de Dios	1932	Hot Springs, Arkansas (EEUU) (1914-1916)
Iglesia Pentecostal Unida de Colombia	1937	Iglesia Pentecostal Unida Internacional (Canadá y EEUU).
Iglesia Cristiana Cuadrangular	1943	Los Ángeles, California (EEUU) (1922). Fundadora: Aimee Semple McPherson
Iglesia de Dios	1945	Tennessee, Carolina del Norte (EEUU) (1886)
Movimiento Misionero Mundial	1963	San Juan de Puerto Rico (1963). Fundador: Luis M. Ortiz
Asamblea de Iglesias Cristianas		Nueva York (EEUU) (1939).

W.M. BELTRAN, Del monopolio católico a la explosión pentecostal. Pluralización religiosa, secularización y cambio social en Colombia, Universidad Nacional del Colombia, Bogotá, 2013.

However, beginning in the 1960s this pattern started to break up. New Pentecostal churches were started and new indigenous charismatic leaders raised up their own religious groups. Some of these groups have reversed the trend, exporting their movements to the United States and then to Europe or Africa (for instance, the Light of the World and the Assemblies of God.) They broadcast their management models everywhere and have launched multilateral strategies for growing networks in the rest of Latin America, Europe, Asia and Africa.

Towards the end of the 20th century, experts began to point out that the pluralization phenomenon was not a marginal one. On the contrary, it should be analyzed as a manifestation of a cultural change. What launched the process of religious pluralization? What political, economic, demographic, and cultural factors are associated with such a process?

Two long-running processes help to explain this phenomenon: 1) the exclusive modernization experienced by most Latin American societies in transition from a traditional agrarian economy to a capitalist economy embedded in international markets; and, 2) a unique secularization process that distinguishes Latin America.

The exclusive modernization process (i.e. opening markets, development of ways and means of communication, urbanization and industrialization) has a number of side effects, such as population explosion, massive migration, high rates of unemployment and the exposure of large sectors of the population to the *anomie*—or instability in society caused by erosion or abandonment of moral and social codes. These factors have favoured the growth of the NRM.

In the context of a rapid and selective urbanization, large sections of the population have been exposed to a widespread *anomie*. They have been pushed to find spaces of sociability that allow them to rebuild their identity and solidarity networks, purposes for which the NRM seems to be a valid alternative.

Any observer can realize that the transit from Catholic religious monopoly to free competition in the market of the symbolic goods of salvation is a process in which religious affiliation depends on less traditional factors and complies with increasingly personal preferences.



Closely related to this process of modernization, the religious pluralization of Latin America has to do with the process of secularization which dominates in the West; although some of its key features do not work in the Latin American context. I refer in particular to the privatization of religion, rationalization and the idea of the end of religion in modernity. This leads us to reflect on the validity of the paradigm of secularization and to question its universality in the West. In fact, what happens in the Western margins is a completely new process that calls into question the paradigm and deserves to be examined closely to rethink the role of religion in societies.

Rationalization is related to the processes of disenchantment and to bureaucratization. The more modern societies are organized around the instrumental reason the more they deviate from the magic, but it does not seem to be the dominant situation in Latin American societies.

On the other hand, the secularization process has not been characterized in Latin societies by the decline of religious practices, but, on the contrary, for its revival, thanks to a process of reconstitution of religious groups. You can find thousands of groups and religious offerings that constitute a market of free competition where the NRM has implemented new dynamics of production, distribution and consumption of religious goods.

Last, but not least, the religious pluralization process does not seem to register in a logic of breakup but of cultural continuity. Although the migration of the faithful towards NRM represents a change of life for the converts and their families, that does not constitute the transit toward a new system of values or a new social structure. Rather, it is the opposite; the migration of the faithful has been possible thanks to the existence of a core of values, beliefs and common practices.

That is to say, the religious pluralization in Latin America follows the paths of affinity and cultural inertia. This approach explains the success of the Pentecostal movement as akin to the so-called *popular Catholicism movement* and would also explain why the NRM which most deviates from the Catholic tradition—Mormons and Jehovah's Witnesses—needs longer to build its legitimacy and to expand in America.

Around 90 percent of the population in Latin America is identified with Christianity, whether Catholic, Protestant, or Pentecostal. Nowadays religious reconstruction—rather than eroding Christianity—has implemented its revitalization, despite being a shifting Christianity where new religions and new cults try to fill the gaps of a “modernity” that arouses expectations that cannot be met.

SECULARIZATION, MODERNIZATION AND URBANIZATION: THREE KEYS TO SOCIAL CHANGE IN COLOMBIA

Colombian society is currently undergoing a process of secularization which has gone hand-in-hand with cultural transformation. Among these last ones, we can highlight the reconstruction of religious affiliation. As a matter of fact, such a



process has had paradoxical effects since it has not induced the decline of religion; on the contrary, it has rekindled religious practices, as well as competition between the Catholic Church and the New Religious Movements regarding the loyalty and commitment of the faithful.

A few decades, ago being Catholic and following the guidelines of the Catholic Church meant accepting the natural order of things in Colombia. Indeed, the Catholic heritage of its colonial past and the vicissitudes of its building up as a nation state allowed the Church to establish itself as the most powerful institution in Colombia, both in the public and the private sphere.

This situation was reflected in the 1886 Constitution which recognized Catholicism as “the religion of the Colombians” and as “a core issue of the social order.” Thus the authorities were asked to protect it and to guarantee its respect: “Catholic, Apostolic and Roman religion is that of the nation; the public authorities will protect it and will guarantee to be respected as an essential element of the social order” (Article 38). Consequently, Catholicism became the core pillar of the Colombian identity and the Catholic Church served the cultural monopoly, the social control and the political mobilization.

Nowadays, the temple, the cross and the bell are reminiscence of the past. It is true that the Catholic Church prevails as the most important institution in Colombia and its influence on society and the State is notorious, but its exclusivity and legitimacy are being questioned by a multitude of new religious goods. New temples and cults multiply today in any Colombian city and succeed—in certain regions and sectors of society—in challenging traditional Catholic leadership. So the process of religious pluralization activates a new social situation where the Catholic Church no longer has absolute monopoly over the symbolic goods of salvation.

The beginnings of that process lie in the so-called period of violence (1948-1958) when secularization in Colombia was fueled by a series of government policies aimed at inserting the country into the orbit of the international markets. The population explosion and rapid urbanization of the country weakened the social control mechanism that the Catholic Church kept on the population. It is usually mentioned that mass migration of peasants to the cities enfeebled traditional community systems such as neighborhood relationships or *compadrazgo* (godfather) and worsened the crisis of few taking up priestly and religious vocations.

At the end of the 1950s, priests were in short supply in the cities which housed more than 50,000 inhabitants. Since then, the Catholic Church has not had enough servers to effectively serve the religious needs of the new urban masses. By way of example, currently 343 Catholic chapels are registered in Bogotá, a considerably lower number than the 919 places of worship reported by non-Catholic Christian movements.

In the words of Fabián Marulanda, General Secretary of the Colombian Episcopal Conference between 2002 and 2009, “the core of the problem is that a major-



ity Church, which boasts with nearly 90 percent of the population, is insufficient to reach all personally.... Many are left without direct influence of the Catholic Church, and are easily captured by other churches and sects,” adds the prelate. “But it is a normal sociological phenomenon: the majority groups always produce big empty holes and lose the mystique.”

The problem is not only the low number of priests, but the lack of religious agents in general: deacons, catechism, etc: “Unlike the new congregations,” concludes Marulanda, “the lack of mystical evangelizing among our laity has led us to the policy to serve those who come and to not look for those who are missing.”

In a context of rapid urbanization and modernization, much of the population was exposed to a situation of maladjustment and uprooting that pushed some social sectors, particularly the most excluded, to seek social spaces that would enable them to rebuild their existential sense, identity-based structures and networks of solidarity.

Such needs began to be fulfilled by the so-called new religious movements (NMR). Among these stands out the Pentecostal evangelical movement which since the end of the 20th century has proven to be the only rival with ability to dispute the Catholic Church leadership in the religious sphere in Colombia. Pentecostalism has great flexibility and adaptability—strategic advantages in a society in fast transformation—in comparison to the Catholic Church, which is centralized and hierarchical,—thus making it difficult to adapt to the new social conditions.

Thus in Colombia—as is largely true throughout Latin American—the percentage of faithful who leave the Catholic Church has risen simultaneously with the growth of modernization. Currently, the faithful tend to follow their own tastes and preferences in religious matters and depend less and less on the family tradition. In other words, religion is becoming less “something that is inherited,” and rather “something that is chosen.” The result of this scenario was that the modernization, secularization and urbanization of Colombian society went hand-in-hand with the expansion and growth of new religious goods.

This social change has been recognized by a new legal definition of Colombian society through the Constitution of 1991, which—unlike the previous one, 1886—does not favor any religious confession and guarantees the freedom of conscience and worship. Article 19 states that: “Freedom of religion is guaranteed. Every individual has the right to freely profess his/her religion and to disseminate it individually or collectively. All religious faiths and churches are equally free before the law.”

THE ROLE OF NEW RELIGIOUS MOVEMENTS IN THE PROCESS OF COLOMBIA PLURALIZATION

Figures show that the Pentecostal evangelical movement dominates the non-Catholic religious subfield in Latin America. But it is not a static movement built around a homogeneous body of practices and beliefs; on the contrary, it is the result of various currents coming from cultural exchanges that generate processes of



hybridization with other religious systems. Currently these processes of hybridization are encouraged by the demand for a competitive religious market. In the case of Colombia, Pentecostal/evangelical trends have adopted elements from the Catholic popular religiosity and indigenous traditions. These three systems—Indian, popular Catholicism and Pentecostal—share certain beliefs in the spells, curses and the power of demons.

In this sense, the most vulnerable are attracted by magical-religious offerings that promise miracles, healings, and economic prosperity. It could be argued that Colombian society has never been disenchanting, i.e. has never stopped observing the magical-religious offerings as an alternative to deal with their problems by cultivating good luck and nourishing hopes for the future.

The political class has neither sidelined this religious offer as it is inferred from the visit that President Santos made—after winning the elections for the first time on August 7, 2010—to the indigenous community of the Sierra Nevada de Santa Marta. While there, he and his family requested the blessings of the Mamos Indians, who gave him the spiritual investiture as a firm foundation for his ideas in his four years of government.

On the other hand, as we have mentioned, new religious movements are privileged places for the reconstruction of identities, because they operate as “communities of sense;” i.e., they constitute communities by means of which members are actively involved in the production and maintenance of a “social belonging,” enabling them to orient their lives and participate in values and systems of classification that are not perceived as imposed or prescribed, but as a repertoire of possibilities.

New Religious Movements promote the formalization of families through marriage and condemn concubinage and domestic violence, which is a source of security for women and children in a society where domestic violence and neglect are daily events. In the same way they condemn addictions, especially alcohol and cigarette consumption.

In this way New Religious Movements promote changes in consumer habits that translate into greater availability of economic resources to the converted, even if it is considered that any new religious membership implies tithing or some other type of financial contribution. These resources are available to be invested in the home and in the training of their children. They preach values like dedication to work, honesty, responsibility and discipline. On the other hand, the dynamics of partnership and cooperation that are woven between their members constitute spaces for the creation and reproduction of social capital.

The migration of the faithful of the Catholic Church towards the New Religious Movements, especially to Pentecostalism, has been possible thanks to a core of values shared by the various strands of Christianity. This migration of the faithful is not random or chaotic, but follows the paths of cultural affinity. In other words, believ-



ers who drop out of Catholicism more frequently seek religious choices perceived as similar or related.

The Pentecostal movement is the one that most benefits from this trend, insofar as it shares several features with the popular Catholicism; for example, magic, and an emotional dimension that includes the supply of miracles and belief in spirits and demons that act in this world. On the contrary, New Religious Movements that deviate from popular Catholicism are mostly minorites and observe a lower growth rate.

This hypothesis could explain why religious movements that emphasize learning and the rationalization of a dogma or beliefs, and that do not supply magical resources—like historic Protestantism, Mormons, Seventh-day Adventists and Jehovah Witnesses—have growth rates significantly lower than the Pentecostal movement.

LEADERSHIP AND PRACTICES IN PENTECOSTAL AND CHARISMATIC MOVEMENTS

Religious change in Colombia is related, moreover, to the growing importance of the charismatic religious leadership. The traditional hierarchical authority of the Catholic priest is facing the authority of charismatic types represented by religious leaders who exhibit extraordinary qualities, such as power over disease and demons. However, and paradoxically, the proliferation of religious leaders of charismatic types is not exclusive to Pentecostalism. Even in the bosom of the Catholic Church are increasingly numerous priests emerging, not under the Church's hierarchy, but thanks to their own charisma.

A phenomenon closely associated with the increased valuation of the charismatic leadership is the prominence of the laity in all religious movements. The most successful religious organizations encourage laymen to contribute to corporate goals and to “evangelize” in order to get new faithful. In fact, the most charismatic laymen are promoted as shepherds or choose to establish their own religious organizations. In Colombian cities informal religious organizations known as “garage churches” are founded and managed by lay people acting as independent religious entrepreneurs and, in most cases, charisma is their sole capital.

Thus, in a society characterized by exclusion—with high rates of unemployment and underemployment—consolidating a religious organization today constitutes a possible alternative for economic inclusion and social ascent. Although there are few charismatic entrepreneurs who have consolidated a successful religious organization, those who get it enjoy prestige, social recognition and economic power—relevant benefits that they can capitalize on in the political field.

The success of Pentecostalism has resulted in the “Pentecostalization” of historical and evangelical Protestantism. In Colombia, as in much of Latin America, the various Protestant trends have adopted practices and strategies which were considered typically “Pentecostal,” as the background music for the cult and the supply of



miracles, in order to attract new worshippers.

This process has been closely linked to “nationalization” of Protestantism. In other words, the local pastor found in Pentecostalism a way to consolidate his own religious identity with certain autonomy from imported Protestantism and from institutional Catholicism.

In addition, the Pentecostal expansion has stimulated the Pentecostalization of Catholicism, a phenomenon which is expressed in the consolidation of the Catholic Charismatic Renewal Movement. Charismatic Catholics emphasize “personal encounter with Jesus Christ;” the importance of prayer; the reading of the Bible in everyday life; and include among their practice glossolalia, miracles, exorcisms, and the use of music as a medium to achieve religious ecstasy. The Charismatic Catholic Movement is attractive to the popular masses who do not understand the language of modern theology nor the coldness of Sunday worship.

In summary, the process of religious pluralization is changing what being Catholic in Colombia means. In fact, Catholic identity is more and more associated with an individual decision and with the change of life involving a conversion experience. Even in Catholicism there are many converts who have restored their faith and have assumed a greater commitment to their Church after living a “personal experience with God” or “a personal encounter with Jesus Christ.”

STATE RESPONSES TO RELIGIOUS MINORITIES

a. Religion and Politics

The space for the recognition of the ethnic, cultural and religious diversity which created the 1991 constitution blurred the relationship between religion and politics. Pre-1991 constitutions generally favored the Catholic Church and some feel that they “had the effect of discounting other religious groups and denying these groups the possibility of vindicating their basic rights.”

The 1991 constitution does not declare an official state religion or church, and it states that all religions and churches are equal before the law. Though a 1973 Concordat between the Colombian government and the Vatican remains in effect, Colombia has distanced itself from its historical characterization as a Catholic state. Specifically, “some of the articles of the Concordat are unenforceable because of constitutional provisions on freedom of religion.” As a matter of fact, the Concordat did not extend to non-Catholic religious entities various international human rights norms in matters such as: religious liberty; equality of rights with respect to marriage (both during the marriage and in dissolution); freedom to teach (the right for educational institutions to teach without Catholic influence); the autonomy, rights, and liberties of indigenous peoples; and the right of military personnel to receive religious assistance according to their beliefs.

The Court further distanced itself from privileging the Catholic Church and



promoted religious equality before the law by invalidating Colombia's official dedication to the *Sacred Heart of Jesus* and "declaring unconstitutional any official government reference to a religious characterization of the country."

Constitutional Court Decision N° C-350 (1994) stated that the "most extensive character of a particular religion does not imply that it can receive privileged treatment from the state; therefore, the [1991 constitution] has conferred equal jurisdiction value on all religious confessions, independent of the number of believers it has."

On the other hand, Christian political parties have had a significant role in several electoral processes in Central America, Brazil and the Andean countries. In Colombia, the process has been particularly important, linked especially to the work of the National Constituent Assembly of 1991, which included two representatives from evangelical parties, the Christian Union Movement and the Christian National Party supported by the Evangelical Confederation of Colombia (CEDECOL).

In 1993, Viviane Morales, as congressman and representative of the Christian Union, led the religious liberty project and that got the Colombian Congress to fortify religious rights outlined in the constitution. For example, Law 133 of 1994 both strengthened individuals' freedom of belief and "addressed the organized existence of churches and religious confessions as legal persons with the capacity to produce legal effects in the normative, fiscal, and civil public law." It also addressed the regulation of religious entities "to assure the coexistence, equality, liberty, pluralism, human dignity, and beliefs of all persons [in Colombia] . . . and to protect the freedom of sects and religions of all persons." The main limitation Law 133 places on freedom of religion and worship is the protection of others' rights and the safeguarding of public order and safety. It also marginalized, left unregulated, as the Spanish Religious Freedom Law, activities related to "psychic . . . phenomena, Satanism, magical, superstitious, or spiritualistic practices or other similar practices that are alien to religion."

To summarize, Law 133 explicitly states that, "[n]o Church or Religious Confession is or will be the official or state [church]. Nevertheless, the State is not atheistic, agnostic, or indifferent to the religious feelings of the Colombians." Being Catholicism is the majority religion in Colombia, "[s]ome interpret this statement to mean that the state unofficially sanctions a privileged position for Catholicism." In addition, Law 133 recognizes the Catholic Church as a legal entity of public law, a status that no other religion enjoys (Article 11). Nonetheless, judicial developments have limited the idea of a Catholic state religion.

Three years later within the presidential period of Ernesto Samper, the first Agreement between the Colombian State and some non-Catholic Christian religious entities was passed. Of special significance, non-Catholic religious groups were part of the Internal Public Law Agreement No. 1 of 1997 in order "to minister to their adherents in public institutions such as hospitals or prisons, provide chaplaincy ser-



vices and religious instruction in public schools, and perform marriages recognized by the state.” Such an agreement, led also by Viviane Morales was “a novel legal alternative to creat[ing] relative conditions of equality for certain non-Catholic, Christian religious denominations before the Catholic Church.” When assessing whether to include a religious group in this agreement, the government considers the group’s “total membership; its degree of acceptance within society; and other relevant factors, such as the organization’s statutes and its required behavioral norms.”

In conclusion, New Religious Movements are “active minorities;” i.e., movements that, because of the commitment and discipline of their faithful, have reached a considerable social visibility, expressed via protests and demonstrations, as well as a broad presence in the mass media and in the political arena. Pentecostal pastors of large religious organizations have used their influence over these minorities to transform religious fidelity into votes, thus getting dividends in the field of electoral politics. At the same time, participation in politics has helped these leaders to increase their visibility and social influence.

Until now, it has been hard to evaluate the performance of the Pentecostal and Evangelical leaders in the political sphere. They have managed to convert their religious capital into political capital in order to participate in the struggles of the electoral political field. But do they stimulate democratic processes or reproduce schemes of domination as clientelism and patronage? If they reproduce models of patronage, the faithful are manipulated and remain outside of the responsibility to make decisions. If, on the other hand, the religious leaders want to stimulate democratic participation, it would be necessary to have a greater cohesion among the various groups; the role of the Evangelicals and Pentecostals in politics should not end up with the formation of lobbies depending on their interests. On the contrary, the democratic debate may well be enriched by the values and Christian ethical principles.

b. Indigenous and Afro-Colombian People

On the other hand, black, indigenous and mestizo communities are no longer passive players; they have become key factors of religious change and promote the need to develop theological and pastoral proposals in the context of the recognition of ethnic diversity. Indigenous and Afro-Colombian authorities are free to prohibit or limit proselytizing by Christians or other religions within their reserves and protected territories if they feel it threatens their cultural identity.

In Colombia, the rights of indigenous and Afro-Colombian people have conflicted with the religious freedoms of those that contact their communities. Interference with the authority of governing counsels, local customs, and the overall autonomy of indigenous peoples violates the constitution. For example, a provision of the 1974 Concordat that allowed the Roman Catholic Church to form a permanent commission “to develop and oversee the progressive human development of



indigenous peoples” was ruled unconstitutional “because it violated constitutional rights of ethnic minorities and their communities” and placed their religious confessions on unequal footing. Also, the Constitutional Court held that evangelical pastors could not enter and teach their converts in an indigenous community where the local authorities claimed that the pastors threatened the traditional Mamo religion and indigenous culture by teaching prohibition of various religious practices and customs.

Apart from limiting proselytism, indigenous authorities have power to restrict public expression of religious ideas, punish local converts who embrace Christianity or other religions, prohibit construction of Christian buildings or churches, and prohibit Christian teaching in local schools. Essentially, in Colombia, religious freedom to teach in indigenous communities has prevailed over ethnic and cultural pluralism, “only when it has been in harmony with the cultural values of the indigenous community and has respected the integrity of the social, political, and cultural forms.” Though indigenous and Afro-Colombian people enjoy significant autonomy concerning religious practices, they do not enjoy great religious freedom outside their communities. They often practice animism and syncretic beliefs, which enjoy relative constitutional protection when practiced in their Afro-Colombian collective territories and indigenous reserves, but they do not enjoy legally protected expression when performed outside of these areas (Law 133).

Currently in Colombia, perhaps the greatest source of violations of religious freedom—as well as many fundamental human rights—are the threats, violence, murders, and displacement of Colombians due to conflicts between guerilla groups and right-wing paramilitaries and state security forces. Official figures suggest 3.5 million Colombians are displaced, the majority of whom are indigenous or Afro-Colombian.

Armed groups also use extortion to intimidate church leaders, many of which flee their home regions, and “entire Christian communities have been displaced.” Additionally, guerillas displace indigenous and Afro-Colombians, which displacement is especially damaging to both their animistic and syncretic religious practices as well as their cultural identity, which are both intimately tied to their territory.

Protestant leaders noted that isolation and fear of retribution in rural communities generally led to underreporting of clergy assault, harassment, and murder. Religious leaders reportedly chose not to seek government protection because of pacifist beliefs and fear of retribution by terrorist groups. However the nongovernmental organizations (NGOs) Justapaz and CEDECOL continued to report threats from terrorist groups and criminal bands and forced displacement of clergy and church members associated with the Association of Caribbean Evangelical Churches in Cordoba.

These days, the current peace process between the FARC and the government of Colombia has generated high expectations among Colombian society, as it raises



the hopes of a significant decreasing of the violence and the deepening and consolidation of democracy.

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A COMPELLING CASE FOR FREEDOM OF RELIGION OR BELIEF: FOUNDATIONS, SIGNIFICANCE AND SCOPE OF THIS HUMAN RIGHT

GANOUNE DIOP¹

INTRODUCTION

To revisit the basics of freedom of religion or belief is a pressing task given the widespread disregard of this needed human right. This reflection attempts to answer the following questions:

- Why is freedom of religion or belief so important to promote and protect?
- Why is freedom of religion central to peace in any given context?
- Why is freedom of religion necessary for the flourishing of any democratic society?
- Why should all people groups and nations adopt this fundamental freedom as a major component of their constitutions, and embrace it also as a human, political, civil, social, and cultural right?

The foundational postulate of the following reflection is that every person is entitled to make claims about the veracity of his or her faith or philosophical convictions. Everyone should enjoy this right. There should be immunity from being persecuted or reviled because of one's belief to have absolute truth. Freedom of thought, conscience, opinion, and expression are inseparable from freedom of religion or belief.

All religions claim to provide an antidote to the predicament humanity is entangled in. Hindus called their religion the everlasting "dharma." The paths they suggest, such as Karma yoga, Raja yoga, Jana 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

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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 its 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, the Christian's 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 merely anthropocentric perspective.

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. All human beings facing the fragility, uncertainty and transient nature of human existence seek to find meaning that explains 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 sharing the world's space and resources, is to embrace other people's humanity without necessarily endorsing their beliefs.

Even within any given tradition there are differences in 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.²

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

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.

A. GLOBAL CONTEXT AND THE EMERGENCE OF INTERNATIONAL HUMAN RIGHTS

In a previous article we made a case that our current global context has been influenced and to a large degree shaped by two key events: The Enlightenment project and more recently the landmark ratification of the Universal Declaration of Human Rights. Both these events have been greatly influenced by the principle of human dignity. In a previous article we mentioned the impact of the Enlightenment project. In this article we will highlight the landmark importance of the Universal Declaration of Human Rights (UDHR)

The Universal Declaration of Human Rights (UDHR)

The post-World War II context laid the foundation for a model of human rights. It is postulated that this model is constructed in three phases:

² See June McDaniel, "Religious Experience in Hindu Tradition," *Religion Compass* 3/1 (2009), 99–115.



- Phase one is defined by debates over foundational values upon which human rights might be claimed. The 1948 Universal Declaration of Human Rights exemplifies it.
- Phase two concerns standard setting. It is the period during which all the major pieces of international law were created.
- Phase three seeks to develop institutional machinery for implementation. The current period, which is devoted to creating practices to secure the central values and standards agree with the first two phases.³

The hopes were high for the dawn of a new era in international relations characterized by peace between nations and among people groups. The following quotation captures well the initial optimism.

“With the end of the Cold War, many believed that the promises set out in the Universal Declaration would now be realized. The potential threat of nuclear war between East and West, which has dominated the international agenda since the end of World War II, was removed. The collapse of socialist states was portrayed as providing the long-awaited opportunity to place human rights at the center of global politics. Human rights would at last realize its claim as the ‘idea of our time.’ Within the space opened by the post-Cold War era, it was assumed that civil society organizations would flourish, creating new social networks devoted to exposing violations and injustices wherever they occurred and thus enable international society to fulfill its promise to promote and protect human rights. In future, it was argued, states would develop and exercise an ethical foreign policy guided by the values found in the human rights regimes.”⁴

What we find in our world today, however, is a paradox.

In a recent publication stemming from a landmark symposium in Istanbul sponsored by the John Templeton Foundation, bringing together research findings on the vital issues of religious liberty, constitutionalism, law, and societal dynamics, it is stated that:

“This volume addresses a profound paradox of our age: at the very time that the value of religious freedom is mounting, the international consensus behind it is weakening, assaulted by authoritarian regimes, attacked by theocratic movements, violated by aggressive secular policies, and undermined by growing elite hostility or ignorance. Indeed we see not only widespread violations around the world, but looming threats in the West that jeopardize previous gains. In spite of UN recognition of religious freedom as a universal human right, only a minority today enjoys

³ Tony Evans. *Human Rights in the Global Political Economy: Critical Processes* (Boulder, London: Lynne Rienner Publishers, 2011), 10.

⁴ Idem 12.



the kinds of liberties of conscience and belief called for in international covenants.”⁵

If the potential for nuclear war between East and West was the major issue of the Cold War era, today, though not exclusively because there are other factors to take into consideration, the conflict between worldviews of liberal democracies and tribal societies is at the fore of current geopolitical issues. The overarching goal of numerous organizations, states, agencies, and NGOs, seems to be the building of a global society that is more humane, a society where the human subjects live in solidarity to all other human beings. This solidarity is best expressed when motivated by the conviction that human dignity is shared by the whole of the human race.

Moreover, we postulate that freedom of religion or belief, an incontrovertible expression of human dignity, is a core characteristic of what it means to be human and humane. The enjoyment of freedom of religion or belief is a sign according to which every person’s dignity is recognized, affirmed, and protected by law. The current state of national and international affairs in reference to freedom of religion or belief shows a troubling trajectory.

B. FREEDOM OF RELIGION OR BELIEF: A CONTESTED RIGHT

The paradox is that in spite of its inconvertible connection to all freedoms, to justice, and to peace, freedom of religion or belief as a human right is increasingly contested.

“In spite of UN recognition of religious freedom as a universal human right, only a minority today enjoys the kinds of liberties of conscience and belief called for in international covenants.”⁶

Freedom of religion is one the most violated of the universal human rights. The global restrictions on freedom of religion are currently estimated at 76 percent. We translate this to mean that the dignity of three-fourths of the world population is trampled when they are denied their fundamental right to freedom of religion. But even where gains have been considerable, especially in the Western world, there are increasing challenges to this inherent human right.

According to the UN Special Rapporteur on Freedom of Religion and Belief:

“An urgent need exists for more conceptual clarity concerning freedom of religion or belief, not only in order to defend this right against inimical attacks from outside, but also to strengthen the consensus about the significance of freedom of religion or belief within the human rights community itself.”⁷

⁵ *The Future of Religious Freedom: Global Challenges*. Edited by Allen D Hertzke (Oxford: Oxford University Press, 2013), 35.

⁶ *Ibid.*

⁷ Heiner Bielefeldt, “Misperceptions of Freedom of Religion or Belief,” *Human Rights Quarterly*, Volume 35, Number 1, February 2013, 33-68.



He goes on to show that the causes of such downplaying of the status of freedom of religion as a human right are multifaceted. Of course, one could evoke totalitarian regimes but also the so-called pretext to combat defamation of religions, the preservation of state imposed interreligious harmony, or the promotion of ideological versions of state secularism.

At their root all attempts to deprive human beings of their right to freedom of religion or belief share a disregard of human dignity.

1. Definitions and Scope

A consideration of the meaning of freedom of religion or belief may be *a propos* to show how it is connected to human dignity.

Freedom of belief is one of the foundational principles behind the Universal Declaration of Human Rights agreed upon in 1948. Article 18 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 and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.”

Professor Heiner Bielefeldt has helpfully highlighted key aspects that are at times contested but are an intrinsic part of freedom of religion.

“Human beings have the freedom to adopt or change a religion or belief, to persuade others by engaging in non-coercive missionary activities, to hold worship and other ceremonies either alone or with others, to abandon a religious community, to manifest their convictions in private or in public, to educate their children in conformity with their own faith, to import religious literature from abroad, and to communicate across state boundaries.

“If people join together in old or new religious or belief communities, these communities should be able to undertake important functions, such as owning property or employing staff, which may require a status of legal personality that should be accessible without undue bureaucratic burdens.”⁸

The 2014 USCIRF report expands the understanding:

“These include: wearing religious dress or symbols; observing dietary restrictions; participating in rituals associated with certain stages of life; possessing property rights regarding meeting places; and maintaining the freedom to manage religious institutions, possess, publish, and distribute liturgical and educational materials, and raise one’s children in the reli-

⁸ Ibid.



gious teachings and practice of one's choice.”

Religious freedom is further defined as follows:

“Religious freedom...is the right, protected by law, to engage in the religious quest, either alone or in community with others, in private and in public. It begins with an interior right to believe or not. It typically carries the believer into relationships with others of like mind and spirit and, ultimately, into associations that have both private and public services, the purchase or sale of property, investment of funds, building houses of worship, training clergy, and inviting others to join the religious community.

“Some religious acts, by individuals or communities, represent a public pursuit of religious obligation, or witness of truth claims, in civil society: for example, the establishment of religious hospitals, schools and colleges, homes for the aged, soup kitchens, or immigration services. Some carry religious actors into political discourse and competition, forming religion-based political arguments for or against laws and policies.

“Religious freedom is the civil right of both individuals and communities to perform these acts on the basis of full equality under the law.”⁹

Freedom of religion or belief, also called religious liberty, is essentially the freedom to live in accordance with one's conscience or belief.

Freedom of religion is explicitly recognized in international law through:

- The UN Charter
- The International Covenant on Civil and Political Rights
- The Helsinki Accords
- The Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief
- The European Convention for the Protection of Human Rights and Fundamental Freedoms
- Three pillars that are connected to the idea of freedom sustain the whole UN system.

Freedom of religion or belief contributes to the realization of the pillars of the UN, where peace and security, justice and development, or human rights in terms of individual liberty, personal equality, and life in dignity.

2. Perspectives on Religious Freedom

A. An Overview

- Religious freedom is a human right. It is not to be considered as a mere favor given by a government.

⁹ Bigquestionsonline.com.



- It is a fundamental freedom of universal value.
- It ranks first among other freedoms. The idea of the primacy of freedom of religion or belief is defended on the basis that it is a tangible expression of the most intimate freedom, freedom of conscience.
- It is central to all freedoms. Religious liberty can be positioned as a centerpiece among other freedoms. In the context of American democracy, for example, religious liberty is commonly called the first freedom. It is a widely held view in the context of the Human Rights community that all freedoms are interrelated, interdependent, and indivisible. Religious freedom, however, is central to all other freedoms and inseparable from the very concept of human rights.
- It is the precondition of any meaningful covenant. This is because freedom of religion or belief is inseparably connected to freedom of conscience. Early in the records of Judeo-Christian Scriptures, freedom of choice seems to have been underlined: The Israelites were told: “Choose today whom you want to serve” (Joshua 24:15). In the so-called New Covenant, Jesus pressed His disciples to choose to go or to stay with Him. Without the prerequisite of this choice, no genuine covenant is possible. Love itself loses all chances to become a reality without freedom of conscience. For love cannot be forced.
- It is a freedom without which no other freedom can be fulfilled. In other words, it is necessary for the flourishing of the other freedoms. “Religious freedom is the *sine qua non* of living freely. You may allow me to vote, own property, and associate freely in the public square in every other way. But if you do not permit me to speak and to act on those beliefs about ultimate reality that define who I am and why I am on this earth, then the other freedoms mean little. In a very real sense, then, all human freedoms depend on the freedom of religion.”¹⁰ As such “Religious Freedom is the prerequisite for and the guardian of all other freedoms.”¹¹
- Religious freedom is a compound freedom. It includes the freedom of thought, of conscience, of expression; the freedom to choose or to change religion; the freedom to invite others to join your faith tradition and to publicize written material through various contemporary means. In other words, other fundamental freedoms are integral elements of religious freedom. As Nathan Hitchen explains, “The logic is that religious freedom is a compound liberty, that is, there are other liberties bound within it. Allowing the freedom of religion entails allowing the freedom of speech, the freedom of assembly, and the liberty of conscience. If a regime accepts religious freedom, a multiplier effect naturally develops and pressures the regime toward further reforms. As such,

¹⁰ Thomas Farr, “Is Religious Freedom Necessary for Other Freedoms to Flourish?” *Big Questions Online*, August 7, 2012.

¹¹ Religious Freedom: Main Statements by the WCC 1948-75 (Geneva, 1976).



religious liberty limits government (it is a “liberty” after all) by protecting society from the state. Social pluralism can develop because religious minorities are protected.”¹²

- Religious freedom is the civil right of both individuals and communities.
- Religious freedom is a core relational value. It is any person’s right and prerogative to share one’s beliefs and hopes without coercing, deceiving, or manipulating others.
- Religious freedom is an expression of spiritual freedom. The depth of this freedom, the freedom of the mind, explains why people can maintain a free state of mind even when their rights of movement are restricted. Such seemed to be the case, for example, when, according to the book of Acts, Paul and Silas were singing during their incarceration.
- Freedom of religion means freedom from persecution, freedom from being coerced, freedom from being forced to remain in a given religion, ideology, worldview, or cultural allegiance.
- Religious freedom is an antidote to state totalitarianism.
- Freedom of religion or belief creates the condition for partnerships between state agencies and faith-based organizations.
- Religious freedom is a factor of social cohesion, a contributor to a harmonious coexistence of various religious and non-religious individuals and groups. It contributes to social stability. It is proven that where there is hostility toward religious groups there will be instability, violence, and warfare. This has been the reason why the moral center and chief objective of American diplomacy should be the promotion of religious freedom. America’s founding generation identified religious freedom as “the first freedom” and a pre-condition for the other freedom (see James Madison’s statement on the issue: “This duty is precedent, both in order of time and degree of obligation, to the claims of Civil Society.”)¹³ The Second Vatican Council’s adoption of religious freedom for all seems to have helped trigger a movement toward democracy in Catholic countries, thereby encouraging the emergence and merging of the other freedoms. “Until religious liberty became part of an interlocking web of key freedoms, the others seem to have been insufficient to trigger either a transition to democracy or its consolidation.”
- In essence, freedom of religion or belief is connected to what it means to be human. To deprive anyone of this freedom is to rob that person of his or her very humanity.¹⁴
- The foundation of freedom of religion is human dignity.

¹² See <http://www.centerforajustsociety.org/2010/04/06/cjs-forum/religious-liberty-as-a-moral-center-for-american-diplomacy/>.

¹³ *The Founders’ Constitution*. Volume 5, Amendment I (Religion), Document 43. <http://press-pubs.uchicago.edu/founders/Documents/amendI-religions43.html> The University of Chicago Press.

¹⁴ Religious Freedom: Main Statements by the WCC 1948-75 (Geneva, 1976).



- Religious freedom is a significant expression of human dignity.
- Religious freedom is a test for the respect of human dignity.

One can make a case for religious freedom in its relation to human dignity in the following ways:

- The upholding of human dignity as a foundational principle provides the basis for the freedom from being humiliated, the freedom from being debased. More positively, it sets the stage for the rationale for honoring all people. This freedom also calls for human responsibility: that is one's personal commitment to live in harmony with local, national, regional and international laws. Freedom of religion can then be used as a tool to demonstrate solidarity with fellow human beings at local, national, regional and international levels.
- Human dignity points to the mystery of every human being. This mystery of every person makes the connections between human dignity, human freedom and human responsibility a fascinating subject for exploration, especially in view of the difference it can make in how people view and treat each other. By virtue of being created in the image of God, humans are capable of intelligence, free will, and love.¹⁵ Humans, as underlined in our previous article in *Fides et Libertas*, are unique in the created order in that our dignity is connected to the fact of being created in the image of God. This prerogative necessitates the gift of freedom, without which rationality itself loses one of its key *raison d'être*, the ability to choose to believe or not to believe.

B. An Incontrovertible Freedom: The Necessity of Religious Freedom

Freedom of religion or belief matters because of the following:

- Without religious freedom, religion becomes coercion and force, power and intimidation, and violation of the very idea of right.
- Without freedom of religion or belief, a relationship of love, and the heart of the new covenant—love of God and love of one's neighbor—become impossible. Love cannot be forced.
- Without freedom of religion or belief, human dignity is assaulted. In other words, any restriction of this intimate freedom is a violation of that which distinguishes us as humans. At the root of the restrictions to religious freedom lies the refusal to recognize other people's humanity—their right to exist, let alone their dignity which is not recognized at all.
- Without religious freedom the peace and prosperity of any nation are in jeopardy. Restrictions to this freedom sooner or later cause the human spirit, the innate human quest for freedom and self-determination, to rise against any government to claim this right. As such, restrictions to religious freedom are delayed trouble. The human spirit cannot be crushed indefinitely.

Religious freedom is the necessary thread or cement that makes possible the very

¹⁵ Hubert de Wouters. *Le mystère chrétien*. (Paris: Cerf, 2014), 360.



existence of democratic pluralistic societies.

In his final address, George Washington wrote: “Of all the dispositions and habits which lead to political prosperity, religion and morality are the indispensable supports.” However, beyond the American context one can easily make a case that the political prosperity of any nation depends to a significant degree on the enjoyment of freedom of religion. Religious freedom seems to create conditions for economic prosperity as has been demonstrated in recent studies.¹⁶

The United Nations has factored in the necessity of freedom of religion in its own system and mechanisms. Freedom of religion is necessary to peace and security, justice and development, and all human rights, all pillars of the United Nations.

C. Recapitulation and Concluding Remarks

Freedom of religion or belief—that is the freedom to choose what to believe or what not to believe—is the tangible expression of the most intimate freedom, the freedom of conscience. This freedom is so important that it secures for everyone the prerogative of what it means to be a human person.

Freedom of religion or belief is the prerequisite to meaningfully enter into any covenant whether religious alliances, philosophical persuasions, political commitments, or social contracts such as marriages.

Freedom of religion or belief is one of the antidotes to forced marriages, to conquest and subjugation of persons or people groups whether majority or minority groups, depriving them of the right to self-determination.

Slavery of any kind would never have existed if at all times every person was recognized as having the inalienable right to freely choose the place of worship and the being or the objects of one’s devotion or lack thereof.

Furthermore, promoting and protecting every person’s freedom of religion or belief is the condition *sine qua non* for the implementation of the concept of equality between all people.

Ontological hierarchy becomes obsolete when religious freedom or belief becomes a reality.

One could expand Emmanuel Kant’s reflection according to which people should not be treated as mere instruments because that would fundamentally transgress their inherent dignity. People ought not to be treated as mere means. Functional hierarchy due to organization of labor in society should not slip into considerations of personal value.

Freedom of religion or belief presupposes the infinite value of every person and the equality of all people. In fact, equality, reciprocity, and mutual courtesy are all predicated upon the freedom of conscience that requires the respect of the freedom of all others; otherwise it becomes self-defeating.

Furthermore, there can be no justice in society when this freedom is lacking.

¹⁶ Brian J Grim, *Is Religious Freedom Good for Business? A Conceptual and Empirical Analysis in Interdisciplinary Journal of Research on Religion* (Volume 10, 2014).



When people's freedom of religion or belief is restricted through government policies or popular hostility, it is equivalent to stifling the creativity which contributes to making life an experience of excitement in exploring and discovering wonders in the world. Is this not also one of the fascinating aspects of the human condition to freely marvel before the wonders and mysteries life offers? Freedom of religion or belief creates the conditions for the mind to freely explore life's ultimate questions without having to deal with crippling restrictions that sniff out jubilation from the art of living.

In essence then, religious freedom or freedom of religion or belief, as it is often called in the context of United Nations' documents, is understood as follows:

1. **A universal human right:** The landmark United Nations Declaration of Human Rights has been foundational to establish this fact.
2. **A political right:** Article 18 of the International Covenant on Civil and Political Rights subsumes this right.
3. **A civil right:** Religious freedom is a civil rights issue especially, but not exclusively, when antidiscrimination laws collide with religious freedom.¹⁷
4. **A social right:** This freedom entitles one to full participation in the life of society. It is an antidote to minority status and is an essential component for freedom from discrimination.
5. **A cultural right:** Freedom of religion or belief is connected to freedom to live according to one's own culture. It presupposes equal protection before the law for one's cultural heritage. It secures for minorities the preservation and practice of their distinctive cultural rights.
6. **A "spiritual right" and responsibility:** Religious freedom is a gift from God. It is a precondition to freely enter into the covenant of life and love. It is a prerequisite to a covenant that comes with the commitment to promote life, to preserve life, to save lives, to adopt a dignified lifestyle that respects and honors all people by virtue of their being created in the image of God.
7. **A moral principle.** Freedom of religion or from religion, to be consistent with its claim morally, commits its adherent to not discriminate against or demean any other human person.

Religious freedom, then, is more than freedom to worship or not to worship. It is an essential component of meaningful living and a way forward to meet humanity's common need for peace, fairness, and justice. It is to be taken seriously for the survival of the human family. The alternative is to stifle people's right to freedom of thought, conscience, choice, and freedom to act upon one's decision without hindrances or arbitrary restrictions. All institutions, whether political or religious

¹⁷ <http://www.nationalreview.com/corner/349630/religious-freedom-civil-rights-issue-kathryn-jean-lopez>.



or philosophical, benefit from partnering to promote and protect this fundamental freedom as the whole of the human family is engaged in a common journey toward a more humane global co-existence.

FIDES ET LIBERTAS



BOOK REVIEW



THE DOCTRINE OF THE INTERNATIONAL RELIGIOUS LIBERTY ASSOCIATION ON RELIGIOUS LIBERTY^{1, 2}

JOAQUÍN MANTECÓN SANCHO³

The *International Religious Liberty Association (IRLA)*—which stands out among similar organizations around the world for the intensity of its activities on behalf of religious liberty—publishes, either by itself or through its various chapters, a series of well-regarded journals, which stand out among the publications which strive to spread and advocate for such liberties on an international scope. One of them, *Fides et Libertas*, is published by the organization headquarters in the United States; others are published in France (*Conscience et liberté*), Italy (*Conscienza e libertà*), and Spain (*Conciencia y libertad*). Their contents are not identical, since each of them publishes articles and papers on the topics arising from the issues they find locally relevant and which come from various contributors. There is a point, however, where all of them agree, namely, the inclusion of documents periodically released at the end of international congresses and the organization's annual Meeting of Experts.

Even though IRLA's origin and inspiration comes from the Seventh-day Adventist Church, the organization is now non-sectarian in its membership. Its Panel of Experts is made up of people coming from various religious beliefs, races, and nationalities. All of them, however, have in common a high academic and—in some cases—political status. The IRLA's international congresses have met in various places around the world, and the large number of participants in these congresses come from religious entities and other organizations who work for various faiths, universities, and centers for the promotion of human rights, as well as for national and international organizations.

Both entities—IRLA's International Congresses and the Meetings of Experts—usually release, following their meetings, a document on the topic that was the main focus of the event. Such documentation—which by now has become outstandingly rich—was in need of a thorough study of its contents; currently, no other document collection on religious liberty has such a variety of topics and doctrinal unity, nor is it backed by such outstanding names from the legal, academic, and religious fields.

¹ This article was translated from Spanish to English by Marcos Paseggi.

² A review of the book *Libertad, difamación, discriminación. En torno a la doctrina de la International Religious Liberty Association [Liberty, Defamation, Discrimination: Regarding the Doctrine of the International Religious Liberty Association]* by Professor María José Cíaurrez, Editorial Tirant lo Blanch, Valencia, España, 2013, 284 pp.

³ Joaquín Mantecón Sancho, Professor of Ecclesiastical Law, Religious Freedom, Islam, and Canon Law, University of Cantabria, Spain.



Such analysis has been undertaken by María José Cíaúrriz, Professor of Church Law at the Universidad Nacional de Educación a Distancia, in Madrid, Spain. Her efforts resulted in the volume we are here reviewing. Cíaúrriz accomplished her research on the topics mentioned by launching her work out of an initial series of presuppositions, namely, a) that IRLA is undoubtedly one of the most active and longstanding entities around the world for the advocacy of religious liberty; b) that IRLA activities cannot be reduced to mere activism—which is undoubtedly intense—that is to say, to the mere promotion of this liberty in every country, and before the United Nations and various international entities; c) that to the previous item, IRLA adds a first-class doctrinal work, since such is in fact the outcome of its congresses and symposia with experts of the most varied fields, as the organization strives to develop doctrines, formulate statements, publish texts and release documents and, generally speaking, provide religious liberty with a high-quality academic backing; d) that the organization activities are accomplished not on behalf of a specific religious denomination or faith, but within the framework of an encompassing pluralism, thus underlining what is—or is supposed to be—common in every faith: a promotion of the essential human right of freedom of belief, a must for every person and for humanity as a whole.

The book here reviewed is precisely the result of a thorough analysis of the thought of IRLA by Cíaúrriz, as it is expounded in the various documents released by this association. In order to accomplish such analysis in the best possible way, the volume focuses specifically on what perhaps could be considered the most troublesome issues in the current discussion of religious liberty around the world, namely, defamation and discrimination of religion. At least from a theoretical standpoint, the validity and the respect of this freedom is usually not denied. When it comes to the field of national and international ideological attitudes, legislation, and jurisprudence, as well as to the actual behavior of States, faiths, and social groups, however, a clash with other rights usually takes place. If we think of, for example, freedom of expression, we will find a very troubling source of defamation of religion there; if we think of equality before the law, we will find a hotbed for discrimination for religious reasons, something that has worsened as a result of current migratory realities and a multiplication of the social facts of minorities and their resulting social phenomena linked to multiculturalism.

In the documents discussed there is an awareness of the need for putting forth precise ideas about the right to religious liberty itself and about its bases and corollaries: the divine or non-divine origin of such liberty, its limitations, the resulting dissemination of religious beliefs in the most varied spheres, and the concrete and specific content of such right, among others. Without a foundation of knowledge and theses which may come before the analysis of the conflictive topics discussed in every document, such analysis is not feasible, or at least cannot guarantee a proper level of seriousness and credence. And since those basic principles are present and



elaborated in IRLA documents after being developed for many decades, this is to be the starting point from which a critical and analytical discussion of IRLA documentation can start, which is, in fact, the focus and purpose of the book reviewed.

The discussion starts from a required introduction to IRLA's activities, since out of those activities comes the documentation here discussed. The work IRLA has undertaken for many years and on a global scale has certainly had a wide circulation but, in any case and very wisely, some basic information is offered here which aims to put the reader in touch with the core of the matter, showing in the topics discussed by IRLA the essential issues which relate to religious liberty. And since this is the main topic, we feel it necessary to present the fundamental problems that are usually linked to the advocacy of religious liberty in a global context.

The fundamental concepts on the very notion of religious liberty set forth a topical exposition in our field. From the very start, an awareness of the role that religious phenomena have in social life must be underscored. Thus, behind the essential idea of religious liberty—which is logically the foundation of the whole building—the relationships between the permission of that liberty and its guarantee must be taken into account. For a long time the prevailing system was based on tolerance within countries with a major denomination. Today there are two factors which have gone beyond tolerance to give way to freedom, namely, multiculturalism and the conviction—which has finally permeated numerous faiths—that liberty is a fundamental right of every human being and that such a right has a divine origin. Thus, in many countries, there are various political attitudes before the growing presence of different denominations, which in part results from the migration phenomenon and in part comes from a global multiplication of religious proselytism. The classification of political systems according to their relationship to religious liberty appears to be based on another factor closely connected to liberty, namely, the faith choice of States. For centuries this was a given, even though now it has been strikingly reduced. Thus, the author classifies three different systems: Confessional States, Non-confessional States (currently, they are usually called Secular States), and Laicity States (this latter term is replacing the former, since most of current doctrine refers to laicity in positive terms). The first of these three, Confessional States, officially practice a particular religion, which they have inherited from centuries of social support and political protection to a specific faith.

There are usually two kinds of confessional states: 1) those who, due to their confessional status, deny freedom of religion to other denominations, and 2) those who acknowledge and guarantee it to the citizens who do not practice the state religion. On the other end of the spectrum, we find Laicity States, which deny official and lawful legitimacy to all confessions. Among them, some deny all kinds of religious liberty to their citizens and others tolerate it, even when such liberty has to be practiced without public recognition of other religious entities other than the official one. Finally, we have Secular States, which are currently the most common



model. These acknowledge and guarantee religious liberty and can also be divided into two different models, namely, those States which cooperate with denominations and those which do not. The former follow a pattern of cooperation, frequently as regards to economic, educational, and assistance issues; the latter do not cooperate with faiths at all, even though religions are publicly acknowledged and religious liberty is granted to all of them, generally both in the individual and corporate spheres. And even though it is true that in their practical aspects, actual situations may not be as clear as in a technical classification, a clarification of concepts undoubtedly helps us to understand the universal phenomenon of the relationships between Denominations and States.

When discussing religious liberty itself, we should remember that, since religious liberty is a right of the person, it is not a right isolated from the overall number of rights related to human dignity. Thus it is necessary to frame it within what is called the “generation of rights.” A classification of rights according to the generation they belong to—and the notion is immediately understood by reminding us that religious liberty is a first generation right—is presented as a doctrinal affirmation, but its immediate consequences are quite clear. Obviously, the State is not the originator of the essential rights of the person, since it does not grant them; it just needs to acknowledge and guarantee them, as it has been already stated and is currently ever-present in the national and international normative about human rights.

We feel compelled here to refer to the International Declaration of Human Rights, which includes the topic of religious liberty. Such declarations are presently the international basis on which numerous national laws and many doctrinal approaches to the topic are based. On this basis it is logical for IRLA to take them into account starting from their formulations for an analysis encompassing every topic discussed.

Out of this approach the study delves—as is the case of the volume we are reviewing—into the topic of fundamental human rights and ethical principles. It is an issue which stands out for its specific importance due to the fact that it is a conflictive topic. Proclaiming religious liberty has become a general attitude, even though it is much more difficult to couple Rights with Principles. It is easily understood if we think about these topics which the work reviewed sets out and subjects to analysis: “Religious Liberty and the Democratic State;” “The Origin of Ethical Criteria in Justice;” “Possible Alternatives on the Defining Criterion in Justice;” and “Social Will and State Will Regarding the Rights to Liberty and Ethical Criteria.”

A current identification of the ethical criteria to be managed by a rule according to higher law is an arduous and open issue. Once an individual ethic as the inspirational starting point for the normative and the imposition of a particular confessional or ideological ethic by the State are ruled out, it seems that only a global consensus would be acceptable. The only problem here is that a global consensus does not actually exist; the only thing we have is a majority consensus and, as such,



it always raises the relative difficulty regarding the opinions of minorities. And there is a second difficulty, namely, the manipulative and temporal character of every majority opinion. In fact, it is the task of the State, either through education or the media, to indirectly impose an ideological ethic that, in virtue of the rotation of democratic power, will be inclined to change according to the alternative rule of political parties, thus causing some kind of ethical relativism. Before the State, it seems that religious groups stand for a less easily manipulated collective, but a political acceptance of its ethical criteria—even when faiths may to some extent agree with each other—is far from being an easy or peaceful issue.

This takes us naturally to the issue of the religious factor within our current society. Ciáurriz thinks that the ability for resistance that religious groups have, which are becoming more and more independent from States and better organized, is seen by many—States, parties, ideological groups, universities, and intellectual circles, among others—as a social danger. Religious ideology is quite solid before the relativism of our contemporary society, and religions ask their members to adhere to ethical and faith principles which have a great ability to resist all kinds of attacks and constraints. This fact sets limitations for any power—be it economical, political or cultural—to ideologically dominate the social context; consequently, faiths—and the religious fact itself—are forced to embark in a destructive game of defamation and discrimination. This situation has caused the emergence—which is becoming more and more common—of associations and entities which try to defend religious liberty, IRLA being one of the most prominent. The bases which give way to the predicament discussed are thus established; the building of religious liberty is in need of a solid foundation.

Those bases are the spirit around which the documentation on religious liberty released by the International Religious Liberty Association is grouped together regarding the mission, purpose, and fundamental principles inspiring the doctrine of IRLA; proselytism and the dissemination of religions as they exercise their right to demonstration, teaching, and communication; the relationship between religious liberty, peace and social justice; public safety and the exercise of religious liberty; hostility toward religions and the resulting defamation and discrimination on religious grounds.

The three essential and fundamental documents from IRLA are entitled *Mission Statement*, *Statement of Purposes*, and *Declaration of Principles*. These are the documents pointing out the major principles of the IRLA, those which can be considered constitutive of the entity. They include IRLA's doctrine on religious liberty. The remainder of the documents, coming from various congresses and meetings, develop and apply that doctrine to specific phenomena: the ones we already mentioned, namely, proselytism, teaching, demonstration, defamation, etc. The general and programmatic nature of these three fundamental documents points to them as the support basis of all the successive ones which aim to develop the basic principles



regarding the most specific and practical aspects of religious liberty.

The first of the three documents is IRLA's *Mission Statement*. It is a very brief text (just three lines) which clearly formulates the objectives of all of IRLA's activities, namely: to defend, protect, and promote religious liberty. It is the *raison d'être* of IRLA. We must also point out that the branch offices in Europe include something that the headquarters does not: an immediate reference to the defense of religious liberty. While the main office is called *International Religious Liberty Association*, the European branch offices are named, in their respective languages, *Association for the Advocacy of Religious Liberty*, which suggests that such liberty, promoted for a long time, now and first of all needs to be advocated for.

The IRLA's *Statement of Purposes* is a development of the previous document, in line with the international documents on the issue. Special attention should be given here to the analysis of the limits to the right to religious freedom, since while in the Statement it is stated that they are "only" the equivalent rights of others, in the 1950 European Agreement and in the 1966 International Pact of Civil and Political Rights, public order is added in its widest sense. It is a matter discussed and differently regulated in various sources; and it is not easy to determine the relationships and legal consequences involved in the various options in this sensitive area. It should not be forgotten that the limitations to an essential human right should not be in principle the object of an occasional political choice; to establish doctrinal criteria regarding the issue is thus exceptionally risky.

Together with the topic of the limitations to religious liberty, this document is also to deal with the issue of its guarantees. Professor Ciáurriz has correctly pointed out that those guarantees are required both from Denominations and from the State. In fact, the various faiths are supposed to carry out their activities with a maximum respect toward other faiths and toward the State; and the State is supposed to grant a maximum respect to the various faiths from the standpoint of a healthy laicity. It is well known that the notion of a Secular State has experienced an important evolution in the last few years. Previously, a Secular State was one that completely ignored Denominations, but now such a State is usually called a Laicity State. At the same time, the adjective *laicist* is related to the noun *laicism*, and the adjective *lay* to the noun *laicity*.

It must also be pointed out that the Statement pays attention to another essential item: the corporate activities of denominations. A religious denomination is not only a theological and cultural sphere or an NGO or charity. Worship services—to summarize in two words the fundamentally religious dimension of denominational activity—are something every believer is called to, according to the various modalities of specific denominations. Though many different activities take place, the homogeneity shown by activities of a direct social, humanitarian, and educational nature must not be forgotten. All confessions are concerned with the religious education of their members and they also engage in various relief activities. There is a



place for variety, but they share the same core goal. And another fact becomes obvious: The faith-based educational and relief roles significantly relieve the workload of political entities and deserve what in the *Statement* is mentioned as the support that they will receive, which refers to the principle of cooperation of public entities with faith-based ones.

The last IRLA basic document is called the *Declaration of Principles*. It is a text of superior standing in comparison to the two others, and from it come the other documents produced by the IRLA Meeting of Experts and the International Congresses. This document is interesting due to the fact that it contains the principles which make up the essential foundation of IRLA thoughts on religious liberty. Such liberty is not just a categorical assertion, which could be simply stated as “Human beings have religious liberty.” This is what is expressed in different ways and various contexts in traditional declarations of rights and freedoms, such as the Declaration of the People of Virginia at the end of the 18th century, as well as other documents such as the United Nations Universal Declaration of Human Rights in 1948.

That freedom is made up of a series of principles and assertions; it is the overall combination that constitutes the notion and reality of such liberty. In the IRLA *Declaration of Principles*—which is always present in the various journals mentioned, be it American or European—the very principles about what constitutes religious freedom and how this essential human right is expressed are stated and discussed.

It is important to point out that IRLA’s thought is supported by basic doctrinal principles, which as a whole give shape to the religious liberty and whose effective implementation to the personal and social reality is the radical mission of religious denominations. Significantly, every principle stated in the *Declaration* begins with the words “*We believe that ...*” The word “believe” can be used to refer to a merely temporal thought; for instance, we might say that we believe it will rain tomorrow, or we believe this or that political party will be good for our town/state/country. To “believe,” however, is essentially a term with religious overtones, since it is the verb related to the noun “faith.” The fact that the expression “we believe” is used time after time points to a conviction in both the temporal and the religious fields. It is the document, among the three we have mentioned, that gives in its text a greater influence to the religious aspect. As an example, let us remember the first principle: “We believe that religious liberty is a God-given right.” This declares religious liberty to be a gift from God, as a natural human right, defined within the created nature of man, from a standpoint which is completely unaffiliated with the State. It is also important to point out that this notion is a platform common to every religious denomination.

The second principle is the separation of Church and State. Like in the previous case, it is a non-dogmatic principle, but just political or practical, one that currently is widely accepted as doctrine because it is a principle that seems to better guarantee religious freedom and respect by the State. It is true that there are presently some



Confessional States which acknowledge religious liberty; the non-confessional or lay model is, however, the most common both as a reality and as doctrine. In the expert bibliography, a thesis is clearly present that underscores the goodness and advantages of such a model; the authors point out their various forms of practical implementation, and the book we are discussing collects and explains all these criteria in detail, such as they are currently presented in the political and social realms which range from absolute separatism to various ways of cooperative co-existence.

The third principle refers to a divine order of political power. We must remember that this document describes religious convictions as one of its essential features. The IRLA has written it starting from what is a common ground for every denomination; that is to say, citizens can demand that the State respect religious liberty because God has ordered governments and the temporal realm for the overall benefit of society. This is the reason why citizens owe respect and obedience to the State, which results in believers who are supposed to be exemplary citizens. It is clear that in this thought a conviction is present—clearly deriving from Christian thought, but also shared with other faiths—about the divine origin of power. This theological and historical thesis, of very interesting social and political results, is one of the essential points where the Declaration rests. Jesus admonished us to “give Caesar what is Caesar’s,” which presupposes an idea about the supernatural origin of political power. At the same time, God Himself has granted human beings with a freedom that, *a fortiori* stresses an ideological liberty and freedom of thought.

Thus, in the book we are reviewing in an important section of the bibliography, a place is provided to discuss freedom of thought, conscience, and religion. In its official version, the Declaration refers only to freedom of conscience, even though both the Spanish and the French translations use the UN Declaration of 1948 version, which actually speaks about liberty of thought, conscience, and religion. This fact makes us take into account a new piece of information: We need to establish differences and try to find out what is the most common doctrine about the distinction and mutual relationships among those freedoms. In the bibliography the most varied trends about it can be found, which range from thinking of some of these freedoms as part of others, to believing that there are boundaries of differentiation between them. If international texts coming after the UN Declaration of 1948 and different constitutional texts of the most varied States are reviewed, it will be seen that there is a constant interplay between the terms: freedom of thought, ideological freedom, religious freedom, and freedom of conscience, using one of several of these terms with either uniting or differentiated meanings. It is not advisable then to state the foundations for a common thought regarding this specific aspect of freedom.

Finally, the Declaration refers to intolerance and discrimination. This is very meaningful for our current reality, since it is a widespread phenomenon in our society, and especially in some ideological and political lines of our present reality. According to the Declaration, the removal of intolerance and discrimination is



needed for the promotion of peace and friendship among the peoples, which makes this specific topic something that IRLA has given the most attention to. As we will see throughout the study of the documents from congresses and meetings, this is an area of great concern for every supporter of religious liberty. It is not that such liberty is simply denied, but that frequently those who try to live it up are discriminated against. This is something that can be attested to in intolerant countries, but also in democratic nations. There are many so-called democratic States which nevertheless make efforts to avoid the existence of ethical principles different from the ones they mandate; much of the mass media tries to stifle freedom of expression. It might seem a contradiction, but it is real. Thus, it should not be surprising that great efforts are made by IRLA to protect freedom before the reality of discrimination against believers, those who may have an ethic which differs from the social power.

These three essential documents which encompass the seminal notions of IRLA's thought have been developed throughout the subsequent documentation. The first that deserves our attention is the one which attempts to show which are supposed to be the *Guiding Principles for a Responsible Dissemination of Religion or Beliefs*.

For centuries, religious proselytism was rejected by the main denomination of each nation, effectively preventing or hindering the local dissemination of other faiths. On a greater or smaller scale, and depending on the actual action of every denomination, proselytism was practiced in areas from the so-called Third World, in African countries or Eastern nations. From the beginning of the 19th century it became more and more common to witness preaching, propaganda, and dissemination of various faiths in countries which are pluralistic, such as the United States of America, or one-religion nations, such as most of Europe and Latin America. Thus, it becomes essential to state adequate ways to accomplish this for a responsible dissemination of religion.

The author has already discussed the topic in her book *El derecho de proselitismo en el marco de la libertad religiosa* [*The Right to Proselytism Within the Setting of Religious Liberty*]; Centro de Estudios Políticos y Constitucionales, Madrid, 2001). This shows the great interest that modern ecclesiastical science has for this specific issue. It is undoubtedly a delicate matter; in the past, it has been said that "every conversion is an apostasy." It is true that most of the time the conversion of a person to a specific denomination presupposes giving up the former. The current standpoint, however, is that every conversion is an exercise of one's own freedom; that every denomination must respect proselytism and its consequences; that the freedom granted by God to human beings is the prevalent factor, and that nobody but God can judge our free choice in this area. Thus, the great importance this document assigns to a responsible dissemination of denominations, as it was prepared in 2000 by the IRLA Meeting of Experts in a series of meetings which I felt honored to be part of.

Undoubtedly, proselytism belongs to the essence of religions, and it is actually a linking element of the right to religious liberty. At the same time, it is also a



right whose exercise necessarily affects every denomination; thus, the importance of exercising it with the required prudence, respect, and desire of cooperation, so no denomination feels attacked. The document discussed offers numerous guidelines in this sense, which take as a foundation an absolute respect for the personal freedom and the dignity of every denomination, but at the same time provides examples from real life and the pastoral and missionary activities of various faiths. In every denomination there is an autonomous sphere which is its creed. As it has already been stated, they share—or can or should share—a series of activities related to culture and charity work. To emphasize this second area while at the same time respecting the first one is an essential requirement for a responsible dissemination of religious beliefs.

In June 2002, the 5th World Congress on Religious Liberty convened in Manila, hosted by IRLA. After the event, a new document was published dedicated to *Religious Liberty as a Foundation for Peace and Justice*. Together with the final resolutions passed by the congress, it is important to single out the *Statement of Concern* that was released with it. This statement included the reasons why such an event was needed. It also specified concrete complaints about violations to religious liberty in several countries such as Turkmenistan, China, Saudi Arabia, Belarus, Indonesia, and Mexico, among others.

The thesis of events resolutions is based on the idea that justice stems from a respect for rights and freedoms and that out of justice comes peace. Thus, the starting point is an affirmation of a rejection of violence and a promotion of a culture of openness and understanding, for which it is extremely important to use education as a vector for those values. Secondly, the document discusses the coexistence of religious groups which should be based on mutual respect. Special emphasis is given to mass media which is asked to commit to the values of ethics and freedom, since its activities are essential for achieving and strengthening a pacific social environment. Lastly, the issue of guaranteeing liberty is tackled, and for this the congress resolutions offer concrete guidelines which range from an acknowledgement of the legal personality of religious entities to easing the immigration processes for expert missionary staff. All of them are very precise topics with concrete suggestions. Indeed, the Congress had a very practical nature: Doctrine had already been stated in the preceding texts, and now it was time to apply it to facing and solving practical issues. In those places where religious freedoms are being violated, measures must be taken to avoid it; in those places where it is respected, measures need to be taken to strengthen it and to prevent an eventual negative fallout related to a specific situation. When setting forth the suggestions of the Manila Congress, the magisterial proposals of document theories need to be geared towards an area of social effectiveness.

Out of this discussion, the security issue as related to religious freedom acquires the utmost prominence. The most serious events of world resonance first brought this problem into the forefront. The IRLA Meeting of Experts, in three successive



sessions which took place in Washington (2002), Paris, and Leuven (2003), put forward a new document: *Guiding Principles and Recommendations on Security and Religious Freedom*. Of all the documents discussed in the book, this is the most complex one. The main text is preceded by three introductory texts entitled: *The Mutually Reinforcing Relationship of Security and Religious Freedom*, *The Importance of Religious Freedom to Security*, and *Relevant Principles of International Law*; and it is followed by an Appendix on *Legal Analysis of Limitation Clause of Article 18 ICCPR*.

The origin of this document is in the reaction of the United States and the world in general to the September 11, 2001 attacks on the Twin Towers in New York. The clear presence of a religious component in the attack justifies the attention given to the topic in this and other forums. It becomes necessary to bring the mutual interactions between liberty and security to the forefront and, more concretely, between religious liberty and security, and to point out how restricting liberty in order to keep security may seem the easiest solution, though it can become counter-productive. If security is an important value, it can never be imposed at the expense of liberty while avoiding the risk of falling into a tyrannical system. As regards violence and terrorism, special attention should be given to the importance of differentiating between ideas and actions, since concrete actions are the only ones liable to prosecution; ideas are free, and violence is on all accounts unacceptable. The document also emphasizes how important it is for religious denominations themselves to take a clear stand against any kind of violence. The terrible impact of the September 11 attacks could justify taking drastic measures, but whatever positive contributions they might make or negative side effects they might bring, it was not something that could be discussed or dealt with at that time with the calmness needed. This underlines the focus of the document by the Panel of Experts which deals with the issue with a high degree of equanimity. Out of this a comprehensive study of the issues between security and liberty takes place, including the influence of religious liberty understood within its right value and meaning and the discussion of the topic within current normative doctrine.

The attacks to security, which authors try to justify in the name of a liberty that denies the freedom of others, actually stem from hatred. It can be hatred from unbelievers for believers, of the followers of an exclusivist religion to all other people, of a totalitarian political power, etc. This is why a discussion of security versus religious liberty is to make way for a study of the topic of liberty to believe versus hatred toward religion. Such is the topic tackled in the final Resolution of the 6th IRLA World Congress, which took place in Cape Town in February 2007 under the general theme *Combating Religious Hatred through Freedom to Believe*. Like what happened in the Manila Congress, this document includes an Annex, a *Statement of Concern*, where data about violations to the right of religious liberty in various countries are reported. The report is actually the rationale for holding events such as this to counteract this negative reality.



In his opening remarks at the event, Dr Denton Lotz, who was at the time President of IRLA and General Secretary of the Baptist World Alliance, illustrated this topic with ten theses decisively tackling the very serious problem of religious hatred, thus giving way to the congress considerations on the need to fight any kind of violence inspired by religion or against religion. Specifically, he spoke to the opposition among religions and the opposition to religion by some centers of civil power. The congress made a special call to leaders of religious denominations to strive to stop any trace of religious hatred toward any other faith. The same responsibility goes to the relevant people in education and the representatives of mass media. We cannot ignore here a latent extreme difficulty: hatred to religion—the main cause of limitations to liberty, as well as a major source of defamation and discrimination—can take place in social, political, and even religious groups. In our contemporary world there are still States which encourage hatred to religions. This reality which brings sad historical memories needs to be uprooted as an unavoidable precondition for talking about an authentic reception of religious liberty and a true and clear guarantee of its existence in our world.

The immediate consequence of hatred is defamation and discrimination of religions. In the international sphere, special attention has been given to this topic, as several released documents show. Attention has been given to the repeated attempts by Islamic countries for the United Nations to adopt texts against Islamophobia and defamation of Islam. It is an issue difficult to overcome—since the New York attacks were originated by supporters of Islam who claimed to commit those acts in the name of their beliefs—without a subsequent international rebuff by the very Islam which inspired the attacks. At the same time, it is in Islamic countries—or in various Islamic groups—where a high degree of religious persecution and intransigence is currently taking place. Among the international documents on this issue, it is not possible to apprehend this predicament—be it in an IRLA or any other similar document—if we do not know or value as we should the presence of the problem of religious expression and religious liberty, specifically regarding the use of the former as a way of practicing defamation of religions.

Thus, a likely collision between the right to freedom of expression and religious liberty is revealed. This is important, since both of them are essential for the organization of society. In the case of Western nations, defamation may be concealed by freedom of expression, while discrimination may not, which actually presupposes an important problem. In any case, we must emphasize how difficult it is to draw a dividing line between the two. It seems clear that, while it may not be desirable to grant religions a special statute regarding liberty of expression—which could break the equality principle—neither should we support religions as subject to an unlimited freedom of expression which focuses on defaming and erasing them from the social context. This is an extremely delicate and difficult issue.

The step that no doubt opens a way to discrimination, with all its serious legal



and social consequences, is defamation of all or some faiths and subsequently defamation of religion in general and of the religious fact. Thus, IRLA has found it necessary to suggest a doctrine about this issue. With that in mind, the Meeting of Experts prepared in 2009 a new document entitled *Statement of Concern about Proposals Regarding Defamation of Religions*. It must be pointed out that the previous *Statements of Concern* promoted by IRLA were a sort of Annex accompanying the main documents already discussed. In this case, however, the Statement is a major document in itself. It is a complex document, the only one with explanatory notes and with a somewhat nuanced, even ambiguous composition. It is the only document where the list of expert contributors is not included.

It is a very difficult topic, since the very notion of defamation is not completely clear and is being interpreted in different ways by various international entities. Two key topics collide here, namely, the freedom of expression and the right of denominations and religions to not be objects of defamation. It is known that defamation of religion often is the work of mass media and culture. It is put forward in the writings, words, and various artistic expressions, and also through many intellectual undertakings and other ways in which opinions can be expressed. In the IRLA document, the Panel of Experts, in the most critical part of the text, indicates that the adoption of legal measures to prohibit defamation of religions can compromise the very liberty of the other religions and the protection of minorities, as well as open a way for excessive control by the State. This is the reason the document does not in principle support this kind of regulation. Possible solutions are to be directed and guided by every one of its various actors—be it governments, organizations, mass media, educators—towards a mutual knowledge and respect, so that the contrasts between freedom of expression and religious liberty may be channeled in a respectful way.

As it can be easily seen, it is not a done deal. It could have been expected that the Panel of Experts would have a greater commitment to the defense of religious liberty. The recommendations in the document are more of a general nature as compared with previous cases—too general, it could be said. Perhaps the authors of the document thought the issue is still too recent and its discussion still needs later elaborations. It would have been desirable, however, to have greater clarity and determination when tackling the issue.

It becomes clear that there are three ways to destroy the social presence of the religious fact: 1) through open persecution, which has been and is the method applied by Marxist extremism; 2) we have the destruction by all possible means of any other denomination on behalf of some of them which show themselves to be exclusivist and totalitarian; and 3) the one used by the democratic world which employs defamation of religious acts in the name of an intrinsically legitimate freedom of expression. Condemning or rejecting the first two methods is quite easy for all of us who live immersed in a culture of liberty and democracy; the problem is in the third



one. Is it advisable to limit freedom of expression? Indeed it is, and in this regard the 2009 Statement is not strong enough. All around the democratic world, freedom of expression is limited for various reasons, namely, the right to intimacy, the right to personal fame, the right to confidentiality, and other boundaries that freedom of expression finds, so as not to damage the rights and properties which are deemed to be worthy of such special protection. Why would it not be advisable to apply it to the right of religious liberty, to the right of denominations to be respected in their ethical principles and social actions?

Several new elements come into play here which suggest that the importance of this field cannot but increase in the near future. Concretely, education and mass media are to play an essential role as they strive for a society more respectful of the rights of others in a world as plural as the one we already have and which is evidently showing a clear prominence in contemporary society. This, however, asks for a careful legal regulation of all those elements, a very hot topic and sensitive issue at the moment.

Of course, we are delving in an area where the personal aspects also play an important role. We need to be given every piece of evidence so as to develop a personal judgment about such a delicate issue. If criteria to judge and act are clearly and fair-mindedly explained, we will be given an extremely useful tool to develop a conscience and to inform our personal action in every area of our life currently involved in the exercise of freedom. It is every person's task to adopt his or her own ideas, to discuss them and implement them to the best of his or her abilities, duties, and responsibilities. And entities such as IRLA, devoted to a global work in defense of the values typical of religious faith, are to carry out this task which involves teaching, guidance, and advocacy. Such is the purpose of the reviewed documents, and it is expected new documents may help to tackle the ongoing, new, and pressing problems currently affecting religious liberty and freedom of belief.

As regards the volume which has been the basis for the present discussion, its essential parts are here reviewed. It must be noted, however, that at the end of the book there is a long bibliographical section which proves the impressive current interest in the topic of liberties and, specifically, in religious liberty. These pages devoted to bibliographical sources are a clear evidence of the richness and variety of the academic support currently ascribed to this issue. In them we find every school of State and Church Law and, at the same time, the work of numerous scholars from other fields of law science, specifically, some law constitutionalists, as well as experts in administrative law and philosophy of law. IRLA knows very well the ground the organization is standing on and how much attention the issues tackled and discussed command.

Aside from the documentation discussed here, the book accomplishes an analysis which is well beyond the mere exegesis of the documents, to delve into the heart of the problems considered, thus providing a doctrinal panorama of particular



spaciousness and interest. It is an indication of the extent to which IRLA's doctrine regarding religious liberty needs to be carefully enlarged, since several of its major topics which affect religious liberty deserve a very detailed discussion. Moving from doctrine to practice becomes a demand of our personal convictions and the free exercise of our fundamental rights.

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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
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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.

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