

Peace With Justice: The Grounds of Human Rights From a Faith-Based Perspective

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Introduction

Neither the Charter of the United Nations of 1945 nor the Universal Declaration of Human Rights of 1948 makes any mention of religion as a source of fundamental values and a basis for the idea of equal rights pertaining to all human beings. Actually, an attempt by the Netherlands delegate Father Leo Beaufort OP¹ to amend the preamble with a reference to “Man's divine origin and his eternal destiny,” was seen as a religious statement contrary to the universal nature of the declaration, and accordingly rejected. For the Saudi Arabian delegate, the fact that the declaration began and ended with the human being, without any reference to God, was sufficient reason to abstain.

Consequently, the Universal Declaration of Human Rights (UDHR) is often typified as a *secular* religion (*religio* in the classical sense of ‘binding’), arising from two centuries of Enlightenment thinking. Historically, its starting point is, indeed, situated in the fundamental freedoms of the individual human being, which have to be protected against abuse of power by the Sovereign (the State). Indeed, although in the final articles the text does refer to the community and duties of individuals with respect to the community, the gist of the UDHR remains centred on the individual.

Yet, while apparently religion is out, *faith* already plays a crucial part in the preamble of the Charter of the United Nations of 1945 in which “We the Peoples of the United Nations” express our

1. *Ordo Praedicatorum*, i.e. the Dominican Order of Preachers. Naturally, Father Beaufort did not participate in the deliberations in his capacity as a Roman Catholic Priest but as member of the delegation of the Kingdom of the Netherlands.

determination to ...

reaffirm faith in fundamental rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small ...

The preamble of the Universal Declaration repeats this reaffirmation. Not surprisingly, then, the list of concrete prescriptions and proscriptions begins with an expression of faith:

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood¹.

Remarkably, this ‘confession of faith’ –*ius divinum* (divine law)- has not received much attention in the dominant juridical reading of the international venture for the protection of everybody’s human dignity. In the period following the adoption of the Declaration the human rights project was principally interpreted as a challenge to define standards and to create juridical provisions for monitoring of compliance, interpretation and judgment of individual and state complaints.

In my paper for Mofid University’s Second International Conference on Human Rights, entitled “The Life and Times of Religion and Human Rights” (written together with M.A. Mohamed Salih, Qom 2003²), the focus was on the dialectics of religion and human rights as two competing systems of binding people to absolute postulates, based on doctrinal truth. Issues in that regard are universality, cultural receptivity, the question whether certain practices are (in)compatible with human rights, and freedom of thought, conscience and religion as a specific human right (UDHR, art. 18). The present paper, however, takes a different perspective: *faith* as a source of conviction, commitment and accountability, as reflected both in the preambles of the Charter and the Universal Declaration, and in Article 1 of the latter. This focus on faith will enhance our effort to understand the interrelationship between human rights and peace.

The Grounds of Human Rights

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1. Today we read “sister and brotherhood”. In the present paper the term *fellowship* will be used.
 2. Bas de Gaay Fortman and M. A. Mohamed Salih, *The Life and Times of Religion and Human Rights*, published in Walter E.A. van Beek e.a. (eds.), *Meeting Culture*, Maastricht: Shaker, 2003, pp. 91-111 See also Bas de Gaay Fortman, *Religion and Human Rights: mutually exclusive or supportive?* in *Studies in Interreligious Dialogue* 6 (1996) 1, pp 98-110

Human rights reflect a determined effort to protect the dignity of each and every human being against abuse of power. This endeavour is as old as human history. What is relatively new is the global venture for the protection of human dignity through internationally accepted legal standards and universally accessible mechanisms for implementation. That mission got a major impetus with the founding of the United Nations in 1945 and its emphasis on subjective rights pertaining to each and every individual human being. The interests that are accordingly protected by international human rights law are of a *fundamental* character in the sense of being directly linked to basic human dignity. Human rights, then, function as abstract acknowledgements of fundamental freedoms and titles that support people's claims to live in freedom while sustaining their daily livelihoods.¹

At the roots of this international venture rest two grand principles, one of a substantive and the other of a procedural nature: *human dignity* and *universality* (and with that inalienability). The Universal Declaration expresses this in its preamble, right away:

“Whereas 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.”

Apparently, behind these principles lie two fundamental values:

- (1) human *freedom* and its counterpart responsibility;
- (2) human *equality* and its counterpart non-discrimination.

Article 1 UDHR, then, proclaims the relationship between these two basic values and the human creature: “All human beings are born free and equal in dignity and rights.” In the second part of the article this is connected with the core notion of responsibility (without mentioning that term explicitly): “They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.” (In 1948 the human rights language was still sexist as we know. Today we might speak of *fellowship*.)

1. See Bas de Gaay Fortman, Human Rights, entry in David Clark (ed.), *Elgar Companion on Development Studies*, Cheltenham (UK): Edward Elgar, 2006, pp. 260-266.

In academic publications the grounds of human rights, as put across in art. 1 UDHR, are rarely discussed (except philosophical reflections on human dignity¹). The downside of that obvious endeavour to avoid any discourse that might affect universality is that concrete rights may get detached from the fundamental values that lie at the core of the distinct human rights. Let us take freedom of opinion and expression as an example here. Its ground –*liberty*– is often interpreted in such a way that the first part of article 1 UDHR is dissociated from the second; in other words a conception of freedom without responsibility. In that way the grand principle of human dignity loses its foundational impact. How else could one explain interpretations of Article 19 UDHR as a licence to use offending language and to disseminate dignity-offending material such as pornography, to mention just two undue manifestations of freedom of expression?² Indeed, through its requisite conversion into a juridical venture the grand international project for universal protection of human dignity runs a continuous risk of disconnection from the values and principles underlying it.

Faith, then, might be seen as an essential constituent of both the human rights venture as such and the interpretation of human rights issues in practice.

A faith-based anthropology

Article 1 UDHR, then, sets out the human rights mission as a matter of faith. This has three crucial implications connected to the meaning of faith:

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1. In this respect, both the Charter and the Declaration themselves give some clue in terms such as “the dignity and worth of the human person” and “the inherent dignity”. For a concise reflection on the meaning of human dignity see Bas de Gaay Fortman, *Adventurous judgments. A Comparative Exploration into Human Rights as Moral-Political Principles in Judicial Law-Development*, in *Utrecht Law Review*, Vol. 2, No. 2, December 2006, pp. 22-44
 2. Notably, I am not arguing here that the rule of law requires that such acts be outlawed. In any legal order the capacity to enforce and the flaws of prosecution in a context of privacy are serious issues that must be well taken into account. The point is merely that such non-interference is unrelated to human dignity as a foundational principle of human rights. The human dignity element behind article 19 lies in the necessity of truth against power.

(1) Faith means *trust* and with that *conviction*. A crucial question arises here: What is the basis of humankind's belief in liberty, equality and responsibility? The response to that query cannot be universal as not all men and women share the same basic convictions. For the three Abrahamic religions -Judaism, Christianity and Islam- faith means trust in one God, creator of heaven and earth. He is respected as the One who endowed the human being with reason and conscience, and hence continues calling people to do justice, establish peace, and respect life in the whole creation. This faith-based anthropology may be graphically represented as follows:

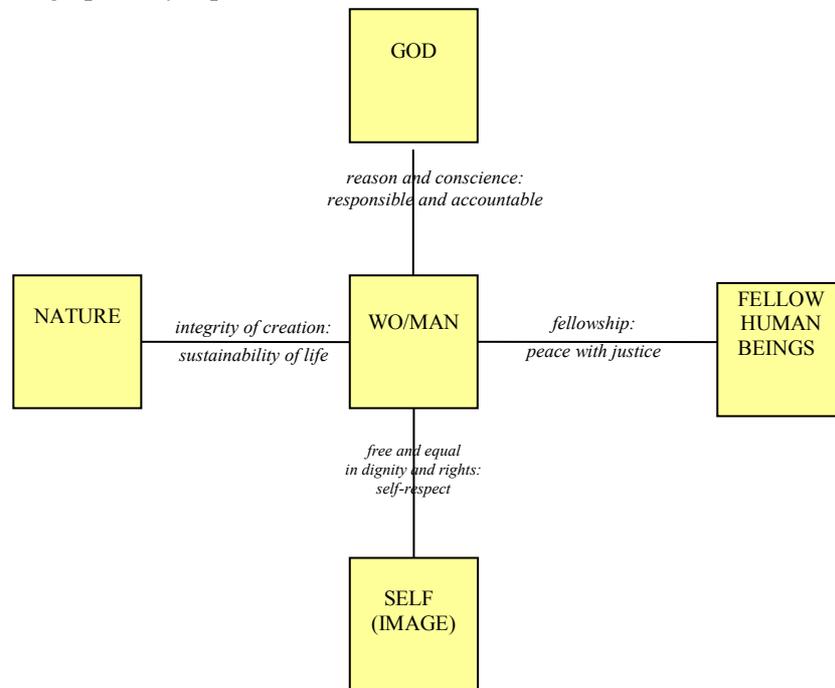


Figure 1: A faith-based anthropology

We find this faith-based anthropology strikingly reflected in Article 1 UDHR, albeit with two exceptions: there is no mention of God, nor of nature. As to the first one, the *universality* of the Declaration obviously requires faith-based identification with its principles and values from the perspective of plural religious constituencies, including those who see the source of reason and conscience not in God but in humanity itself. Hence, the founding

fathers of the Declaration (with founding mother Eleanor Roosevelt in the forefront) have refrained from any deeper grounding of the faith in the dignity and worth of the human person, which the preamble reaffirms. The second oversight has to do with the times: just after World War II had shown the extent to which human beings could violate human dignity.¹ Had such a faith-based document been adopted today, a connection with human responsibility towards nature would certainly be part of it.²

Although, as noticed already, faith-based approaches to human rights cannot be of a universal character, these do not necessarily affect the universal nature of human rights themselves. At the same time, such linking to the sources of faith in the equal dignity and worth of wo/men and their inherent freedoms and responsibilities may play a vital part in establishing a genuine global human rights constituency. A striking illustration of a faith-based endorsement of human rights as in essence God-given, came from the Roman Catholic bishops in Latin America in a statement made in 1992. They fully endorsed the human rights idea as follows:

The equality of all human beings, created as they are in the image of God, is guaranteed and completed in Christ. From the time of his incarnation, when the Word assumes our nature and especially through his redemption on the cross, He demonstrates the value of every single human being. Therefore Christ, God and man, constitutes also the deepest source and guarantee for the dignity of the human person. Each violation of human rights is contrary to God's plan and sinful.³

1. The UN Charter's preamble opens with the purpose "to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind ..."

2. Actually, there are accounts of references to God and Nature in earlier drafts of the UDHR. See Michael J. Perry, *The Idea of Human Rights: Four Enquiries*, Oxford/New York: Oxford University Press, 1998, p. 110

3. (CELAM, 1993, 164) "La igualdad entre los seres humanos en su dignidad, por ser creados a imagen y semejanza de Dios, se afianza y perfecciona en Cristo. Desde la Encarnación, al asumir el Verbo nuestra naturaleza y sobre todo su acción redentora en la cruz, muestra el valor de cada persona. Por lo mismo Cristo, Dios y hombre, es la fuente más profunda que garantiza la dignidad de la persona y de sus derechos. Toda la violación de los derechos humanos contradice el Plan de Dios y es pecado."

Here the Christian faith is seen as the deepest foundation of all human rights. It illustrates how faith-based approaches to human rights may even lead to a complete synthesis of two missions that are separate in origin and principle. In order to secure actual protection of human dignity, connections between secular settings of human rights and faith-based views on their grounds is, indeed, crucial. The belief in human equality, for example, is sustained by faith-based assumptions that all human beings spring from the same origin.¹ An Islamic source for the belief in equality and the need for fellowship is found in *The Holy Qur'an*, which proclaims that the creation of one humankind was from one male and one female (49:13).²

In this connection, a distinction may be made between religion and faith. While religion may manifest itself as doctrine, rules and hierarchies, faith refers to authentic conviction and concrete commitment. It is the Muslim scholar Abdullahi An-Naim in particular who has shifted the debate on “religion and human rights” from textual interpretations of prescriptions and proscriptions to the actual understanding and practice of belief.³

(2) Faith, then, requires (re)*confirmation*, or (re)*affirmation* as it is called in the preambles of both the UN Charter and the Universal Declaration of Human Rights. These documents, in other words, represent not only a conviction but also a *commitment*: Walk the talk! “Free and equal in dignity and rights” requires individual self-respect, structural incorporation of respect for each and every human being in the institutions of society, and actual day-to-day protection against abuse of power over others. Indeed, right after their faith-based affirmation of human rights the Latin American bishops express a deep concern about daily abuse. These rights, they note, are however grossly and systematically violated from day to day “not only by terrorism, repression and attacks ... but also

1. Cf. Perry, *op. cit.*, p. 13

2. See, for example, Ali Salman, *Human Rights and Islam: Some Points of Convergence and Divergence*, online essay accessible at <http://www.renaissance.com.pk/octvipo2y1.html>, consulted on 9th April 2009

3. Abdullah an-Naim, “The Best of Times, and the Worst of Times: Human Agency and Human Rights in Islamic Societies,” *Muslim World Journal of Human Rights* Vol. 1, no. 1 (2004)

through the existence of extreme poverty and unjust economic structures which result in extreme inequality. Political intolerance and indifference in regard to the situation of general impoverishment reveal a general contempt for concrete human life on which we cannot remain silent.” Hence, as a “pastoral action line” the bishops request the realisation of human rights in an effective and courageous manner “based on both the gospel and the social doctrine of the Church, by word, action and cooperation, and in that way to commit ourselves to the defence of the individual and social rights of human beings, peoples, cultures and marginalised sectors of society, together with persons in a state of extreme vulnerability and prisoners.”

Definitely, the fellowship that human beings are called upon to establish is not just a matter of envisioning the others as free and equal creatures but also of *doing* justice and *living together* in peace. Indeed, the whole international human rights venture might be much more tuned to *realisation* rather than just to intricacies of setting standards, reservations, legal interpretations and declarations.

(3) Faith implies *accountability*. “Reason and conscience” call for a self-image based on responsibility and with that accountability towards all those affected by public as well as private decision-making. As a matter of faith, and hence of transcendental inference, human beings are accountable. Consequently, power becomes authority, based on principles and standards to protect life in dignity. Notably then, *protection* of those over whom power is exercised -a core idea in the international venture for the realisation of human rights- is a faith-based requirement.

Crucial in this respect is a corresponding core-notion: *legitimacy*. On the face of it, this simply implies that the ruled accept the rule of the rulers. In the course of human history, however, the issue of acceptability got connected to certain norms and principles, too, including internationally accepted human rights standards. Thus, legitimacy today requires a use of power respecting the right principles, following the right processes and leading to the

right outcome.¹

Yet, although the whole idea of rights is based upon the expectation that evident violations would lead to contentious action resulting in redress, *human* rights often remain without effective implementation. This is due to two crucial obstacles: firstly, the often prevailing inadequacy of law as a check on power, and secondly, the lack of reception of these rights in many cultural and politico-economic contexts. The implication of such critical constraints in the operational impact of universal human rights is not, however, that these rights lose all meaning in processes of development and the attack on poverty. While in Western history individual human rights got a place in the statute books at the end of processes of societal transformation and individual emancipation, in much of the South these internationally accepted standards stand at the beginning of emancipation and social change. Their function, in other words, is not so much immediate *protection* (what ought to be protected would still have to be acquired), but rather *transformation*. Moreover, these internationally recognised rights play their part not merely as legal resources (implying a reliance on functioning legal systems) but also as political instruments in the sense of internationally enacted standards of legitimacy that are meant to govern any use of power.

In point of fact, then, a judicial case-by-case approach to concrete violations of human rights is just one possible option in efforts to realise human rights. Legal literacy programmes are a way of raising awareness on people's rights in general. A political case-by-case approach uses protest and other forms of dissent as ways of protecting fundamental interests against policies and actions that violate people's human dignity. Even in the lives of those already facing daily hardships, such resistance appears to be often necessary. But the most pressing challenges lie in persistent *non-implementation* of human rights. It is the economic, political and social structures behind such situations that would have to be

1. See Berma Klein Goldewijk and Bas de Gaay Fortman, *Where Needs Meet Rights. Economic, Social and Cultural Rights in a New Perspective*, Geneva: World Council of Churches, 1999, p. 119

addressed. Here collective action would be called for, aiming at structural reforms.

These four distinct types of strategies for human rights implementation, based on accountability of those holding power over others, may be illustrated by a simple matrix showing the focus of human rights with regard to two major functions, protection and transformation, as well as two categories of means towards implementation: legal resources and political instruments.¹

Figure 2 Human rights in a functional as well as an instrumental setting

Functional Instrumental	Protective	Transformative
Legal resources	Litigation (judicial action case by case)	Legal literacy programmes aiming at awareness- building
Political means	Dissent and protest against unfair policies and actions	Collective action addressing structures of injustice

Peace with justice

Our faith-based perspective focusing on the grounds of human rights disclosed their connection to not only the right values such as liberty and equality but also the right way of relating to others, *viz.* fellowship (in art. 1 UDHR termed ‘brotherhood’). Genuine fellowship is based on peace with justice.

Peace in the world of the Abrahamic religions is called *Salaam* or *Shalom*. It is the word with which people greet each other, expressing their desire for *inclusive community*. Thus, from a faith-based angle peace means much more than the absence of war and the violence that goes with it. It is also distinct from security, a notion signifying protection against perceived threats. In a Biblical as well as a Qur’anic outlook the connection is from peace to security and not the other way round (as the former Israeli prime minister Ariel Sharon used to put it

1. Cf. Bas de Gaay Fortman, Human Rights, entry in David Clark (ed.), *Elgar Companion on Development Studies*, Cheltenham (UK): Edward Elgar, 2006, pp. 260-266.

in his election slogan “peace through security”). Shalom/Salaam signifies social harmony, and includes, indeed, “life, liberty and the pursuit of happiness”, as proclaimed in the United States Declaration of Independence.

Consequently, from a faith-based perspective peace is intrinsically connected with justice, as expressed in Psalm 85 of the Holy Bible (verse 10): “peace and justice *-shalom* and *tsedeq-* kiss each other”. In this respect, day-to-day reality is still a long way off. Based on his practical experience in peace building, John Paul Lederach has noted a serious lacuna in efforts towards peace building: the *justice gap*.¹ This is the result of inadequate endeavour to develop a peace building framework that not only reduces direct violence but also produces social and economic justice. The point is that in all situations of violent conflict, there are original injustices that lie at the roots of it. The main reason why hostilities can be stopped in the end is that those involved realise that the violence of the war is even worse than the original injustices. But at the same time they will expect these original injustices to be dealt with after the cessation of hostilities. Expectations are raised that life will not be as it used to be but that there will be an improvement, a public path towards justice. Notably, then, justice has to do with not only “law and order” in the sense of protection of people in their person (personal security), in their possessions (permanence of possessions) and their deals (*pacta sunt servanda*²), but also the outcome of the use of power, and hence with daily livelihoods, people’s needs and the recognition of these.

Human rights, as we know, constitute the modern global justice discourse. This may have its flaws, but our world has nothing better. Moreover, the rhetoric got its follow-up in United Nations Charter-based and Treaty-based standards and mechanisms to secure compliance. A point of critique remains, however, that the usual

1. J. P. Lederach, Justpeace -The Challenge of the 21st Century, in *People Building Peace*. 35 *Inspiring Stories from Around the World*, European Centre for Conflict Prevention, Utrecht, 1999, pp. 27 ff

2. Agreements are to be carried out (Grotius)

approach is far from holistic and integrated, despite the standard clause on indivisibility and interdependence.¹ The faith-oriented approach taken in this paper discloses three vital methodological urgencies:

(1) Specific human rights should not be disconnected from *the core of human dignity* as expressed in the preambles to both the United Nations Charter and the Universal Declaration of Human Rights, and in art. 1 UDHR.

(2) *Faith* stands at the roots of the whole human rights endeavour, as expressed again in the preambles of the Charter and the Declaration. Certainly, the building of a global popular constituency compassionately committed to universal human rights needs constant nurturing from plural faith-based perspectives on a deeper layer.

(3) The international venture for the realisation of human rights was envisioned as being in unison with the need for human fellowship and its basic orientation towards *peace with justice*.

Obviously, there are quite a number of concrete challenges subsequent to these general conclusions. Such follow-up issues in human rights implementation are to be identified in specific settings. Evidently, contextual responses to challenges inherent in the interrelationship between human rights and peace are taken up already. Prominent in this respect is the interdisciplinary and interfaith environment of Mofid University's biannual International Conference on Human Rights. At Utrecht University a conference on hermeneutics and human rights was held with participation from scholars of different disciplines too -theologians, lawyers, linguists and social scientists- as well as religious backgrounds: Muslim (both Shi'a and Sunni), Jewish, and Christian (both Roman Catholic and Protestant). Analyses were presented on such diverse problematic issues as, amongst others, the rule of law, treatment of minorities, religion and ethnic-political strife, religious freedom and apostasy,

1. Indivisibility is usually interpreted in respect of the relationship between distinct categories of human rights (civil and political rights, economic, social and cultural rights, and collective rights respectively). The standard text here is World Conference on Human Rights, Vienna, 14-25 June 1993, *Vienna Declaration and Programme of Action*. Yet, that terminology might be just as well applied with regard to "human rights and peace" and "human rights and the natural environment".

'jihadism', 'textualism' as a hermeneutic methodology, religious views on the position of women through the ages, and female genital mutilation. The outcome will be a book entitled *Hermeneutics, Scriptural Politics and Human Rights: Between Text and Context*.¹ These two instances may be seen as just illustrations of an emergent search for faith-based efforts to overcome the many obstacles to a truly universal *realisation* of human rights.

1. Bas de Gaay Fortman, Kurt Martens and M.A. Mohamed Salih (eds.), *Hermeneutics, Scriptural Politics and Human Rights: Between Text and Context*, New York: Palgrave-Macmillan, forthcoming in April 2010