

## The Spiritual Crisis:

# Human Rights and Religion Political Theory of Human Rights

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### Abstract

My intention in this research is to focus on the idea of spiritual crisis in human rights arena. The topic I shall be discussing concerns a basic set of issues dealing with the purpose of human rights, their moral foundation and their ultimate metaphysical ground. Simply put I shall be asking whether there is something special in human beings which entitles them to rights. Some arguments such as human agency, dignity and natural law tend to be quite abstract. It could therefore be tempting to assume that the issue, being of not much practical importance, is not relevant. But this would be a rush assumption because determining the foundation of human rights means determining the very legitimacy of human rights themselves in the international arena. I will consider Ignatieff's pragmatic point of view that can be summed up with a catch phrase: "without the Holocaust no Declaration, because of the Holocaust, no unconditional faith in the Declaration either" and Stackhouse's religious one developed in Religion and Human Rights: a Theological Apologetic. My purpose is to analyse both Ignatieff's view, that avoids contentious religious ground for human rights and offers a secular ground designed with the idea of human agency, and Max Stackhouse who, instead, defends the idea of a theological ethic as religious ground for human rights. First of all, through this analysis I aim at pointing out that while on the one hand the respect for our fellow human beings needs a reverential attitude and our commitment to protect our species needs to be sustained by some faith; on the other hand grounding human rights in religion is extremely dangerous and may imply violent clashes between different religious faiths. Secondly, I also aim at criticizing Ignatieff's view because a defence of human rights as pragmatic instruments on pragmatic grounds seems to be too weak and human rights

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regime needs moral and metaphysical foundations to be universally recognized and implemented. Thirdly and ultimately, using Rawls's concept of overlapping consensus I aim at showing the unecessity to agree upon a "single foundation". A single foundation risks to be authoritative, whereas, what a human rights regime relies on is a plural foundations. If we arrive at respecting human rights on a plurality of grounds, then we are making them more broadly acceptable to people. If we publicly defend human rights for a plurality of reasons, we are rightly proving that there is no "proper" metaphysical foundation. A good reason why we do not need to ground human rights in any particular metaphysics can be that they are already grounded in many metaphysics and can already derive sustenance from many sources. Hence, it would be worthwhile and wise to welcome a plurality of nonexclusive claims concerning the ways in which human rights can legitimately be grounded. Human agency, human dignity, equal creation are, for instance, some examples of different foundations that are not mutually exclusive.

**Keywords:** Human Rights; Political Theory; Spiritual Crisis; Human Dignity; Moral Foundation.

### **Introduction**

In the second part of Michael Ignatieff's *Human Rights as Politics and Idolatry* the author draws our attention to a critical fact, the spiritual crisis in human rights arena.

The topic I shall be discussing concerns a basic set of issues dealing with the purpose of human rights, their moral foundation and their ultimate metaphysical ground. Simply put we shall be asking whether there is something special in human beings which entitles them to rights.

Some arguments such as human agency, dignity and natural law tend to be quite abstract. It could therefore be tempting to assume that the issue, being of not much practical importance, is not relevant. But this would be a rush assumption because determining the foundation of human rights means determining the very legitimacy of human rights themselves in the international arena.

Ignatieff's position in this respect, apart from being a helpful starting point for discussion, seems to me to be reasonable.

His main argument is that human rights are important instruments for protecting individuals against cruelty, oppression and degradation. He does not pursue this further by deriving human rights from first principles of metaphysics, he maintains that there is no relationship between human rights and natural rights or between the human and the natural.

Ignatieff underlines the human tendency to be naturally indifferent to fellow humans and supports this thesis with empirical evidence.

One historical example among the most atrocious is the Holocaust, which plainly demonstrates natural human cruelty. It shows unequivocally that pity and solidarity are not innate and universally distributed natural human propensities. The conclusion for Ignatieff seems to be clear: no foundation is to be built on human nature because the only explication we can give about human rights is historical.

In sum, his point can be summed up with a catch phrase: "without the Holocaust no Declaration, because of the Holocaust, no unconditional faith in the Declaration either". (Ignatieff, 2001: 81)

In this framework human rights are seen as pragmatic instruments in an international human rights regime. Whereas eschewing a foundation on metaphysical principles gains the major advantage, for people coming from different metaphysical traditions, to accept

human rights more easily, nevertheless this has the disadvantage of lacking power and effect. It cannot be denied that without some groundings, metaphysical or not, it is hard to understand why human rights should have any appeal.<sup>1</sup>

This is the human rights dilemma. On the one hand grounding human rights on a strong metaphysical principal does not assure universal assent and, on the other hand, without metaphysical foundation there is no possibility of persuasion for human rights.

Ignatieff's position adheres to a political and prudential level, carefully avoiding controversial philosophical justificatory arguments. In fact he forgoes foundational principles rooted in human dignity, natural law and divine purpose and chooses human agency – which is actually a related notion – as his own candidate as the reason for defending human rights.

Although he often seems to maintain that human agency is not a foundation but more of a pragmatic idea, nevertheless it can be agreed that for Ignatieff this concept reflects the reason why we have rights. We have rights because we are purposive agents who want to be treated as such by the other human beings. In other words, we have rights in order to protect human agency. Thus, this notion is the reason to defend human rights and its foundation.

Yet, what gives the instruments of human rights their power is implicit in Ignatieff's remark that *human rights has gone global by going local*. Namely, people around the world having different religious faiths and juridical traditions have, nonetheless, found reasons to believe and support the same human rights. This happens mainly because these instruments protect the interests of the powerless. Put it differently, they empower the victims to protect themselves.<sup>2</sup> Indeed, each individual wants and needs protection.

Furthermore to prove that we don't want to be tortured, we don't need to agree that we are all created in the image of God, or that we all have natural rights.

Article 7 of the International Covenant on Civil and Politic Rights states that *no one shall be subject to cruel, inhuman or degrading treatment or punishment* and this statement needs not be founded on notions of dignity and respect to agree upon it. Yet, this does not imply that no foundation is needed, but rather that foundations should not be honoured and treated with more importance than the rights themselves.

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1. See: Appiah, 2001: 105-106.

2. See: Ignatieff, 2001: 68.

The attempt to avoid contentious religious grounds and philosophical controversies was not successful insofar as even the recognition of the importance of human agency provides a controversial *secular ground*.<sup>1</sup>

To begin with, bypassing foundational arguments such as dignity, natural law and divine purpose and opting rather for the notion of human agency, Ignatieff settles on nothing but a related notion. Yet this is part of his strength because if human agency, for instance, was not related to human dignity, it would be less suited for supporting the weight for human rights recognition.<sup>2</sup> Secondly and importantly, the idea of human agency can support human rights only if human agency itself is thought of as being valuable and worth protecting.

Human agency has been designed as the pragmatic common denominator suited for making agreement possible across divergent cultural perspectives. Yet, I would object that since it is an undefeatable and nontrivial reason to defend human rights, human agency still remains a philosophical foundation like human dignity. But this is not Ignatieff's standpoint. In point of fact, he maintains that an international human rights regime *can* and *should* be defended without metaphysical and religious foundations.

It is not surprising at this point to see how firm and tenacious is the challenge that human rights has to face from different religious sources. Both Catholics and Protestants raise the same objection. Coming back to the Holocaust, if historically human reason allowed the Holocaust and if the aim of human rights is to contain human use of power, then the only authority able to do so should lie beyond human beings. Therefore the ground of human rights should also be founded in some religious sources.

Against the secular humanism, defined by Ignatieff as *an ethics undergrounded in divine or ultimate sanction and based only in human prudence*,<sup>3</sup> Max Stackhouse, a Princeton theologian, argues that the reason why we have rights is to be found in theology and that what the idea of human rights needs is to be grounded in the concept of God.<sup>4</sup>

Substantially, he claims that humanism is inconsistent, dangerous and self-defeating.

First of all, humanism is inconsistent because it makes humanity the measure of all things, while no human language has such power. In this

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1. See: Gutmann, 2003: XXII

2. See: Gutmann, 2003: XIX.

3. See: Ignatieff, 2001: 81.

4. See: Ignatieff, 2001: 82.

sense, secular humanism is also accused of being a form of idolatry. Secondly, it is dangerous because human species towers over any other and could therefore create an entirely instrumental relation with other species. Ultimately, it is self-defeating because in the wake of the absence of metaphysical claims humanism is not capable of setting a restraint in exercising human power.

From a religious point of view, there is the idea of the sacred which has the strength to impose a limit on human will to power.<sup>1</sup> Put another way, any secular attempt to limit human power is bound to fail.

Max Stackhouse maintains that only the idea of transcendent moral law or the idea of non-human divinity can provide humans beings with the notion of impassable limits. If we want to effectively protect the human species from itself we need an external superior authority. But, if on the one hand religion can boast many remarkable historical examples of religious people moved by admirable dignity, charity and brotherhood, fighting injustice and tyranny, on the other, religion, in making its claims absolute, gives powerful justifications for torture, forced conversions, burning of heretics and so on.

The strength of the religious counterargument is undeniable, namely that the worst atrocities of the last century were caused by human haughtiness and arrogance. In other words, by human *hubris*.<sup>2</sup>

Ignatieff's reply to this is reasonable and can be shared. He defends a non-idolatrous humanism which does not have any reference to metaphysical claims that it cannot justify and he is very doubtful about the need of the idea of sacredness for human rights.

In fact, if the idea of sacred is to say that human life ought to be protected, why do we need God or other theological foundations to understand that human beings should not be beaten? There are human capacities like empathy, conscience, the faculty of imagining the pain of others and free will, which enable human beings to believe that they should be protected from cruelty. Therefore, human rights do not need the idea of God, rather they need the idea of moral reciprocity which, roughly speaking, equates to 'I don't do what I don't want to be done'.

But, at this point a request for elucidation regarding the relation between this minimalist conception of shared human capacities and the concept of human agency is legitimate.

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1. See: Ignatieff, 2001: 84.

2. See: Ignatieff, 2001: 86.

At the beginning it was stated that for Ignatieff the grounding of human rights is the recognition of human agency. But now, answering to the religious point of view, he introduces some new notions of empathy, conscience and free will. It might appear that there is a missing point in this theory. Instead, there is an explanation and is given by Ignatieff himself. He explains that these faculties describe the basis of what is required for an individual to be an agent. Since no agent could conceive any circumstances in which he/she would wish to be tortured, then we imagine that everyone wants this practice to be banned and ask for protection. Protecting an agent from abuse means empowering him with rights.<sup>1</sup>

However, such a secular defence of human rights leave religious thinkers definitely displeased.

Going back to Max Stackhouse, he is convinced, for instance, that the ideas of human dignity, human rights and liberties of speech and association all come from religious principles in dialogue with philosophy and social theory. Hence, he infers that human rights ideals are rooted by no means in theological principles, particularly in the biblical tradition.<sup>2</sup>

There is a sort of mutual dependence between religion and human rights. In certain situations it seems that the viability of human rights depends on the influence of religion, while in other cases it is the vitality of religion which depends on human rights. In any event, this deep dependence is caused first of all by the need that societies and individuals have of a moral basis to life. Consequently, to obtain a moral substratum and allow individuals to flourish, they need a religious orientation.<sup>3</sup> Of course, this is not to say that all religions are supportive of human rights. In point of fact, Stackhouse recognizes that some of them are even destructive of all that human rights stand for.

According to Stackhouse the surge of interest in human rights, which occurred after the World War II, picked up formulations of democracy and human rights that were born out of the period of Enlightenment. He also stresses that only sometimes was the source of these developments underlined, namely that they were rooted in previously established theological assumptions which themselves derived from ancient times. Still, if the thinkers of the Enlightenment were aware of these ancient sources, their heirs were not. Hence, the contribution of faith to human rights was often ignored insofar as ancient insight were

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1. See: Ignatieff, 2001: 89.

2. See: Stackhouse, 1991: 492.

3. See: Stackhouse, 1991: 491.

obscured and suppressed.

His point is that originally, some religious positions in dialogue with selected philosophical traditions gave birth to a transcendent view of the world as a whole. Then, some individuals started recognizing the existence of a perspective beyond time and space, religion and morality. Whoever was able to grasp this perspective of unity was experiencing theologically the nature of justice and could see it more clearly.

Without really explaining this assumption, it is said that if the world is a whole and we can conceive of it as a unity, then we are transcending it and, despite cultural differences, we can begin to 'suspect' that the world is governed by a unifying moral law.<sup>1</sup>

Stackhouse goes over religious historical phases and stresses that originally the prophets protested the exploitation of the poor and asked the various nations, which declare themselves loyal to this God, to submit to a moral law. They stated that even though certain things are approved by political authority, they ought not to be done by one human to another.<sup>2</sup>

Later on, this point of view was radicalized by Christians and linked to philosophical and jurisprudential theories that were themselves, albeit in different way, developing a notion of universal normative moral order.

Thus, the interaction between faith and philosophy gave birth to theology and ethics as basic guides for thought and action on a universal basis.<sup>3</sup>

However, apart from remaining a minority, these developments were periodically suppressed by political interests and pagan tendencies or distorted by the ideological use of religion. Either political power used religion to legitimate its interests or the religious leaders themselves made Christianity a blind faith, something to believe in without intellectual justification.

Then the religious wars of early modern Europe came and the image of religion definitely lost its credit, so much so that all post-Christian views of *a priori* human moral and natural rights grew to guide political authority without religion and to develop a cosmopolitan ethic.

Thus, with the Enlightenment, theology was completely demolished

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1. See: Stackhouse, 1991: 486.

2. See: Stackhouse, 1991: 493.

3. See: Stackhouse, 1991: 493.

and replaced on the one hand by apolitical and pietistic fideism and on the other by an ontologically free-floating rationality.

But the godless foundations of the universal moral order that the Enlightenment tried to define was not bound to last forever because, according to Stackhouse, the strength and the initial success of the Enlightenment, was only due to the deeper but hidden foundations which had been set by theology.

However, this brief *excursus storicus* was useful for Stackhouse to say, in sum, that human rights nowadays can best be seen as a part of the process of the recognition of decisive ethical concepts. He defines human rights as the modern language of cross-cultural ethical concepts which are undeniably bound to theological assumptions.

Seen in this light, theology is what gives the right interpretation of human nature, namely what directs human behaviour. It is said it is a necessary partner of philosophy and social sciences since it establishes universal ethical norms for the emerging global society. Yet, it also criticizes certain religions when they prove not to be valid guides for individuals and ought to be challenged in their truth and justice. This view aptly suggests that not all religions are able to embrace and sustain theology and its universalistic ethic. For this reason Stackhouse concludes that it is doubtful whether human rights can exist without theology. Yet, he recognizes that not all agree on a theological genealogy of human rights, nor on the possibility of something universal.

Nowadays the idea of human rights has to face many different threats. The most threatening of these comes from the very same defenders of human rights. Alasdair MacIntyre, for instance, wrote that there are no such rights and that believing in them means nothing but believing in witches and unicorns. In particular he wrote that "the best reason for asserting so bluntly that there are no such rights is the same reason for asserting that there are no witches... Every attempt to give good reason for believing that there are such rights has failed... Natural or human rights are fiction."(MacIntyre, 1981: 69-70)

Whether on one side there is an ever growing number of philosophers and social theorists like MacIntyre who have doubts regarding the very existence of human rights, on the other side there are many other thinkers who, using sociological, anthropological and philosophical theories, defend human rights from a liberal point of view. They define human rights as historical artefacts, which exist

insofar as particular social conditions exist.<sup>1</sup> But Max Stackhouse's objection is that this analysis cannot explain from a prudential, empirical and socio-historical viewpoints why individuals should be committed to human rights, seeing that empirically they are often violated all over the world. Moreover, he is also doubtful about how human rights in these perspectives could come into consciousness if founded on a form of empirical normative.

Instead, Stackhouse points out that in the sociological tradition the number of scholars who are beginning to insert religion within human rights discourse is increasing. The voices with regard to this are very different; there are thinkers who challenge the use of the social sciences as an ally of religion and theology, others who question whether sociology can provide any normative footing for human rights and lastly, within this group, many writers who argue that social sciences are the only disciplines able to supply post-religious civil society with an effective normative guidance.

However, it is not clear whether contemporary sociology and contemporary philosophy alone could support human rights in their capacity as normative guidance. Certainly this is not Stackhouse's standpoint, who maintains that philosophy and sociology alone may only support human rights either in a framework of a non-institutional normativity or of an institutional anomie.<sup>2</sup> For this reason he infers that both disciplines have to deal with religions as decisive factors in human rights discourse.

It is a matter of fact that nowadays the world is increasingly interdependent and interconnected in its media, international organizations, in its politics, its economy and multinational corporations. Unavoidably the latter shape the world in which human rights are recognized.

So the world is changing, a different form of civilization is emerging and in this new framework individuals see before them the possibility of a broader *telos*. They begin asking themselves about the meaning of it all and the chief end of life. Awareness of these developments connects the anxiousness about the fate of the individuals, thus Stackhouse begins to wonder about what may push this new pattern to create new inclusive institutions and nurture normative ideas about what is true and just.

Within this search he chooses to investigate a form of voluntary association, the world religions using a method which on the one

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1. See: Stackhouse, 1991: 489.

2. See: Stackhouse, 1991: 507.

hand focuses on religious realities and on the other joints the study of religions both to social theory and philosophy. Theological ethics is such a method, which, including certain forms of philosophy of religion and jurisprudence, is at the same time able to be alert to both theological and normative issues. In this way, Stackhouse maintains human rights can be discussed without sacrificing socio-historical institutions.

He chooses to focus on world religions first because they express a metaphysical moral vision that entails normativity and secondly because they interact well with social structures.

Stackhouse points out that it is likely that for human rights two things are necessary to be recognized and supported in the common life: a theological understanding of normative reality and concrete institutions to actualize this normative vision in society.<sup>1</sup> Then it is sound to place human rights foundation on both a sustainable normativity and a concrete institutional ground.

Conceivably, not all religions should enter seriously in this discourse, but only those that have shaped large scale civilizations, that are universal and capable of spreading globally. For his purpose, he takes Christianity, Hinduism and Islam as examples of world's major civilizational religions.

In analysing the ethics of each of these religions, he finds distinct elements which substantially make world religions perfectly suitable candidates for the ground of human rights.

First, he asserts that every religion has a universal moral law which condemns violence, murder, rape, lying, promise keeping, theft and so on. Therefore, from this claim, he infers that members of different religions can agree with each other to find a common basis for the recognition of human rights. I would point out that this assumption seems not to be supported by reality which in point of fact, documents precisely the contrary. Suffice it to make reference to the crisis currently confronting Islam, Hinduism and Christianity.

Secondly, all great religions mingle themselves with the social context of life, with political, economic and cultural institutions and the way in which they establish a connection with them will affect the very functioning of the principles of right and wrong. By mentioning this interaction, Stackhouse intends to point out that religious traditions are subject to change and can reform themselves in tune with the birth of new ideas and social circumstances. In this way he

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1. See: Stackhouse, 1991: 491-492.

would demonstrate that even with the emergence of globalization, religion does not lose its position as a fertile grounding for human rights because of its capacity to alter. Somehow, he is saying that all religions are capable of facing the fact of modernity and react to the development of a new world order.

Thirdly, world religions provide teleologies, forward-looking visions which are supposed to guide human beings in their task of discerning good from evil in the light of ultimate aims. First principles, final aims, metaphysical ethical visions are necessary for individuals not to perish. Therefore, with this third element, Stackhouse provides human rights with a metaphysical support laying in the metaphysical moral vision of the world religions.<sup>1</sup>

With regard to this last point, we most certainly must underline the existing problem of conflicting teleologies, which is becoming more and more intense with the advent of globalization. Stackhouse somehow justifies what we call “fundamentalism” because it shows intellectual courage in providing comprehensive assessment of the state of affairs of the world and in seeking foundations in religious traditions.

So far the theologian of Princeton wanted to show that alongside the development of globalization neither philosophical theories nor sociological ones can help us in supporting human rights. In very broad terms, whereas philosophy fails because it is too often abstract and sociology because it is usually normless, theological ethics succeeds because it ties institutional focus with normative thinking.<sup>2</sup>

Therefore, the long term recognition of human rights, according to Stackhouse, requires the engagement of a social hermeneutic which should be philosophically inclined to universality, socio-historically in accord with the role played by religion in society and theologically ready to provide apologetical arguments for and against the claims of religion in the quest for a true account of human nature under God.<sup>3</sup> Theological ethics has the task of considering all these arguments within an integrated focus.

So far we have seen Michael Ignatieff who, avoiding contentious religious ground for human rights, offered us a secular ground designed with the idea of human agency and Max Stackhouse who, instead, defended the idea of a theological ethic as religious ground for human rights. Whereas the former supported the point of view of

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1. See: Stackhouse, 1991: 508-511.

2. See: Stackhouse, 1991: 513-514.

3. See: Stackhouse, 1991: 516.

a secular humanism and chose a pragmatic idea to make agreement across divergent cultural and political traditions possible, the latter, within a theological apology of human rights, claimed that only the idea of God can explain why people have the right to lay claims to rights.

Regardless of secular or religious grounding of human rights, I would suggest, in agreement with Amy Gutmann<sup>1</sup>, the unecessity to agree upon a "single foundation". A single foundation risks being authoritative, whereas, what a human rights regime relies on is a plural foundations. If we arrive at a point of respecting human rights on a plurality of grounds, then we are making them more broadly acceptable to people. If we publicly defend human rights for a plurality of reasons, we are rightly proving that there is no "proper" metaphysical foundation.

In effect, a good reason why we do not need to ground human rights in any particular metaphysics can be that they are already grounded in many metaphysics and can already derive sustenance from many sources.

Hence, given that we are living in a pluralistic world, it would be worthwhile and wise to welcome a plurality of nonexclusive claims concerning the ways in which human rights can legitimately be grounded. Human agency, human dignity, equal creation are, for instance, some examples of different foundations that are not mutually exclusive.

While on the one hand I believe that respect for our fellow human beings needs a reverential attitude and that our commitment to protect our species needs sustaining by some faith, on the other I am convinced that grounding human rights in religion would be extremely dangerous and would imply violent clashes between different religious faiths.

I do not even endorse Ignatieff's view because a defence of human rights as pragmatic instruments on pragmatic grounds seems to be too weak and because I believe that human rights regime also needs moral and metaphysical foundations to be universally recognized and implemented.

With reference once more to Ignatieff, he wanted to eschew foundational arguments because he conceives a universal regime of human rights protection compatible with moral pluralism. But even though his purpose is sound and may be shared, nevertheless it does

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1. See: Gutmann, 2003:XXII.

not follow that a regime of human rights should deny any foundation, nor that it should be grounded on a single foundation.

My proposal here is to rely on many foundational arguments using the Rawlsian concept of overlapping *consensus* of reasonable comprehensive doctrines.

A reasonable comprehensive doctrine, to give a brief definition, covers the major religious, philosophical, and moral aspects of human life in a more or less consistent and coherent way. It recognizes certain values so that they are compatible with one another and expresses an intelligible view of the world. Ultimately it is not necessarily either fixed or unchanging.<sup>1</sup>

In a society whose free and equal citizens are deeply divided by conflicting religious philosophical and moral doctrines, Rawls contends that a reasonable comprehensive doctrine cannot secure the basis of social unity. An agreement on a comprehensive doctrine will be neither lasting nor stable due to natural changes which occur in our lifetime within our conceptions of the good. Besides being disrespectful of the fact of pluralism.

Who could assert the undisputed superiority of a comprehensive doctrine upon another and its truth over another? Normally, people who have a particular comprehensive vision of the world insist on their beliefs because these beliefs are true, not because they are their beliefs. But conceivably, this is a claim that could equally be made by all without being able to reasonably justify it to others.

Reasonable people do not all endorse the same reasonable comprehensive doctrine. There exist a remarkable number of reasonable beliefs systems and each person chooses from among them the one which feels more sympathetic. The plurality and variety of comprehensive doctrines clearly show that not all of them can be true, even though at the same time that do not prevent anyone from believing the contrary.

This is a way of demonstrating that to talk about the truth of comprehensive doctrines is quite controversial, while it is not to talk about their reasonableness. Hence I think, it would be intellectually more honest and respectful of the existing moral pluralism to find an overlapping consensus among different reasonable comprehensive doctrines in which to ground the basis for social unity.

Rawls suggests that in such a consensus the reasonable doctrines endorse the political conception of justice, each from its own point of

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1. See: Rawls, 1993: 59.

view. That is, all the reasonable members of political society accept a political conception and fill out their justifications by somehow embedding them into their comprehensive doctrines. Put another way, they affirm the political conception of justice on the basis of their several reasonable doctrines and they do it on due reflection, or in what Rawls calls *reflective equilibrium*.

Rawls maintains that only when there is a reasonable overlapping consensus can the political conception of justice be publicly justified. Since he extends his theory of Political Liberalism from a single democratic society to the international system, then we can also claim that only if there is a reasonable overlapping consensus among comprehensive doctrines, can the law of people and therefore human rights be justified.

The political conception of justice is the heart of the overlapping consensus and it is independent of any particular doctrine. Indeed, to be more faithful to Rawls I should say that it depends only in an indirect way on the reasonable comprehensive doctrines, since these do not have a normative role in public justification. But although the political conception is freestanding, nonetheless it can be embedded in various ways into different comprehensive views.

Thus, the aim is not to find a compromise among different reasonable comprehensive doctrines because it would be extremely unstable and would commit our project into the hands of relativism. The overlapping consensus is not a *modus vivendi*, a balance of forces subject to contingent and fluctuating circumstances. Instead, it is a question of building the core of a generalized consensus which crosses all reasonable comprehensive doctrines. But how is this possible?

The first step is to work out a political conception of justice as a freestanding view without trying to fit any comprehensive doctrine, but nevertheless keeping from raising them any obstacle. The purpose is to exclude from the political conception any idea which goes beyond the political. Then, when these conditions are satisfied and the political conception is complete, we hope that reasonable people with their different comprehensive doctrines can support it, providing a deep and enduring basis for social unity and fair political cooperation. For Rawls seeing whether an overlapping consensus on the political conception of justice is possible is a way of checking whether there are sufficient reasons to propose *justice as fairness* (or, he writes, some other reasonable concept), which can be defended before different comprehensive doctrines without rejecting their

philosophical and religious values.<sup>1</sup>

The same analysis can be made within human rights discourse which is to be conceived as a freestanding view. By justifying them without looking to any comprehensive doctrine and making any reference to non-political values, we allow people, coming from different and often conflicting comprehensive doctrines, to support human rights and we give the opportunity to embed them in their comprehensive systems of beliefs. So, we first elaborate a justified and freestanding idea of human rights, then we leave reasonable people free to find the bearing between the conception of human rights and their reasonable comprehensive doctrines.

Despite of its freestanding nature, human rights can be embedded in various ways, mapped or inserted as a module within many different reasonable comprehensive systems of values.

### **Conclusion**

If we think, for instance, that the drafting of the Universal Declaration of Human Rights itself involved people tied to cultural traditions in North and South America, Europe, Asia and Africa, and involved different religious traditions including Islam, Judaism, Eastern and Western Christianity and Hinduism, then it is not unreasonable to say that many cultures, many different comprehensive doctrines can converge in support of human rights. Let us take, for instance, Article 1 of the Universal Declaration which states:

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 brotherhood.

In two simple sentences we can find many foundational arguments such as free and equal personhood, equal dignity, equal creation, equal brotherhood and human dignity, which are not in conflict with each other. In my opinion, it is not sound at all to talk about the 'proper' or true foundation for human rights, nor it is incoherent to assume that human rights can be grounded on plural foundations. I believe it is wise to respect human rights on a plurality of grounds, because this shows by no means that human rights can be publicly defended for a plurality of reason. It is also wise to use the idea of reasonableness for political purpose of discussing questions of basic justice and leave the concept of truth to comprehensive doctrines to use or deny.

Therefore, recognizing and supporting an international human

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1. See: Rawls, 1993: 390.

rights regime on plural grounds and for a plurality of reasons, besides being very good news for this pluralistic world, it would also give more strength to the implementation of human rights.

A universal regime of human rights has to be compatible with moral pluralism and different reasonable foundations, though this does not mean that it must be compatible with every belief system. We know that a human rights regime cannot indiscriminately embrace every existing comprehensive doctrine, since some of them openly reject human rights. Hence, in order to be compatible with moral pluralism and to be universally recognized, a human rights regime must be both freestanding and consistent with a plurality of reasonable comprehensive doctrines. After all, what human rights protection seeks to show is not the supremacy of a single doctrine, but rather the integration of different cultures, though conflicting and divergent.

I would say at least we can sincerely suppose that human rights be secured by a reasonable overlapping consensus.

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