

If belief in human rights is the state religion of our secular age, should we be worried?

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Let me start as I mean to finish, with Pope Benedict XVI. On 7 May 2009, ie just a couple of weeks ago, His Holiness welcomed members of the Pontifical Academy of Social Sciences to a plenary session in the Vatican, focused on Catholic social doctrine and human rights. So much of what he said rings true in ways that I will be exploring this evening: 'The world's great religions and philosophies have illuminated some aspects of ... human rights, which are concisely expressed in "the golden rule" found in the Gospel: "Do to others as you would have them do to you".' Human rights are to be 'accorded universal recognition because they are inherent in the very nature of man'. Furthermore 'human beings ... share a common nature that binds them together and calls for universal respect'. Human rights assert that 'everyone, independently of his or her social and cultural condition by nature deserves freedom' – they are 'the reference point of a shared universal ethos'.

There are many more quotes in a similar vein. This lecture will be to a large extent about working through the Pope's insight that the 'natural law is a universal guide recognisable to everyone, on the basis of which all people can reciprocally understand and love each other'. With a small quibble about the baggage brought into the discussion by the use of the word 'law' here (I would prefer 'Human rights rooted in our nature' in place of 'natural law') this is an at least half-way exact account, as I hope you will shortly see, of what I believe human rights to be about. However in quoting the Pope I have left some phrases out here and there – none of what I have said comprises a full sentence. I want to come back to the gaps in a moment, because these reveal strong points of difference between religion and human rights in what the Catholic philosopher Charles Taylor has called our secular age, differences to which I will return towards the end of the talk.

My title this evening is in fact three questions in one: do we live in a secular age? If so, have human rights supplanted not only the Pope but the Archbishop of Canterbury as well and become a kind of state religion? If they have, is this a source of concern or a reason for celebration?

On the first of these matters, that of whether we live in a secular age, I intend to say very little. Of course religion is far from in decline worldwide and there is some evidence of its revival in Europe as well. But the norm in the country in which we live and in the EU as a whole is either one of hostility to religion (on the increase since the arrival of non-Christian believers in substantial numbers whose commitment to religion has been unsettlingly absolute and who have not relegated their beliefs to the private sphere as Christians have learned to do) or of nostalgic affection for it, an attitude of lukewarm support that sees religion (specifically Judeo-Christian faiths) as a valued part of our culture rather than as a source of active belief, a perspective to be tolerated not because it is or even might be right but rather out of respect for the believing builders of the culture that we enjoy today and which made us what we are. Neither approach to religion is that of a faith-based society – the first is aggressively secular, the second benignly so – each reveals a society in which it is more normal not to practice faith than it is to do so, in which eccentricity lies with the believers rather than the defiers. To me this is a secular society.

But just because we live in such a place does not mean that the Pope's observations about human nature need to be put to one side. You do not need to believe that Jesus talked about the Good Samaritan in order to be one. The 'golden rule' is found in philosophy as well as in religion, as Pope Benedict himself acknowledges. And human rights activists today – I nearly said believers – behave the way that many good religious people used to when the older among us were growing up. Stephen Hopgood from SOAS has written a fine book about Amnesty International, *Keepers of the Flame*, in which he finds the analogy with a religious movement to be a strong one. The human rights movement has its Holy Days (10 December, when the universal declaration of human rights was agreed, in 1948), its saints (Eleanor Roosevelt, Peter Benenson), its martyrs (Serge di Mello, Archbishop Romero, too many, sadly, to mention), its missionary orders (Amnesty itself, Human Rights Watch, many

smaller movements), even – tragically – its crusades (Iraq) and its Inquisitions (the human rights professors who support institutional ill-treatment to save our civilised souls).

But it is not a religion, much less a state one in any formal sense. Jesus is not its guide, nor is Mohammed, nor are any other of the great leaders of our world faiths. In answering the question, ‘why do we care?’, the human rights activist does not have the ready answer available to the Pope, that we care because we are ‘created in the image and likeness of God’ and because the ‘Church, assimilating the teaching of Christ, considers the person as “worthiest of nature” – these are the bits that I left out earlier and the secular human rights believer either does not accept these foundations or even (in many cases) vehemently rejects them. If human rights have indeed taken over from the churches as the temple of our better selves in this secular age, then they have managed to do so without reliance on religious foundations of any sort whatsoever. This explains their appeal in our secular society but also exposes their vulnerability. Unable to respond ‘God’ (or ‘Christ’ or ‘Mohammed’ or whoever) to the question ‘why do we care about our fellow man?’, they are unable to suggest any alternative answer of similar force.

Since the drafters of the 1948 Universal Declaration first realised that to make progress they had to avoid asking themselves the ‘why?’ question, the international human rights movement has been engaged in a large-scale dodge of this fundamental issue. Various answers have served as decent camouflages from time to time: international law; the overlapping consensuses of civilised society, this or that clever piece of political philosophy worked up by a person with a first rate mind and a heart in the right place. But without foundations – without being able convincingly to answer this ‘why’ question, how long can the ‘secular state religion’ of human rights last? In the absence of a decent answer, we should, I think, be worried about the durability of this flimsy state religion. But without religion and without human rights what kind of a society would we have? On the other hand, if we can meet this challenge satisfactorily, we are well on the way to buttressing the human rights movement with much firmer support than it has hitherto enjoyed, and equipping it well for the future, not least with a new means of connecting with faith communities.

Answering this question is not an easy task however, for the reception of human rights in the schools of academe – from where in the absence of reliance on priests foundations flow – has been uncertain at best. The anthropologists have always been deeply sceptical: as early as 1947, their American Association was complaining about the false universalism of human rights, its demand for a straitjacket, ‘one size fits all’ approach to rights which is inevitably insensitive to local culture and customs. This criticism has if anything gathered pace over the years as more and more parts of public and private life have been made the subject of conventions on this or that set of rights, drawn up by a community of cosmopolitan scholars whose links to many of the places affected by their formulations are often non-existent. Development specialists have been historically uncertain as well, seeing the narrow focus of human rights as distracting from their grander project of large-scale material improvement. The lawyers’ complaint is the exact opposite: that the rights in the Universal Declaration are not properly enforced, that in the absence of a world court of human rights or at least an independent enforcement mechanism all the promises in the Declaration are mere empty charades, worse than useless in that they promise what it is quite impossible to deliver. The international relations specialist scoffs smugly at such lawyerly naivety and say that this is the whole point: rights are a tool in international discourse, to be used by states to further their interests – once it was the Helsinki Accords and Dr Sakharov, now it is humanitarian assistance and NATO bombings. Sociologists nod vigorously at this and recall Marx’s excoriating attack on rights as the flagships of human selfishness: truth lies not in the world outside ourselves or even within us, they say, but rather in the social practices we have created as interactive, communicative beings.

The Universal Declaration does not fit easily into any of these academic cultures. It does not shy away from ideas of right and wrong, and therefore of good and evil. Its words speak to us not as those of a scholar but rather as the careful outpourings of the collective conscience of a war-torn generation. An old fashioned sense of certainty shines through the Preamble, with its grand ‘recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family [as] the foundation of freedom, justice and peace in the world’ and its ringing reaffirmation on behalf of ‘the peoples of the United Nations’ of ‘their faith in fundamental human rights, in the dignity

and worth of the human person and in the equal rights of men and women'. None of this is further explained however: as I said earlier the drafters skipped past the 'why' question. When the Declaration notes that the 'advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people', it resists telling us why this *should* be so, where these freedoms come from and why we *ought* to be committed to them. Indeed the only foundations offered are negative, the 'disregard and contempt for human rights [that] have resulted in barbarous acts which have outraged the conscience of mankind' and the need to protect human rights by law so that the people of the world not be 'compelled to have recourse, as a last resort, to rebellion against tyranny and oppression'.

It is this vagueness on foundations that I want to tackle this evening. The 'dignity' and 'worth' of the human person were well-known ideas at the time of its drafting, albeit largely religious in content. The Declaration appropriated this language, dispensed with its roots and sought to turn it to long lasting secular effect. Can respect for universal human dignity thrive without its religious antecedents? At bottom the scholarly critique draws its force from the assumption that it cannot. I believe however that this is not the case, that we can draw out new meanings which are rooted in truth, albeit not a truth that is necessarily given to us by any Deity.

The term dignity is one that, as Christopher McCrudden has observed, is capable of having 'several meanings' and that 'one cannot coherently hold all of them at the same time'. (Human Dignity (April 27, 2006). Oxford Legal Studies Research Paper No. 10/2006 Available at SSRN: <http://ssrn.com/abstract=899687>) So we are in the realm of choice here, deciding which signification to impute to this floating phrase. My chosen version of dignity – the one I argue we should ascribe to the word in the Declaration – emerges from a combination of the natural and the learnt. There is in all of us an instinct for hospitality, for co-operation, for outreach to the stranger. True it is not the only instinct that we have, and there are others – for the safety/survival of our own family/community members, for loyalty to our group, for example – which might run counter to it. But it is there, as – surely we can say this without absurdity? – a constant feature of human

conduct since the first interactions of the species. I would describe it as an offshoot of the engagement in mutual reciprocity that has made genetic sense since some of our cave-dwelling ancestors bettered their chances of survival by choosing conflict over co-operation. In other words, it is a pre-linguistic form of moral behaviour that is rooted in how we are and which has survived into our era to take various shapes and sizes depending on the situation in which it finds itself.

Whether the instinct thrives or fails depends on the social soil in which its bearers find themselves growing. If the social institutions they inherit are weak and fragile, if their world is a place of insecurity, violence and disorder, then the instinct will manifest itself as only a dim echo of what, in better times, it might have been. Occasionally, the structures of everyday life are so poisoned that, as was the case in Nazi Germany and in Rwanda in the early 1990s, there is almost no room for solidarity with the stranger to express itself at all: in such doom-laden situations there is the institutionalisation in law and/or social practice of instincts which are aggressively hostile to universal hospitality.

More normal is the situation – across history; across cultures – where our various instincts run up against each other: we are inclined to hospitality, but also to loyalty, to reach out to the stranger one minute but to pull up the drawbridge the next. Something in us knows this to be the case and knows also that the instinct for self/kin-preservation is a strong one whereas that of solitude for the outsider is in contrast relatively weak. So to keep our selfish instinct in some kind of check, to give hospitality a fighting chance, ideas of unselfishness have not only emerged in the minds of quixotic idealists but have taken root as well, in the form of structures of governance and of behaviour which have been influential in the conduct of life, by individuals, by family groups, by community members, by whole societies. These might be custom, or law, or indeed a religious faith, or even (as has been recently claimed) novels that get us to feel for strangers (even made-up strangers). Adam Smith put it like this in 1759: ‘How selfish soever man may be supposed, there are evidently some principles in his nature, which interest him in the fortune of others, and render their happiness necessary to him, though he derives nothing from it, except the pleasure of seeing it.’ More recently Pascal Boyer

has described the various ways we remind ourselves to be good as 'commitment gadgets' which emerge to keep us on the straight and narrow, to give our better selves a fighting chance of victory.

On this analysis, the consistent interest in human dignity shown by many of the world's large religions is not necessarily a consequence of some great truth delivered from on high (though it might be) but nor is it inevitably an exercise in bad faith, mocked by the actual conduct of the leaders of such faith groups. Instead, for those among us unable to embrace the faith-explanation, such concern for dignity can be respected, admired even, as an effort to put into words and to structure a response to the instinct for hospitality that is in us all, prior to (and perhaps independently of) faith. The imperfection of its realisation – within as well as outside such churches – merely attests to the fact that there are other rival claims on our feelings which are less benign so far as 'the other' outside ourselves and our community is concerned.

On this reading, Kant's restructuring of morality to produce a non-Christian explanation for an ethic of respect for the dignity of the other becomes not the truth in itself that he and his followers thought they had found but rather a different kind of camouflage for the real motive for such a categorical imperative, which were the demands not of reason alone but of a certain kind of instinct revealed via reason. The same kind of analysis can be made of socialism (why worry about the poor in the first place?), Rawlsian liberalism (the original position and all that stuff), and (this is the key point for our purposes this evening) most recently of the prevalent idea of human dignity as the concept underpinning our 'human rights'. They are all workings-out, more or less persuasive depending on when they are formulated and the fertility of the soil on which they are spread, of this basic instinct of solidarity with the other, which is a central core of human rights. And because it is generally the poor and unlucky who need us to see them (the rich having quite enough visibility as it is) the project of human rights promotion becomes in practice one committed to a preference for the disempowered, the unlucky, the disadvantaged, life's lowest human stratum.

The establishment of a common foundational basis for human rights in this instinct for hospitality, for action founded upon empathy with the stranger, an instinct which can embrace religion without contradicting it but

which is not limited to the religious, is an essential project if human rights is to enjoy a further sixty years of institutional and activist growth. It is also vital if the critics in the academy are to be successfully tempted on board. They must be brought back to an understanding of the importance of the natural sciences, and lose their habit of viewing all the truths within us as learnt from a world into which we have been born with empty minds like blank slates on which life later draws all there is.

And what of the conventionally (rather than secular) religious? This foundational narrative is one to which many progressive Christians could easily subscribe. Indeed I would go so far as to say that it has been by tinging faith with human rights that many vocations have survived the onslaught of our modern age of doubt. But what about Pope Benedict: where does his advocacy of human rights place him in this quasi-secular story? The foundation for human rights – in human nature – is identical, even if the ultimate source of that foundation – God or evolution – might differ (that is, if they are different). But it is in the working through of what the instinct for the other should involve, of what human rights means in practice that real difficulties are encountered. For the Pope insists that he is the pilot of the whole project, able to speak authoritatively and without the possibility of objection both on what human rights are and on the priority to accord to each and every one of them. There is a strong contrast here with the secular tradition where human rights are not all about givers (the practice of altruism; kindness towards the disempowered) but about takers too: there is a large-scale subaltern tradition to take into account, a tradition of solidarity, of resistance to the abuse of power and of the assertion of right in the face of immoral might. The ‘visibility project’ is about the powerless stepping into the light as well as about getting the powerful to have better eyesight.

We can see this thread to the human rights story unfolding in history side-by-side with the use of the term as conveyor of a compassionate regard for the weak. It is because of its emblematic force as a document of resistance that Magna Carta is so often appropriated as a human rights achievement: the chief barons stood up to King John. And this is why, too, we can regard Kant’s reworking of the Christian ethic into secular shape as a breakthrough for human rights – notwithstanding the various differentials in the status of many humans that he rather coldly contemplated (active and passive citizens; the ones able to

make life plans against the second division ones who can't; and so on). This is not embarrassing because Kant's innovation is mainly about power: wresting authority from the church in favour of the people. The revolutionary dimension to human rights becomes explicit with the American Declaration of Independence in 1776 (not even the fact that some of its signatories were slave-owners has been able to dampen the enthusiasm of later generations) and then of course – and quintessentially – the French Declaration of the Rights of Man and of the Citizen, a document still celebrated as a founding text despite not only its vacuities but also the violence which the new regime sanctified by it very soon unleashed.

This connection with agitation, protest, destabilisation, even violence has always been part of the human rights story. Even more so is the story of human rights also the story of democracy: the coming together of the people to frame their approach to a good life; to agree what human dignity entails for their society and then to seek to achieve it; to be unafraid of different visions of the good as new challenges arise and fresh perspectives on what it means to be human bubble to the surface via the debate that is freely allowed. Democratic society is permanently unsettling to authority but always triumphantly alive to the wonderful possibilities of the future. Of course things can all go wrong and the line between democracy and wretched populism is a thin one – but it is in the language of justice and decency and of human rights that such societies seek to keep their wilder instincts in check, to commit themselves via rhetorical, institutional and judicial gadgets to a kind route to a shared and better future.

Now while His Holiness Pope Benedict understands the substance of human rights as rooted in human nature, I fear that – in common with many Church hierarchies through the ages – he is very unsettled by the possibility that he is not any longer able – as his predecessors undoubtedly were in pre-secular times – to determine exactly what the idea of human rights entails in practice. It is not by his interactions with non-members of his own community that this can be seen most obviously: the Pope might want the whole world to obey him, but he does not expect it. To be a practising member of the Roman Catholic church today however is to be in a different position. Here Rome still wants to rule, and not only our private thoughts but our public actions as well. Ever since the Doctrinal Note on the Participation of Catholics in Public Life

emerged from the Congregation for the Doctrine of the Faith in November 2002, it has been clear that the Vatican's view of democracy is – to put it mildly – circumscribed: 'Democracy must be based on the true and solid foundation of non-negotiable ethical principles, which are the underpinning of life in society.' And later 'The Church recognizes that while democracy is the best expression of the direct participation of citizens in political choices, it succeeds only to the extent that it is based on a correct understanding of the human *person*.' Thus and inevitably 'it must be noted also that a well-formed Christian conscience does not permit one to vote for a political program or an individual law which contradicts the fundamental contents of faith and morals.'

This is all very well at a vague level of generality but not when 'the fundamental contents of faith and morals' point to quite specific political-style programmes, limiting the scope of manoeuvre for loyal Catholics, turning them more into Rome's slot-machines than voters or (if they are elected) the independent representatives that their electorates expect them to be. A further problem is that 'the fundamental contents of faith and morals' seems to many Catholics to be rather skewed in the direction of certain rights to the neglect of others. How else can we explain the extraordinary recent attack by the Prefect of the Apostolic Signatura Archbishop Raymond Burke on the University of Notre Dame for proposing an honorary doctorate for Barack Obama on account of his 'consistent implementation of policies and programmes which confirm and advance the culture of death.' This is a man who is as we speak bravely – I would say heroically – seeing to bring peace to the Middle-East by confronting militaristic vested interests in the region, striving to bring health care to the American poor in the teeth of the opposition of strong interests while also taking on the oil lobby to try to reduce American dependence on carbon fuels. But all that is as nothing to the Archbishop because of the President's 'anti-life and anti-family agenda'. Catholics it would seem cannot be in favour of Obama, at least so far as the Vatican is concerned. Nor can a Catholic take any view on sexuality other than that dictated by Rome, or on stem-cell research or on a large array of other matters whose place in the pantheon of the fundamental is determined by the Vatican without consultation or any kind of democratic process.

We are told, though, that Archbishop Burke was not speaking in his official capacity when he launched his assault on Obama and on Notre Dame. But what does this mean? The signal that is being sent is clear enough. The space is not so large a one between such remarks and the burning of liberal Catholic journals by conservative Catholics or the kind of hate mail Bishop Patrick O'Donoghue has reported receiving from Pro-Life groups: as the Bishop reportedly remarked, the Pro-Life Movement is in danger of becoming a 'people of anger, a people of rage'. Is the kind of Church that Rome wants? Surely not, but how else is the compassion of the Pope shown to the Society of St Pius X and in particular to Richard Williamson to be interpreted? The human rights movement has just a few absolutes to hold onto in its uncertain world of free debate: one is that racism and racial hatred and in particular anti-Semitic hate (and holocaust denial) are utterly beyond the pale of all civilised discourse, the other is that women are to be regarded with esteem and respect which is equal to that of men. Those of us aware of Williamson's views on the Holocaust may be less aware of his views on women – though we may find them almost as shocking. I find it very hard to believe that this was 'a discreet gesture of mercy' as the Pope suggested – albeit only after the enormity of the damage he had done was brought to his attention. As with the enthusiastic support being shown in senior Vatican circles for the Tridentine rite, there is a sense here of actions speaking louder than the words of assurance that usually belatedly accompany them, supposedly to calm down those worried by such initiatives but hardly likely to be taken seriously by the conservative beneficiaries of such largesse.

Despite everything however, a liberal Catholic Church modelled on Vatican 2 and enriched rather than enervated by its engagement with democratic society continues to survive, its protagonists determined not to be forced off the pitch even by such a hugely unsympathetic team of senior officials. There is much to be gained from a partnership between the human rights movement and progressive forces within the Christian (including here the Roman Catholic) Churches. Human rights needs ethical allies and so many of its finest activists are already embedded in one or other of this country's faith communities. There will this week be a new Archbishop of Westminster, a brilliant as well as a good, man. But the hopes for a devolved Church that were raised by Vatican II have not borne fruit: even a hierarchy as powerful

and as benign as that which we have been lucky enough to have in England and Wales for many years can only do so much without incurring Rome's wrath. If human rights are to have the secure future that the world urgently needs, then the help they receive from the Catholic Church at least is likely to be most effective when it comes from the foot-soldiers not the General Command. Hopefully not to many will allow their understandable feelings of dismay and at times intense disappointment to lead to desertion. Human rights needs good Christians. And as the past has shown us, even undemocratic institutions can change for the better.

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