

Moral Values: The Challenge of the Twenty-First Century

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The University of Texas at Dallas
1996

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IN THE TWENTY-FIRST CENTURY**

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Printed in the United States of America**

**Library of Congress Catalog Card Number 96-60491
International Standard Book Number 0-292-71192-1**

**Distributed by the University of Texas Press,
Box 7819, Austin, Texas 78712**

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The Challenges of the Next Century

Two legal challenges will face the Christian church in the twenty-first century. The law of the state will challenge the ministry of the church. The ministry of the church will challenge the law of the state.

The first challenge is the easier to discern. If present restrictive patterns continue, First Amendment law will profoundly affect the church's mission, ministry, and makeup in the next century. International laws will increasingly obstruct the church's foreign mission work. Property, taxation, and labor laws threaten to affect everything from the maintenance of church altars to the distribution of church assets. The law of clerical torts and sexual harassment will expose the church to pathos and profiteering on an unprecedented scale. The church is a legal association and actor. The golden age of its cultural superiority and superior legal protection is waning. It will take collective and concerted effort to protect the church's rights and liberties in

the face of growing religious pluralism and in the shadows of a growing secular state.

While the first challenge concerns what the law of the state will do to the church, the second challenge concerns what the ministry of the church will do for law. This second challenge concerns the church not as a legal subject but as a legal prophet. It involves not the church's rights at law but its duties to law. How should the church bring its doctrinal teaching, liturgical healing, and moral suasion to bear on matters legal and political? How should the church translate its general principles of justice, mercy, and equity into specific precepts for legal living? Christ commanded the lawyers of his day to attend to the "weightier matters of the law" and commended many specific reforms of prevailing Jewish law. What should the church command and commend today—and in the next century?

Much of the response to this second legal challenge must be left to theologians, not to jurists. Much of their response must turn on the timeless commands of the holy Gospel, not the temporal demands of the secular law. As the church formulates its response, however, it might be edifying to hear—from a jurist's point of view—where the law of the state most needs the benefit of the church's witness. It might also be edifying to hear the wisdom of Carl Schmitt's famous maxim that "all the pregnant ideas and institutions of modern [law] are in essence secularized forms of theological doctrines

and structures." (*Politische Theologie*, 1916, p. 32.) The modern church has a long and venerable tradition of legal and political prophecy at its disposal. Our forebears have constantly translated the enduring and evolving faith of the church into legal forms and forums, both canonical and civil. There is a great deal more in those dusty tomes and canons of law than idle antiquaria or secular memorabilia. These legal sources ultimately hold the theological genetic code that has defined contemporary law for what it is—and what it can be. There is a great deal more in law and legal discourse than the Hollywood production of *The Firm* or the O.J. Simpson trial would have us believe. Law is not only the rules and tricks of evidence, procedure, and the many other legal subjects that we cultivate. Law is also a living system of values and beliefs that depends, in substantial part, upon the voice of the church and its theologians for its contents and its efficacy.

The church's voice will need to be heard on several volatile legal subjects in the next century—civil rights, religious rights, charity, education, and family life prominently among them. On these subjects, the church's traditional lore and contemporary platforms are the most refined. On these subjects, the church's voice will carry its greatest moral suasion and legal influence. What will render these legal subjects so volatile in the next century is the growing legal and political crisis of the world order. What will provide the church with the most

effective and integrated legal forum for voicing its views is the burgeoning law and culture of human rights.

The world is torn by crisis and paradox on this, the eve of the third millennium. On the one hand, the world has been witnessing a democratic metamorphosis of almost apocalyptic alacrity. The Berlin Wall has fallen. Eastern Europe is being liberated. The Soviet Empire is no more. African autocracies have crumbled. Apartheid has faded. Latin American dictators have ceded. Three dozen new democracies have been born since 1973. A sense of relief and pride must come over even the most crabbed cynic.

On the other hand, the world is torn by tumult and tragedy—by a moral Armageddon, if not a military one. Along with the birth of new democracy has come the bloody slaughter of Rwanda, Burundi, and the Sudan; the tragic genocide of the Balkans; the massive unrest of Central America, Western Africa, the Middle East, Southern Asia, the Korean Peninsula, and portions of the former Soviet bloc. Every continent now faces movements of incremental political unification versus radical balkanization, gentle religious ecumenism versus radical fundamentalism, sensible moral pluralization versus shocking moral relativism. Even in the older, more stable democracies of the West, bitter culture wars have aligned defenders of various old orders against an array of new deconstructionists. The abyss in Amer-

ica between city and country, ghetto and suburb, black and white, straight and gay, old and young, the monied and the maligned, the armed and their victims seems to grow constantly deeper. To bridge this abyss, to parse the paradoxes of simultaneous democratization and destruction of the world order, presents one of the most pressing moral challenges of the twenty-first century.

Church and state, religious and political officials must respond to these moral challenges in various—and mostly independent—ways. The church's classic callings to preach the Word, to administer the sacraments, and to minister to the needy must continue in the next century without necessary alliance with the state. The state's classic callings to wield the sword, to punish crime, and to protect order and peace must go on without necessary reliance on the church.

Where the respective callings of these two great institutions might profitably meet, however, is in the growing arena of human rights law. The law of human rights is hardly a modern invention; its roots grow back to the beginning of the second Christian millennium. But, in the past fifty years, the law of human rights has emerged as a primary forum for the articulation and resolution of disputes. It promises to be the main forum where the challenges of state law to the church can be most effectively parried, and where the challenges of church ministry to law can be most effectively proffered. And this is

one forum where collective action of church, state, and other institutions is critical to any effective response to the world crisis.

Modern human rights norms will provide no panacea to the world crisis in the next century, but they will be a critical part of any solution. Churches will not be easy allies to engage, but the struggle for human rights cannot be won by the state alone. For human rights norms are inherently abstract ideals—universal statements of the good life and the good society. They depend upon the visions of human communities and institutions to give them content and coherence, to provide “the scale of values governing the[ir] exercise and concrete manifestation.” (Jacques Maritain, *Human Rights: Comments and Interpretations*, 1949, pp. 15-16.) Religion is an ineradicable condition of human lives and communities. Religions invariably provide universal sources and “scales of values” by which many persons and communities govern themselves. Christianity and other religions must thus be seen as indispensable allies in the modern struggle for human rights. Their faith and works must be adduced to give meaning and measure to the abstract claims of human rights norms.

**Law, Religion, and Human Rights
in the Postwar Period**

The Christian church might well be seen as a controversial candidate for a constructive role in the regime of human rights. The Christian tradition has not spoken unequivocally about human rights, nor has it amassed an exemplary human rights record over the centuries. Its sacred texts and canons say much more about commandments and obligations than about liberties and rights. Its theologians and jurists have resisted the importation of human rights as much as they have helped in their cultivation. Its internal policy and external advocacy have helped to perpetuate bigotry, chauvinism, and violence as much as they have served to propagate equality, liberty, and fraternity. The blood of thousands is at the church's doors. The bludgeons of religious pogroms, crusades, inquisitions, and ostracisms have been used to devastating effect.

Moreover, the modern cultivation of human rights began in earnest fifty years ago when Christianity and the Enlightenment seemed incapable of delivering on their promises. In the middle of this century, there was no second coming of Christ promised by Christians, no heavenly city of reason promised by enlightened libertarians, no withering away of the state promised by enlightened socialists. Instead, there were world wars, gulags, and the Holocaust—a vile and evil fascism and irrationalism to which

Christianity and the Enlightenment seemed to have no cogent response or effective deterrent.

The modern human rights movement was thus born out of desperation in the aftermath of World War II. It was an attempt to find a world faith to fill a spiritual void. It was an attempt to harvest from the traditions of Christianity and the Enlightenment the rudimentary elements of a new faith and a new law that would unite a badly broken world order. The proud claims of Article I of the 1948 Universal Declaration of Human Rights—"That all men are born free and equal in rights and dignity [and] are endowed with reason and conscience"—expounded the primitive truths of Christianity and the Enlightenment with little basis in postwar world reality. Freedom and equality were hard to find anywhere. Reason and conscience had blatantly betrayed themselves in the previous decades.

Though desperate in origin, the human rights movement grew precociously in the decades following World War II. Indeed, after the 1950s a veritable rights revolution erupted in America, Europe, and elsewhere in the world. In America and Europe, this rights revolution yielded a powerful grassroots civil rights movement and a welter of landmark cases and statutes. In Africa and Latin America, it produced agitation, and eventually revolution, against colonial and autocratic rule. At the international level, the Universal Declaration of 1948

inspired new declarations, covenants, and conventions on more discrete rights, most notably the 1966 Covenants on Civil and Political Rights and on Social, Economic, and Cultural Rights. The United Nations established a Human Rights Committee and subcommissions to administer this growing body of human rights norms. Academies throughout the world produced a prodigious new literature urging constant reform and expansion of the human rights regime. Within a generation, human rights had become, in Jacques Maritain's famous phrase, the "new secular faith" of the postwar world order. (*Man and the State*, 1954, pp. 110-111.)

Christians participated actively as midwives in the birth of this modern rights revolution, and the special religious rights of Christianity and other faiths were at first actively pursued. Individual churches issued bold confessional statements and manifestoes on human rights shortly after World War II. Several denominations and the budding ecumenical church participated in the cultivation of human rights at the international level. The Free Church tradition played a critical role in the civil rights movement in America and beyond, as did the social gospel and Christian democratic movements in Europe and Latin America.

After expressing some initial interest, however, leaders of the rights revolution consigned religious groups and their particular religious rights to a low priority. Freedom of speech and press, parity of

race and gender, and provision of work and welfare captured most of the energy and emoluments of the rights revolution. After the 1960s, academic inquiries and activist interventions into religious rights and their abuses became increasingly intermittent and isolated, inspired as much by parochial self-interest as by universal golden rules. The rights revolution seemed to be passing Christianity and other religions by.

This deprecation of the role and rights of religion was not simply the product of calculated agnosticism or callous apathy—though there was ample evidence of both. Leaders of the rights revolution were often forced, by reason of political pressure or limited resources, to address the most glaring rights abuses. Physical abuses—torture, rape, war crimes, false imprisonment, forced poverty—are easier to track and to treat than spiritual abuses, and often demand more immediate attention. In desperate circumstances, it is better to be a Good Samaritan than a good preacher, to give food and comfort before sermons and catechisms.

The relative silence of religious communities seemed to lend credence to this prioritization of effort. With some notable exceptions, Christians and other religious groups after the 1960s made only modest contributions to the theory, law, and activism of human rights. The general principles set out in their postwar manifestoes on rights were not converted to specific precepts or programs. Their

general endorsement of human rights instruments was not followed by specific lobbying and litigation efforts. Whether most mainline religions were content with their own condition, or intent to turn the other cheek or look the other way in the face of religious rights abuses, their relative silence did considerable harm to the human rights revolution.

The deprecation of the special role and rights of Christianity and other religions from the mid-1960s to the mid-1980s has introduced two fallacies in the theory and law of human rights in vogue today.

First, this deprecation of religion has impoverished the general theory of human rights. On the one hand, it has cut many rights from their roots. The right to religion, Georg Jellinek wrote exactly one century ago, is "the mother of many other rights." (*Die Erklärung der Menschen- und Bürgerrechte*, 1895, p. 42.) For the religious individual, the right to believe leads ineluctably to the rights to assemble, speak, worship, proselytize, educate, parent, travel, or to abstain from the same on the basis of one's beliefs. For the religious association, the right to exist invariably involves rights to corporate property, collective worship, organized charity, parochial education, freedom of press, and autonomy of governance. To ignore religious rights is to overlook the conceptual, if not historical, source of many other individual and associational rights. On the other hand, this deprecation of religious roles and rights has abstracted rights from duties. Chris-

tianity and other faiths adopt and advocate rights in order to protect religious duties. A religious individual or association has rights to exist and act not in the abstract but in order to discharge discrete religious duties. Religious rights provide the best example of this organic linkage between rights and duties. By deprecating religious rights, leaders of the rights revolution have also deprecated these organic connections, and have come to treat rights in the abstract—with no obvious limit on their exercise or their expansion.

Second, the deprecation of Christianity and other religions in a human rights regime has exaggerated the role of the state as the guarantor of human rights. The simple "state versus individual" dialectic assumed in conventional human rights theories leaves it to the state to protect rights of all sorts—first generation civil and political rights; second generation social, cultural, and economic rights; and third generation environmental and developmental rights. In reality, the state is not, and cannot be, so omniscient—as the recently failed experiments in socialism have shown. A plurality of voluntary associations or mediating structures stands between the state and the individual, religious institutions prominently among them. Religious institutions play a vital role in the cultivation and realization of all three generations of human rights. They create the conditions, if not the prototypes, for the realization of first generation civil and political

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

The challenge of the next century, therefore, will be to transform the Church from a "midwife" to a "mother" of human rights—from an agent that assists in the birth of rights norms conceived elsewhere to an association that gives birth and nurture to its own unique rights norms and practices. In the next century, the world of human rights will need the church's (pro-)creativity to continue to flourish and expand. The state will need the church's ministry to sustain the spirit of its rights law. The church will need the state's human rights law rights to protect its ministry.

**The Christian Nurture of Human Rights:
Catholic, Protestant, and Orthodox Traditions**

The church must take two steps to transform itself from a midwife to a mother of human rights. First, given its checkered human rights record, the church must confess its past wrongs against rights. This first step the modern church has already taken many times—from the Second Vatican Council's confession of prior complicity in authoritarianism to

the contemporary church's repeated confessions of prior support for apartheid, racism, sexism, socialism, and anti-Semitism. For the church to wallow in guilt for its past rights violations is neither necessary nor constructive. For the church to confess past sin, however, is essential for the credibility of its rights witness.

Second, given the new prominence and urgency of rights talk today, the church must be open to a new "human rights hermeneutic"—fresh methods of interpreting its sacred texts and traditions that will recover and transplant those religious teachings and activities that are conducive to human rights. This second step the church has taken more gingerly. The Roman Catholic Church has stepped boldly in the aftermath of the Second Vatican Council to develop a refined human rights theology and advocacy. Mainline Protestant and Orthodox churches have been more cautious, tepidly endorsing the benefits of the human rights movement without developing a refined human rights theology or uniform human rights advocacy. The recent liberation of Orthodox churches in the former Soviet bloc and the recent explosion of Protestant involvement in Latin American, African, and East European politics suggests that these traditions might soon step more boldly down the rights path.

A human rights hermeneutic allows us to see that Catholic, Protestant, and Orthodox traditions alike have had, and still have, much to offer to a human

rights regime. Each tradition embraces theological norms that provide the basic building blocks of any human rights theory—conscience, dignity, reason, liberty, tolerance, love, duty, justice, mercy, righteousness, accountability, covenant, and community, among other cardinal concepts. Each tradition has developed its own internal legal system and has adjudicated the rights and duties of its members in a manner deserving of consideration—if not always emulation. Each tradition has its own advocates and prophets, ancient and modern, who have worked to achieve a closer approximation of human rights ideals for themselves and others.

Contrary to conventional wisdom, the theory and law of human rights is neither new nor secular in origin. To the contrary, human rights are, in large part, the secular fruits of classic Christian theology, which, given their current state, again need the church's nurture. A human rights hermeneutic allows us to reclaim long-observed roles that the Christian traditions have played in the cultivation of human rights in the past. It also allows us to rename familiar theological and ecclesiastical patterns in these traditions that are conducive to the development of human rights in the future.

The following subsections take up in turn the past and potential contributions to human rights offered by the Catholic, Protestant, and Orthodox traditions. While each of these traditions builds on common biblical and patristic precedents, each offers a

unique human rights perspective and practice which need to be part of the church's legal ministry in the next century.

A. The Catholic Tradition

The Roman Catholic Church is, paradoxically, the first and the last tradition within Christianity to embrace the doctrine of human rights.

At the opening of this millennium, the Catholic Church led the first great "human rights movement" of the West in the name of "freedom of the church" (*libertas ecclesiae*). During the Papal Revolution of Pope Gregory VII (1073-1085) and his successors, the Catholic clergy threw off their royal and civil oppressors and established the church as an autonomous legal and political corporation within Western Christendom. For the first time, the church successfully claimed jurisdiction over such persons as clerics, pilgrims, students, Jews, and Muslims and over such subjects as doctrine and liturgy; ecclesiastical property, polity, and patronage; marriage and family relations; education, charity, and inheritance; oral promises, oaths, and various contracts; and all manner of moral and ideological crimes. The church predicated these jurisdictional claims in part on Christ's famous delegation of the keys to St. Peter (Matthew 16:18)—a key of knowledge to discern God's word and will, and a key of power to implement and enforce that word and will by law. The

church also predicated these new claims on its traditional authority over the form and function of the Christian sacraments. By the fifteenth century, the church had gathered around the seven sacraments whole systems of canon law rules that prevailed throughout the West.

The medieval canon law was based, in substantial part, on the concept of individual and corporate rights (*iura*). The canon law defined the rights of the clergy to their liturgical offices and ecclesiastical benefices, their exemptions from civil taxes and duties, and their immunities from civil prosecution and compulsory testimony. It defined the rights of ecclesiastical organizations like parishes, monasteries, charities, and guilds to form and dissolve, to accept and reject members, to establish order and discipline, to acquire, use, and alienate property. It defined the rights of religious conformists to worship, proselytize, maintain religious symbols, participate in the sacraments, travel on religious pilgrimages, and educate their children. It defined the rights of the poor, widows, and needy to seek solace, succor, and sanctuary from the church. A good deal of the rich legal latticework of medieval canon law was cast, substantively and procedurally, in the form of rights. To be sure, such rights were not unguided by duties, nor indiscriminately available to all parties. Only the Catholic faithful had full rights protection, and their rights were to be exercised with appropriate ecclesiastical and sacramental

constraints. But the basic medieval rights formulations of exemptions, immunities, privileges, and benefits, and the free exercise of religious worship, travel, speech, and education have persisted, with ever greater inclusivity, to this day.

It was, in part, the excesses of the sixteenth-century Protestant Reformation that closed the door to the Catholic Church's own secular elaboration of this refined rights regime. The Council of Trent (1545-1563) confirmed, with some modifications, the internal rights structure of the canon law. But the church left it largely to non-church bodies and non-Catholic believers to draw out the secular implications of the medieval human rights tradition. The Catholic Church largely tolerated Protestant and humanist rights efforts in the later sixteenth and seventeenth centuries, which built on biblical and canon law foundations. The church grew increasingly intolerant, however, of the rights theories of the Enlightenment, which built on secular theories of individualism and rationalism. Enlightenment teachings on liberties, rights, and separation of church and state conflicted directly with Catholic teachings on natural law, the common good, and subsidiarity. The church's intolerance of such formulations gave way to outright hostility after the French Revolution, most notably in the blistering *Syllabus of Errors* of 1864. Notwithstanding the social teachings of subsequent instruments such as *Rerum Novarum* (1891) and *Quadragesimo Anno*

(1934), the Catholic Church had little patience with the human rights reforms and democratic regimes of the later nineteenth and early twentieth centuries. It acquiesced instead in the authoritative regimes and policies that governed the European, Latin American, and African nations where Catholicism was strong.

The Second Vatican Council (1962-1965) and its progeny transformed the Catholic Church's attitude toward human rights and democracy. In a series of sweeping new doctrinal statements—from *Mater et Magistra* (1961) to *Centesimus Annus* (1991)—the church came to endorse the very same human rights and democratic principles that it had hotly spurned a century before. First, the church endorsed human rights and liberties—not only in the internal, canon law context but also now in a global, secular law context. Every person, the church taught, is created by God with “dignity, intelligence and free will. . . and has rights flowing directly and simultaneously from his very nature.” (*Pacem in Terris*, para. 9.) Such rights include the right to life and adequate standards of living, to moral and cultural values, to religious activities, to assembly and association, to marriage and family life, and to various social, political, and economic benefits and opportunities. The church emphasized the religious rights of conscience, worship, assembly, and education, calling them the “first rights” of any civic order. The church also stressed the need to balance

individual and associational rights, particularly those involving the church, family, and school. Governments everywhere were encouraged to create conditions conducive to the realization and protection of these "inviolable rights" and encouraged to root out every type of discrimination, whether social or cultural, whether based on sex, race, color, social distinction, language, or religion. Second, as a corollary, the church advocated limited constitutional government, disestablishment of religion, and the separation of church and state. The vast pluralism of religions and cultures, and the inherent dangers in state endorsement of any religion, in the church's view, rendered mandatory such democratic forms of government.

Vatican II and its progeny transformed not only the theological attitude but also the social actions of the Catholic Church respecting human rights and democracy. After Vatican II, the church was less centralized and more socially active. Local bishops and clergy were given greater autonomy and incentive to participate in local and national affairs, to bring the church's new doctrines to bear on matters political and cultural. The Catholic Church was thereby transformed from a passive accomplice in authoritarian regimes to a powerful advocate of democratic and human rights reform. The Catholic Church has been a critical force in the new wave of political democratization that has been breaking over the world since the early 1970s—both through the announcements and interventions of its papal see

and curia and through the efforts of its local clergy. New democratic and human rights movements in Brazil, Chile, Central America, the Philippines, South Korea, Poland, Hungary, and elsewhere owe much of their inspiration to the teaching and activity of the Catholic Church.

The Catholic Church has thus come full circle. The Catholic Church led the first human rights movement of the West at the opening of the second millennium. It stands ready to lead the church's next human rights movement of the world at the opening of the third millennium—equipped with a refined theology and law of human rights and nearly a billion members worldwide. The Catholic Church offers a unique combination of local and global, confessional and universal human rights strategies for the next century. Within the internal forum and the canon law, the church has a distinctly Catholic human rights framework that protects especially the second generation rights of education, charity, and health care within a sacramental and sacerdotal context. Within the external forum of the world and its secular law, however, the church has a decidedly universal human rights framework that advocates especially first generation civil and political rights for all. Critics view this two-pronged human rights ministry as a self-serving attempt to advocate equality and liberty without the church, but to perpetuate patriarchy and elitism within. But this criticism has had little apparent effect. The Catholic Church's

human rights ministry, if pursued with the zealotry shown by the current episcopacy, promises to have a monumental effect on law, religion, and human rights in the next century.

B. The Protestant Tradition

One of the ironies of the contemporary human rights movement is the relative silence of the Protestant churches. Historically, Protestant churches produced the most refined theories of human rights and worked tirelessly to effectuate legal reforms that would safeguard such rights. Today, many Protestant churches have been content simply to confirm human rights norms and condemn human rights abuses without deep corporate and theological reflection. To be sure, some leading Protestant theologians have taken up the subject in their writings and lectures. A number of Protestant groups within the church, particularly feminist and libertarian groups, have developed important new themes. But no systematic Protestant human rights theory or program has, as yet, taken the field.

The irony is that the Protestant Reformation was, in effect, the second great human rights movement of the West. Martin Luther, John Calvin, Thomas Cranmer, Menno Simmons, and other sixteenth-century reformers all began their movements with a call for freedom—freedom of the individual conscience from intrusive canon laws and clerical con-

trols, freedom of political officials from ecclesiastical power and privilege, freedom of the local clergy from central papal rule and oppressive princely controls. As the radicality of the Reformation gave way to reconstruction, the reformers put in place a number of cardinal teachings that were (and still are) pregnant with implications for the birth of human rights in a democratic political order.

Classic Protestant theology teaches that a person is both saint and sinner. On the one hand, a person is created in the image of God and justified by faith in God. The person is called to a distinct vocation, which stands equal in dignity and sanctity to all others. He is prophet, priest, and king and responsible to exhort, minister, and rule in the community. Every person, therefore, stands equal before God and before his neighbor. Every person is vested with a natural liberty to live, to believe, to serve God and neighbor. Every person is entitled to the vernacular Scripture, to education, to work in a vocation. On the other hand, the person is sinful and prone to evil and egoism. He needs the restraint of the law to deter him from evil and to drive him to repentance. He needs the association of others to exhort, minister, and rule him with law and with love. Every person, therefore, is inherently a communal creature. Every person belongs to a family, a church, a political community.

These social institutions of family, church, and state, Protestants believe, are divine in origin and

human in organization. They are created by God and governed by godly ordinances. They stand equal before God and are called to discharge distinctive godly functions in the community. The family is called to rear and nurture children, to educate and discipline them, to exemplify love and cooperation. The church is called to preach the Word, administer the sacraments, educate the young, aid the needy. The state is called to protect order, punish crime, promote community. Though divine in origin, these institutions are formed through human covenants. Such covenants confirm the divine functions, the created office, of these institutions. Such covenants also organize these offices so that they are protected from the sinful excesses of officials who occupy them. Family, church, and state are thus organized as public institutions, accessible and accountable to each other and to their members. Particularly the church is to be organized as a democratic congregational polity, with a separation of ecclesiastical powers among pastors, elders, and deacons; election of officers to limited tenures of office; and ready participation of the congregation in the life and leadership of the church.

Protestant groups in Europe and America have cast these theological doctrines into democratic forms designed to protect human rights. Protestant doctrines of the person and society were cast into democratic social forms. Since all persons stand equal before God, they must stand equal before

God's political agents in the state. Since God has vested all persons with natural liberties of life and belief, the state must ensure them of similar civil liberties. Since God has called all persons to be prophets, priests, and kings, the state must protect their freedoms to speak, to preach, and to rule in the community. Since God has created persons as social creatures, the state must promote and protect a plurality of social institutions, particularly the church and the family. Protestant doctrines of sin were cast into democratic political forms. The political office must be protected against the sinfulness of the political official. Political power, like ecclesiastical power, must be distributed among self-checking executive, legislative, and judicial branches. Officials must be elected to limited terms of office. Laws must be clearly codified, and discretion closely guarded. If officials abuse their office, they must be disobeyed; if they persist in their abuse, they must be removed, even if by force.

In the past, these Protestant teachings helped to inaugurate several of the great Western revolutions fought in the name of human rights and democracy. They were the driving ideological forces behind the revolts of the French Huguenots, Dutch Pietists, and Scottish Presbyterians against their monarchical oppressors in the later sixteenth and seventeenth centuries. They were critical weapons in the arsenal of the revolutionaries in England, America, and France. They were important sources of inspiration

and instruction during the great age of democratic construction in later eighteenth and nineteenth century America and Western Europe. In this century, Protestant ideas of human rights and democracy helped to drive the constitutional reformation of France, Germany, Italy, and Iberia in the postwar period, and some of the human rights and democratic movements against colonial autocracy in Africa and fascist revival in Latin America.

These cardinal Protestant teachings and practices have much to offer to the regime of human rights in the twenty-first century. Protestant theology avoids the reductionist extremes of both libertarianism, which sacrifices the community for the individual, and socialism, which sacrifices the individual for the community. It also avoids the limitless expansion of human rights claims by grounding these norms in the creation order, divine callings, and covenant relationships. On this foundation, Protestant theology strikes unique balances between liberty and responsibility, dignity and depravity, individuality and community, politics and pluralism. To translate these theological principles into human rights practices is perhaps the greatest challenge facing the Protestant churches in the immediate future. The Protestant tradition needs to have its own Vatican II, its own comprehensive and collective assessment of its future role in the human rights drama. Of course, Protestant congregationalism militates against such collective action, as do the many an-

cient animosities among Protestant sects. But this is no time, and no matter, for denominational snobbery or sniping. Protestants need to sow their own distinct seeds of human rights while the field is still open. Else, there will be little to harvest, and little room to complain, in the next century.

C. The Orthodox Tradition

The Orthodox churches of the Mediterranean, Eastern Europe, and Russia ground their human rights theology less in the dignity of the person and more in the integrity of natural law and the human community. Orthodox churches believe in a natural law that is both written on the hearts of all persons, and rewritten on the pages of Scripture. This natural law prescribes a series of duties that each person owes to others and to God—not to kill, not to steal, not to bear false witness, not to swear falsely, not to serve other gods, and others. Humanity's fall into sin has rendered adherence to such moral duties imperative to the survival of the human community. God has called the state to assume principal responsibility for enforcing by law those moral duties that are essential to such survival.

According to classic Orthodox theology, human rights are simply the reciprocals of these divinely-ordained moral duties. One person's moral duties not to kill, to steal, or to bear false witness give rise to another person's rights to life, property, and

dignity. A person's moral duties not to serve other gods or to swear falsely give rise to his right to serve the right God and to swear properly. For every moral duty taught by natural law there is a reciprocal moral right. Just as the state must translate moral duties into legal duties, so it must translate moral rights into legal rights.

On the strength of this ancient biblical ethic, Orthodox churches endorse a three-tiered system of rights and duties: (1) a Christian or "evangelical" system of rights and duties, based upon the natural law principles of Scripture, which are enforced by the canon law of the church; (2) a "common moral" system of rights and duties, based upon universal natural law principles accepted by rational persons in all times and places, which are enforced by moral agents within the community; and (3) a legal system of rights and duties, based upon the constitutional laws and social needs of the community, which are enforced by the positive laws of the state. The church is responsible not only to maintain the highest standards of moral right and duty among its subjects, but also to serve as a moral agent in the community, to cultivate an understanding of "common morality," and to admonish pastorally and prophetically those who violate this common morality.

Accordingly, the Orthodox episcopacy has issued numerous manifestoes on the rights of persons, based on natural law, and condemned violations of human rights, particularly in the Balkans, Eastern

Europe, and the Soviet Union. The World Congress of Orthodox Bishops (1978), for example, greeted the thirtieth anniversary of the United Nations Declaration of Rights with the call: "We urge all Orthodox Christians to mark this occasion with prayers for those whose human rights are being denied and/or violated; for those who are harassed and persecuted because of their religious beliefs, Orthodox and non-Orthodox alike, in many parts of the world." Two years later, the twenty-fifth Clergy-Laity Congress of the Greek Orthodox Archdiocese of North and South America pronounced, on the strength of "a universal natural law," that "human rights consist of those conditions of life that allow us fully to develop and use our human qualities of intelligence and conscience to their fullest extent and to satisfy our spiritual, social, and political needs." They further "called upon totalitarian and oppressive regimes to restore respect for the rights and dignity of the individual and to insure the free and unhindered exercise of these vital rights by all citizens, regardless of racial and ethnic origin, or political or religious espousal." (Quoted in *RES Testimony on Human Rights*, 1983, pp. 36-39.)

Since the turn of the twentieth century, the Orthodox churches of Russia, the Balkans, and Greece have also moved toward a doctrine of separation of church and state. Traditionally, Orthodox churches had taught that civil authorities were God's agents called to govern the "external and temporal affairs"

of the church. They thus accepted civil control over many matters of ecclesiastical polity and property. With the rise of an atheistic state in the Soviet Union, a Muslim state in the Balkans, and an increasingly antagonistic state in Greece and Turkey, the church for reason of its own survival has slowly moved in this century to a doctrine of separation of church and state.

The greatest human rights challenge of the Orthodox tradition in the next century will be to help guide the cultural and constitutional reconstruction of post-socialist societies in Eastern Europe and the Commonwealth of Independent States. The fall of the Berlin Wall has brought not only new liberty to these long-closed societies, but it has also brought new license. These societies now face moral degradation, economic dislocation, and human suffering on an unprecedented scale. They face the renewal of ancient animosities among religious and cultural rivals previously kept at bay by a common oppressor. They face a massive influx of foreign missionaries, both religious and economic, offering belief systems and practices that are radically different from those held out by the fallen socialist state and the struggling Orthodox church. A veritable war for souls has thus broken out in the former Soviet bloc—a fight to reclaim the traditional cultural and moral souls of these new societies and a fight to retain adherence and adherents to the ancient Orthodox churches.

The abstract doctrines of modern human rights will have little salience in these societies absent a strong constitution and consistent practice of constitutionalism. Whatever their local forms, these new constitutional developments will profit much from the traditional Orthodox theology of duty-based rights and rights-based social action by the church.

Conclusions

We began our inquiry with the twin legal challenges facing the church in the next century—the challenges that a constrictive state law may pose to the church's ministry, and the challenges that a constructive church ministry may offer to state law. The burgeoning law of human rights provides one effective arena where both these challenges might be effectively met in the next century. A robust rights regime will constrain some of the most intrusive state restrictions on the church. It will contain some of the most fruitful insights and practices that the church has had to offer to the world of law. And, it will sustain some of the most recent expansions of democracy in the new world order.

It must be stressed, however, that a robust regime of human rights and democratic polity will pose its own challenges to the Christian church in the next century. On the one hand, this regime will challenge the *spirit* of the Christian church. Democracy's commitment to religious rights and liberties

will open new opportunities to Christianity. Once impervious autocracies will be open to Christian missionaries. Once inaccessible positions of power will be open to Christian influence. As the regime of human rights and democracy expands, it will challenge the Christian church to extend its mission and ministry. On the other hand, this regime's commitment to religious neutrality forces Christianity to fight the "battle of spirits" alone. Historically, state law aided the Christian cause by establishing its doctrines, prescribing its morality, protecting its clergy, subsidizing its proselytes. Human rights and democracy forbid such favoritism. Christianity must stand on its own feet and on an equal footing with all other religions. Its survival and growth must turn on the cogency of its word, not the coercion of the sword, on the faith of its members, not the force of the law. The church is thus challenged to strengthen its sincerity and tenacity.

A regime of human rights and democracy also challenges the *structure* of the Christian church. While the church has preached liberty and equality to the state, it has often perpetuated patriarchy and hierarchy within its own walls. While the church has advocated pluralism and diversity in the public square, it has insisted on orthodoxy and uniformity among its members. The greater the success of the human rights regime, the greater the discordance of such preaching and practice will appear. The same human rights norms that the church has advocated

for the state will embolden parishioners to demand greater access to church governance, greater freedom from church discipline, greater latitude in the definition of church doctrine and liturgy. Human rights will challenge the church to restrike its delicate balances between order and liberty, orthodoxy and innovation, dogma and adiaphora.

Christianity, in turn, must challenge the spirit and structure of the regime of human rights and democracy. On the one hand, Christianity must challenge this regime to extend itself. Among current political forms, it holds the most promise for peace, justice, and a better life. It offers the best hope for those who suffer from persecution and penury, discrimination, and deprivation. It affords the greatest freedom to love God, neighbor, and self. Christianity must thus support human rights and democratization in the next century. It must use its collective power and moral suasion to face down autocrats and put down abuse. It must help to break the hardened soils of totalitarianism and sow the seeds of democracy and human rights.

On the other hand, Christianity must challenge the regime of human rights and democracy to reform itself. For all of its virtues, this is far from a perfect political and legal system, far from an earthly form of heavenly government. It is a human creation and inherently flawed. This regime has stored up many idols in its recent life—the proud cults of progress and freedom, the blind beliefs of material-

ism and technologism, the desperate faiths of agnosticism and nihilism. It has done much to encourage a vulgar industrialization that reduces both human beings and natural resources to fungible and expendable economic units. It has done much to impoverish the already poor, to marginalize the already marginal, to exploit the already exploited. Christianity must work to exorcise the idols of democracy and human rights, to continually drive this regime to reform and renew itself.

Human rights and democracy need such opposition to survive. This regime is an inherently relative system of ideas and institutions. It presupposes the existence of a body of beliefs and values that will constantly shape and reshape it, that will constantly challenge it to improve. "Politicians at international forums may reiterate a thousand times that the basis of the new world order must be universal respect for human rights [and democracy]," Czech President Vaclav Havel declared in 1994 after receiving the Liberty Medal in Philadelphia.

"[B]ut it will mean nothing as long as this imperative does not derive from the respect of the miracle of being, the miracle of the universe, the miracle of nature, the miracle of our own existence. Only someone who submits in the authority of the universal order and of creation, who values the right to be a part of it, and a participant in it, can genuinely value himself and his neigh-

bors, and thus honor their rights as well." (Quoted in *Buffalo News*, July 10, 1994, p. A8.)

Christianity is by no means the only belief system that can meet this challenge. But with a perfect example in the lordship of Christ, and a long tradition of rights ministry at its disposal, Christianity cannot be silent.