

Human Rights without God: Can Naturalism Provide the Foundation for Human Rights?

Kai-man Kwan

Critical Dialogue between Christianity and Naturalism: The Foundation of Human Rights

Christianity and naturalism are two major worldviews which appeal to millions of people in the contemporary world. Human rights are becoming the universal language in contemporary socio-political discussions. It seems that both worldviews should give some explanations of human rights by answering questions like:

- What is the foundation of human rights?
- Why do human beings have rights?
- What rights are in fact possessed by us? Why?

In fact, the relationships between human rights and both worldviews are complicated. On the one hand, some non-Christians want to attack the Christian faith for opposing human rights, and some theologians also perceive human rights as something anti-Christian. On the other hand, some claim human rights as the rightful heirs of the Christian tradition, and genuine expression of the Christian faith. I think there are good reasons to think that Christianity is at least one of the major sources of the idea of human rights. For example, one foundational document of modern human rights, the American Declaration of the Rights of Virginia (1776), affirms that all men are created equal, and appeals to the *imago dei* to ground the ‘inalienable’ dignity and rights of man. Recently John Witte, the Jonas Robitscher Professor of Law in Emory University, has made a compelling case for tracing the origin of human rights to the Medieval world, and to the Reformation in particular. So the idea that human rights are entirely the children of secularism, say, the Enlightenment, is a myth (Witte 2007, p. 334).

Nowadays, I think most naturalists would accept or even passionately embrace human rights. However, from the very beginning there are already tensions between the naturalistic worldview and the idea of human rights. The early positivists and utilitarians (e.g., Bentham) in fact have either dismissed or mocked the idea of human rights (more on this below). In the contemporary world, the prevailing culture makes it easy for naturalists to embrace human rights without any need to provide reasons. However, the more thoughtful naturalists have been aware of the possible dissonance between human rights and naturalism. They have attempted to provide different secular justifications of human rights, or to ease the tension in various ways.

It is the contention of this paper that while these attempts may not be impossible, they are not likely to succeed. In contrast, the Christian faith is able to provide solid foundations for human rights. I have defended this claim in another paper (Kwan). If the arguments of these papers are correct, then the Christian worldview can provide better answers for the questions about human rights than the naturalistic worldview. This conclusion is significant in two ways. Firstly, I believe it is difficult to provide knockdown arguments for any comprehensive worldview. The way to show the rationality

of a worldview is to demonstrate its superior explanatory power, in comparison with its major rivals. Since human rights are very likely to be common data accepted by both Christians and naturalists in the contemporary world, the success of the above arguments will give us a reason to prefer Christianity over naturalism.

Secondly, there are now different and often contradictory philosophies and formulations of human rights. In many places, the prevailing ideology of human rights is more naturalistic than Christian, and the formulations are heavily influenced by liberal humanism with an undue emphasis on individual rights. In fact, as human rights proliferate, many new “human rights”, e.g. gay rights, abortions rights, show signs of tension with the Christian faith. When these “human rights” are enforced legally, this often leads to the marginalization or even outright denial of religious liberty. However, if my arguments are correct, it is at least legitimate, if not more reasonable, to uphold a Christian interpretation of human rights instead of a secular one. Christian theologians are also justified to use the faith perspective to critique the one-sidedness formulations of human rights, which often originate from the naturalistic assumption of the autonomous self.

In short, human rights need God. God can provide a solid foundation for human rights and prevent their interpretation to go wild. Of course, the naturalists will contend that human rights without God are perfectly alright. Let us now examine the various naturalistic answers to the intriguing question about the foundation of human rights.

Are Human Rights Self-Evident?

Many naturalists just take the existence of human rights for granted. Some philosophers try to bypass the questions about the foundation of human rights by asserting that human rights are self-evident. However, it is clear from history that human rights are indeed a late “invention”, and it is difficult to explain why many races or nations in the past or even nowadays have not found the idea of human rights self-evident. For example, human rights were unheard of in several thousands of years of Chinese history. In fact, in ancient China as well as many other traditional cultures, it was self-evident at that time that ordinary people **did not have human rights**. They were perceived as the subjects of the king, and should be loyal to him. The culture at that time would talk about the rights of the king over all the people. To claim that ordinary people can claim freedom or welfare from the king as a matter of rights was nothing short of inconceivable.

I do not categorically reject the appeal to self-evidence. In matters of logic or metaphysics, this sort of appeal is more appropriate but even in these realms, claims to self-evidence are notoriously difficult to establish. In any case, I find it strange that naturalists would use intuitions about self-evidence to settle the dispute over human rights because most epistemologies congenial to naturalism are empiricist in nature. They are often hostile to a priori intuitions, and may even claim that intuitions are too mysterious to accept in a naturalistic world. For example, Michael Devitt thinks that “it is overwhelmingly plausible that *some* knowledge is empirical... The attractive thesis

of naturalism is that *all* knowledge is; there is only one way of knowing.” It follows that “the whole idea of the *a priori* seems deeply obscure... [and] mysterious” (Devitt 2005, pp. 105-106). As for logical truth, “no satisfactory non-empirical account has ever been given of how they can be justified.” So rational insight is “an unexplained and apparently mysterious capacity” (Devitt 2005, p. 113). If it is objectionable to appeal to rational intuitions in the area of logic from the naturalistic viewpoint, how much more objectionable it would be to do so in the area of human rights? Even if the naturalists can make sense of human rights in their worldview, it is indeed difficult to understand why human beings evolved in an entirely naturalistic fashion should have access to this metaphysical truth.

Human Rights in a Naturalistic World: The Basic Tension

Moreover, human rights, self-evident or not, can hardly be some freestanding “truths” independent of our worldviews because the acceptance of human rights seems to have some metaphysical presupposition. For example, as the *Amnesty International Handbook* explains, “the movement's demands are governed, ultimately, in the conviction that *every human being has an intrinsic value*. ... it is affirming a universal value, now inscribed in international law, that every person is entitled to security and dignity- to human rights- simply because he or she is a human being” (p. 10). But why does every human being possess this kind of intrinsic dignity?

This question is particularly difficult for those who accept the scientific, naturalistic worldview. For the naturalistic worldview, human beings are only chance products evolved from the inanimate world in accordance with natural laws. They are destined to perish with the collapse of the Solar System. It is hard to find any *telos* or ultimate meaning for human life in this worldview. Basically, human beings are creatures struggling for survival just as other animals do. Why think that they have a kind of mysterious intrinsic dignity which is not possessed by other animals or the inanimate world?

Positivism and the Epistemological Basis of Human Rights

Naturalism and a broadly positivist or scientific epistemology tend to go together. Although philosophers tend to talk about the demise of positivism or scientism in the postmodern world, many still invoke similar standards when they criticize religious beliefs as unscientific or untestable. It is interesting to note that similar criticisms can be applied to the belief in human rights. As many philosophers point out, human rights thinking in fact is some kind of descendant from the idea of natural rights. In fact, many positivist criticisms of the latter are also applicable to the former. As Margaret Macdonald points out, natural law is a very obscure doctrine: “It seems a strange law which is unwritten, has never been enacted, and may be unobserved without penalty, and peculiar rights which are possessed antecedently to all specific claims within an organized society. ... the doctrine is puzzling” (MacDonald, p. 22). She knows that reason is often invoked as the ground of human dignity but she comments: reason “is no less or no more invariable among human beings than sense perception, and the rights of man might as well depend upon eyesight as upon rationality.

But if the term reason is to be used more widely to include non-verbal manifestations of intelligence, knowing-how as well as knowing-that, then intelligence does not set an unbridgeable gulf between men and other living creatures" (p. 28).

From the empirical viewpoint, the idea of human nature is also dubious. "Men do not share a fixed nature, nor, therefore, are there any ends which they must necessarily pursue in fulfilment of such nature. ... There is no end set for the human race by an abstraction called 'human nature'. There are only ends which individuals choose, or are forced by circumstances to accept. There are none which they *must* accept. Men are not created for a purpose as a piano is built to produce certain sounds. Or if they are, we have no idea of the purpose" (p. 30). She also admits, "Natural events themselves have no value, and human beings as natural existents have no value either, whether on account of possessing intelligence or having two feet" (p. 31). Her ultimate conclusion is that "there are no true or false beliefs about values" (p. 39), and the corollary is that statements about human rights have no cognitive meaning! While most contemporary philosophers won't accept *in toto* the positivist framework, MacDonald's questions still pose stringent challenges to those who want to establish the existence of human rights sheerly on a naturalistic basis.

Human Rights as the Consensus of the International Community

Perhaps the legal positivists can respond to MacDonald's challenges by pointing to the international legal framework which already recognizes and embodies the claims of human rights. For example, we can appeal to documents like the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights (1966), and mechanisms like the UN Human Rights Commission and the European Court of Human Rights. This consensus of the international community should provide sufficient basis for human rights.

However, if this is the only basis for human rights, then it follows that human rights did not exist before the appearance of these documents, and it is not correct to say that the Nazist atrocities have violated human rights because those deeds were performed before 1948. Moreover, if the normative meaning of human rights is founded upon and exhausted by the consensus, then there is no moral obligation for the countries which have not ratified those international covenants to follow those ideas of human rights. In fact, we can have a more radical query: why should citizens who belong to diverse cultures and societies, who have not participated in the discussions of those international documents, or who even did not exist at the time those documents were drafted, be bound by that particular consensus among particular representatives of some governments at that particular time? As Amitai Etzioni says, "The trouble with this approach is that United Nations Charter, international law, and various declarations—in which the globalists find the values they seek to build on—are not widely affirmed. ... Typically, they are neither the reflection of a truly democratic process in the international bodies or in the countries represented in them, nor do they reflect the result of a worldwide moral dialogue. Indeed, it often seems that various

pronouncements of international bodies are tolerated by many nations precisely because it is known that these resolutions have little legal, political, or normative standing” (Etzioni, *The Golden Rule*, p. 236).

Diane Orentlicher also points out, “Historically, the project of constructing universal human rights has been highly exclusionary; the postwar body of law was, after all, constructed at a time when many of today's states could not participate in the norm-setting process because they were still colonized” (Orentlicher, p. 152). Finally, suppose in the next decade, the international consensus about human rights starts to unravel, or it evolves into something diametrically opposite to our current ideas of human rights. Then does it mean that the content of human rights has changed accordingly? Or we have to say the international community has departed from the correct understanding of human rights? All the above questions show the unpalatable consequences of the legal positivist answer for the human rights enthusiasts.

The Impact of Postmodern Thought on Human Rights

Many thinkers think that we have already entered the postmodern era when traditional claims to universality of rationalism or humanism are no longer credible. Postmodern thought is skeptical about universal morality, universal humanity and all kinds of essentialism because categories of thought are only constructions of a society in a particular culture or era. It follows that universal claims of human rights are also doubted in the postmodern context.

The Amnesty International is aware of this problem, and has put this question to a team of prominent scholars: “What is the consequence of the deconstruction of the liberal self? If the liberal self no longer exists, then whose human rights are we defending?” The answers provided by those scholars (e.g., W. Booth, P. Ricoeur, T. Eagleton) constitute the Oxford Amnesty Lectures in 1992.

¹ I find their answers rather unsatisfactory. For example, Booth tries to explain why the right not to be tortured is an absolute one. He advocates a kind of social constructionism which says that personal identity is relative to culture and society. The liberal atomist self which can exist apart from the community does not exist. He then argues that this view provides an even more secure foundation for the right not to be tortured. Since each self cannot be divided from other selves, it follows that to torture some other self is at the same time to torture your self and many other selves. This provides a very good reason for everyone not to torture others.²

I do not find this particularly persuasive. Even if the self of the torturer is theoretically indivisible from the selves of the people tortured, the real thing that matters is that the torturer does not feel the pain of the tortured! More important, Booth still does not provide any foundation for the belief in the intrinsic dignity of any self. Suppose it follows from social constructivism that the value of

¹ Barbara Johnson, ed., *Freedom and Interpretation: The Oxford Amnesty Lectures 1992* (New York: Basic Books, 1993), p.2.

² Wayne C. Booth, “Individualism and the Mystery of the Social Self; or Does Amnesty Have a Leg to Stand On?” in

every self is inseparable from the value of other selves. It is still a possibility that all those selves have no particular value at all. (This criticism also applies to many arguments for the *equal* dignity of all human persons. This alleged conclusion does not entail that any human person has intrinsic dignity because human persons can be equal in their lack of intrinsic value.)

Human Rights as Invention Based on Historical Experience

Paul Kurtz is aware of the difficult question about the foundation of human rights, and his answer is typical of the secular humanists' response. He thinks that human rights designates a two-sided transaction. On the one side are the claims of the oppressed rooted in the historical experiences of countless generations of men and women who have lived and died for their principles. He then says, "In this sense, a person says that he or she possesses inherent rights" (Kurtz, p. 181). (This claim is quite obscure to me. I can fully understand why those persons would like to fight for those rights but the reason why these rights are regarded as inherent in their personhood is not provided here.) On the other side, "there must be a responsive acceptance of the claim by those who hear it and believe that they have some obligation to meet the appeal and correct the injustice" (Kurtz, p. 182). However, it follows that if some people refuse to accept the claim and the obligation, then the human rights claims are not valid for them. Human rights seem to become an entirely subjective choice.

Nonetheless, Kurtz still believes that the widening of rights claims is a drama of moral *progress*. Ontologically, human rights are "characteristics that emerge in human transactions ... they grow out of constant processes of demand and acceptance ... They are given force because they are rooted in the historical march of civilization on behalf of the ideals of liberty, equality, justice, and fairness, and in the institutions and associations that men and women have given form to." Kurtz admits that "all are products of creative invention" but he continues to insist that this "does not make them any the less obligatory because they are relative to human culture does not mean that they are subjective or capricious." So "human rights do not have or need a transcendental referent to be obligatory, universal or general. ... their content is still thoroughly *human* ... They are still clothed and sustained by all of the intensity of feeling and ardor that ideals can arouse in human conduct" (Kurtz, pp. 182-3).³

I admire Kurtz's passion for human rights but the above passage can serve as a textbook illustration of the meaning of "wanting to have the cake and eat it too." As a secular humanist who believes in human rights, Kurtz is explicit about his intention to eliminate the need for transcendence. However, all he can provide in support of the obligatoriness of the ideals of human rights is the fact that they can arouse passion in many decent people. This is undoubtedly true but it provides no reason why those who are indifferent or those who want to pursue their interests relentlessly really *ought* to respect these rights. Once he admits that the acknowledgement of human rights is a function of the

Johnson, *Freedom*, p.80.

³ Paul Kurtz, *Forbidden Fruit: The Ethics of Humanism* (Buffalo: Prometheus Books, 1988)

level of historical development and is relative to concrete social conditions, it is very difficult to see why he can make the trans-historical judgment that this historical change is a moral *progress*. People can invent something and find it useful for some time but usually this invention will be replaced sooner or later by something else. Why shouldn't we expect human rights to have a similar fate if it is just an invention at a particular period of time?

Alan Dershowitz, the Felix Frankfurter Professor of Law at Harvard Law School, proposes an experiential approach to human rights which is similar to Kurtz's. Dershowitz is a pragmatist, a utilitarian and a secularist. He said, "I wish I could make an intellectually satisfying argument for the divine source of rights, as our founding fathers tried to do. Tactically that would be the strongest argument" (Dershowitz, p. 4). Of course, he does not accept this theory nor any kind of natural law theory. He believes that human rights "*come from human experience*, particularly experience with injustice. We learn from the mistakes of history that a right-based system and certain fundamental rights-such as freedom of expression, freedom of and from religion, equal protection of the laws, due process, and participatory democracy- are essential to avoid repetition of the grievous injustices of the past" (p. 8). He candidly admits that human rights "cannot be discovered... nor can they be logically deduced from any external reality or constructed from arguments... rights must be invented by human beings" (p. 85).

I also find this theory far from satisfactory. In plain language, Dershowitz is saying that human rights are not anything real in the world. They are terms invented by human beings just to avoid "the repetition of the grievous injustices of the past." The problem is that human rights are not so much explained as explained away. One may say in general some human rights should be respected to ensure the well-being of the society. But what if I am a dictator or I can take advantage of others without being known by other people? Why should I respect human rights in these cases? So Dershowitz's theory, to have force, needs to presuppose a universal moral framework which is binding on everyone, and this is explicitly what he wants to avoid as a secularist. Even for the decent people, human rights are nothing more than useful rules of thumbs. When we apply them to our situation, there is no guarantee that they are still the best rules to follow. Dershowitz admits that in fact. He wants to define human rights "as something more enduring, more entrenched, more historically rooted, and more institutional than a mere majoritarian preference" (p. 111). However, in the end he can only say that "the difference between a strongly held preference and a right is not absolute or natural. It is very much a matter of degree, based on changing historical experiences with wrongs... This is all I can do- defend my *preference for rights*" (p. 114).

He is aware of this objection: suppose in some hypothetical situation, the Nazis are destined to prevail over the whole world and all societies which do not agree with their ideas and insist on human rights (say, for the Jews) will be destroyed. In this case, wouldn't experience teach us to ignore human rights? In the end, he wants to

“insist that ‘suitability’ is not the only criterion for evaluating the justice of a society’s ‘moral reality.’ An amoral sociologist would conclude that the moral reality of Nazi Germany was ideally ‘suited’ to its social structure and ideology. That would not make it right or just... There must be an external standard for evaluating a society’s morality beyond ‘suitability.’

The problem is that no such external standard actually exists in nature or in the word of God. The only way it can emerge is if it is constructed on the basis of the broader experiences of the entire world over time, rather than the limited experiences of one particular society at a single point in its history” (pp. 133-34).

This passage is puzzling. While he insists on the necessity of having some external standard, he seems to deny its existence at the same time. If he is saying that this “external standard” can be constructed on the basis of the broader experiences of the entire world over time, then this standard is clearly inaccessible to finite human beings. Who can know about the past history of *the entire world*, not to mention the point that history is forever open to the future? He has also not made any reply to the hypothetical case about the Nazis: we can now already conceive that the experiential approach to human rights may result in a standard which conflicts with our current standards of human rights. In any case, just to avoid the gravest mistakes, I am not convinced that we can derive much positive content of human rights. In the past history, many societies which have no respect for human rights did manage to prosper and endure.

So it seems that the above experiential approach fails to justify universal rights ultimately. The general problems of similar approaches are sharply pointed out by Stackhouse: “if it is so that such ideas are little more than a by-product of a particular historical and social context, it becomes very difficult to argue that they ought to be taken as governing principles when the context has changed substantially... if each ethical or juristic principle is simply a cultural adaptation to those changing conditions, then the “values” of the Declaration of Independence are ripe for challenge. To insist on them in another time or place or cultural history is simply an exercise in anachronistic cultural imperialism... If human rights are the product of scribblers and sophists only, or even of pioneers and pilots, they will not long endure. Sentiments will change, and other constructions will be imagined, other paths found, other channels dug. Human rights will be like civil rights-what is promulgated by one ruler or passed by one legislature can be rescinded by the next. The erosion of the gains for human rights could easily occur, at tremendous human cost, if the idea of human rights is based on nothing more than the changing course of historical experience and discourse about it” (Stackhouse, pp. 13-4).

Michael Ignatieff’s Deflationary Account of Human Rights

Ignatieff is a secularist and thinks that “human rights is a secular humanism: an ethics ungrounded in divine or ultimate sanction and based only in human prudence” (p. 81). He agrees that “human

rights has become a secular article of faith. Yet the faith's metaphysical underpinnings are anything but clear... The Universal Declaration enunciates rights; it does not explain why people have them" (p. 77). He also admits that "we cannot build a foundation for human rights on natural human pity or solidarity. For the idea that these propensities are natural implies that they are innate and universally distributed among individuals. The reality-as the Holocaust and countless other examples of atrocity make clear- is otherwise" (p. 80).⁴ He refers to Michael Perry's view that the idea of human rights is "ineliminably religious" (Perry, pp. 11-41), and also to Stackhouse's view that the idea of human rights has to be grounded in the idea of God, or at least in the idea of transcendent moral laws. He, however, wants to resist these views.

He asks, "Why, exactly, do we think that ordinary human beings, in all their radical heterogeneity of race, creed, education, and attainment, can be viewed as possessing the same equal and inalienable rights? If idolatry consists in elevating any purely human principle into an unquestioned absolute, surely human rights looks like an idolatry." He is candid about the possible danger of "a cultlike credulity, an inability to subject humanist premises to the same critical inquiry to which humanist rationalism subjects religious belief. The core of the charge is that humanism is simply inconsistent." Then Ignatieff says, "To this humanists must reply, if they wish to be consistent, that there is nothing sacred about human beings, nothing entitled to worship or ultimate respect. All that can be said about human rights is that they are necessary to protect individuals from violence and abuse, and if it is asked why, the only possible answer is historical" (p. 83).

Besides trying to avoid having anything to do with theology, Ignatieff also wants to avoid controversial claims in order to protect the universality of human rights: "The problem with these propositions [about natural dignity of human beings] is that they are not clear and they are controversial. They are not clear because they confuse what we wish men and women to be with what we empirically know them to be. On occasion, men and women behave with inspiring dignity. But that is not the same thing as saying that all human beings have an innate dignity or even a capacity to display it. ...each version of them must make metaphysical claims about human nature that are intrinsically contestable... Foundational claims of this sort divide, and these divisions cannot be resolved in the way humans usually resolve their arguments, by means of discussion and compromise. Far better, I would argue, to forgo these kinds of foundational arguments altogether and seek to build support for human rights on the basis of what such rights actually do for human beings" (p.54).

He points out that "human rights language has become a source of power and authority. Inevitably, power invites challenge. Human rights doctrine is now so powerful, but also so unthinkingly imperialist in its claim to universality, that it has exposed itself to serious intellectual attack. These

⁴ He goes on to say, "we do not build foundations on human nature but on human history, on what we know is likely to happen when human beings do not have the protection of rights" (p. 80). This is similar to Dershowitz's view which I have commented above.

challenges have raised important questions about whether human rights deserves the authority it has acquired; whether its claims to universality are justified, or whether it is just another cunning exercise in Western moral imperialism” (p.58). So “human rights can command universal assent only as a decidedly “thin” theory of what is right, a definition of the minimum conditions for any kind of life at all” (p.56). So we should construe the scope of human rights narrowly, and mainly use them to protect human agency, which he means primarily negative liberty, the capacity of each individual to achieve rational intentions without hindrance (p.57).

As for the justification of human rights, he admits that a “humanism that worships the human, that takes pride in being human, is surely as flawed as those religious beliefs that purport to know God's plans for humans. A humanism that is not idolatrous is a humanism that refuses to make metaphysical claims that it cannot justify.” This can be done: the secular defence of human rights only “depends on the idea of moral reciprocity: that we judge human actions by the simple test of whether we would wish to be on the receiving end. And since we cannot conceive of any circumstances in which we or anyone we know would wish to be abused in mind or body, we have good reasons to believe such practices should be outlawed... that we possess the faculty of imagining the pain and degradation done to other human beings as if it were our own-is simply a fact about us as a species. Because we are all capable of this form of limited empathy, we all possess a conscience... The fact that there are many humans who remain indifferent to the pain of others does not prove that they do not possess a conscience, merely that this conscience is free. This freedom is regrettable: it makes human beings capable of freely chosen acts of evil, but this freedom is constitutive of what a conscience is” (pp.88-89).

In the end, he concludes, “We need to stop thinking of human rights as trumps and begin thinking of them as a language that creates the basis for deliberation. In this argument, the ground we share may actually be quite limited: not much more than the basic intuition that what is pain and humiliation for you is bound to be pain and humiliation for me.... rights are not the universal credo of a global society, not a secular religion, but something much more limited and yet just as valuable: the shared vocabulary from which our arguments can begin, and the bare human minimum from which differing ideas of human flourishing can take root” (p.95).

I admire Ignatieff’s honesty and his capacity for self-criticism. The way he tries to make human rights less imperialistic and more modest or minimalist is also commendable. In this way, his theory can be called a deflationary account of human rights. However, whether this account can achieve his purposes is doubtful. First, we need to point out that although Ignatieff is willing to grant that “each culture ought to have a significant ‘margin of appreciation’ in the manner in which it interprets universal human rights norms” (p. 170), and is wary of unnecessary proliferation of human rights, he still makes universal claims about some human rights. For example, he thinks that the “most essential message of human rights is that there are no excuses for the inhuman use of human beings. In particular, there is no valid justification for the abrogation of decency and due process on the

grounds of national security, military necessity, or states of siege and emergency.” He also believes that human rights can “provide a universalistic vantage point from which to criticize and revise particularistic national law” (p.16). Moreover, “to protect human agency necessarily requires us to protect all individuals' right to choose the life they see fit to lead” (p. 57). Why do all have to respect these ideas if, as Ignatieff concedes, the intrinsic dignity of human being is simply a fiction? As Diane Orentlicher pointedly asked, “But if there is nothing about human beings that entitles them to ultimate respect, what can justify the belief-Ignatieff's belief- “that human beings are not free to do what they wish with other human beings; that human beings should not be beaten, tortured, coerced, indoctrinated, or in any way sacrificed against their will”? ... Ignatieff fairly describes the intuitions and experiences that have driven the human rights movement. But this is not an account that goes far in addressing the concerns of those who doubt the legitimacy of human rights” (Orentlicher, p. 149).

Ignatieff tries to avoid metaphysical claims that cannot be justified in the framework of secular humanism, and in the end seems to reduce the ground of human rights to some form of the Golden Rule. However, isn't it quite clear that those who are prepared to violate human rights may not in fact accept even the Golden Rule? His hope hinges on our capacity for empathy and our common possession of a conscience. However, this seems to contradict his earlier claim that “we cannot build a foundation for human rights on natural human pity or solidarity.” He seems to be aware of the problem. So he immediately admits the fact that “there are many humans who remain indifferent to the pain of others” but goes on to argue that these people still possess a conscience. Their behaviour only shows that their conscience is free. However, human beings are not only capable of freely choosing acts of evil, they are also free to deny any moral standards which stand in their way. So even the common possession of a conscience in Ignatieff's sense cannot provide solid grounds for universal human rights.

Conclusion

Political philosophers and ethicists have wrestled with the justification of human rights and lots of books have been produced. The discussions above cannot do justice to all the detailed arguments proffered. However, I hope sufficient has been said to highlight the general character of the secular justifications, and the kinds of difficulties they face. This dilemma is recognized by some philosophers. Hugo Adam Bedau concludes his essay on ‘Why do we have the rights we do?’ in this way, “When I began these remark, I thought I would be able to say why we have the rights we do. I have not done so, and I see that I cannot.... I appear to be in good ... company.”⁵

We see an interesting phenomenon. Many naturalists are somehow convinced that human beings do have human rights but find it difficult to provide an ontological basis for it. The basic reason is that

⁵ Hugo Adam Bedau, "Why Do We Have the Rights We Do?" *Social Philosophy and Policy* 1(1984):56-72. See also Louis Pojman, "A Critique of Contemporary Egalitarianism: A Christian Perspective," *Faith and Philosophy*, 8(1991):481-504; "Are Human Rights Based on Equal Worth?" *Philosophy and Phenomenological Research*,

it is difficult to justify human dignity objectively in a naturalistic world. It is hard to see how the value of human nature can be derived from the value-free facts of physical nature. The naturalists fail to provide true justification for human rights because they have no transcendent frame of reference, and no ground for the truly human essence.

Apparently theological principles can help to sustain the idea of human rights because it affirms that we all stand under a universal moral law, and that each person is constituted by a divinely endowed core that is the ultimate basis for human rights. As Stackhouse says, “because all peoples and cultures stand under a universal “higher authority” that humans did not construct and cannot deconstruct, people may seek to change the unjust laws of various nations, the unjust conventions of any cultures... the powers of government should be limited because some things are so sacred that no regime is competent to control their existence” (pp. 15-6). So it seems that theism does a better job in providing the foundations for human rights. Of course, whether this is in the end defensible depends on its ability to withstand critical scrutiny. This has to be left for another occasion (see Kwan for further discussions and defense).

Reference

- Dershowitz, Alan. 2004. *Rights from Wrongs: A Secular Theory of the Origins of Rights*. New York: Basic Books.
- Devitt, Michael. 2005. “There is no *a Priori*.” In Matthias Steup and Ernest Sosa, eds., *Contemporary Debates in Epistemology* (Oxford: Blackwell, 2005), pp. 105-115.
- Ignatieff, Michael. 2001. *Human Rights as Politics and Idolatry*. New Jersey: Princeton University Press.
- Kurtz, Paul. 1988. *Forbidden Fruit: The Ethics of Humanism*. Buffalo: Prometheus Books.
- Kwan, Kai-man. “Can Christian Theology Provide a Foundation for Human Rights?” *CGST Journal* 43 (July 2007): 205-228.
- Macdonald, Margaret. 1984. “Natural Rights.” In Jeremy Waldron, ed., *Theory of Human Rights* (Oxford: Oxford University Press), pp. 21-40.
- Orentlicher, Diane F. 2001. “Relativism and Religion.” In Michael Ignatieff, *Human Rights as Politics and Idolatry* (New Jersey: Princeton University Press, 2001).
- Perry, Michael J. 1998. *The Idea of Human Rights: Four Inquiries*. New York: Oxford University Press.
- Stackhouse, Max L. 1999. “Human Rights and Public Theology: The Basic Validation of Human Rights.” In *Religion and Human Rights: Competing Claims?*, eds. Carrie Gustafson and Peter Juviler (Armonk, N.Y. : M.E. Sharpe, 1999), pp. 12-30.
- Witte, John. 2007. *The Reformation of Rights: Law, Religion, and Human Rights in Early Modern Calvinism*. Cambridge: Cambridge University Press.