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Religious Perspectives on Bioethics and Human Rights

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Introduction

Are human rights really universal? Aren't they a product of Western individualistic liberalism? Can they trump local practices and traditions, especially religious ones? These interrogatives will be the subject of this book.

In 2009, the UNESCO Chair in Bioethics and Human Rights (Rome) held the first “Bioethics, Multiculturalism and Religion” workshop in Jerusalem as a forum for representatives of the major religions to discuss a particular bioethical issue from their diverse perspectives. The intention was to hold subsequent workshops on different bioethical issues under the same umbrella of “Bioethics, Multiculturalism and Religion” with the goal of “fostering the art of convergence and cooperation in global ethics.” The plan was met with enthusiasm, and workshops have been held in Rome (2011), Hong Kong (2013), and Mexico City (2014). Houston, Texas, will be the site of the 2016 workshop.

After the first workshop, the chair approached Springer with the idea of publishing the proceedings of the workshops as part of the Advancing Global Bioethics series. The Rome papers were published as *Religious Perspectives on Human Vulnerability in Bioethics* (Tham et al. 2014). This book project gathers together the papers prepared for and presented at the Hong Kong workshop.

While the 2011 workshop focused on the principle of vulnerability, the discussions revealed that many conceptual problems remained unresolved with regard to human rights. Many participants found the human rights language too individualistic and somewhat foreign to major religions where the self does not exist in isolation but is normally immersed in a web of relations—family, friends, religious community, and society. Some of these tensions are evident in the aforementioned publication.

We cannot ignore the critique that the concept of human rights is predominantly derived from the Western liberal ideal, in which bioethics is often translated to mean patient autonomy and free choice. This contrasts acutely with Eastern religions which tend to focus more on duties than on rights. Some authors even questioned the existence of universal rights. They are uncertain at what moment universal rights supersede respect for local cultural diversity and customs. For this reason, we thought it opportune to tackle in our next meeting Article 12 of the UNESCO

Declaration on Bioethics and Human Rights (2005) which states: “The importance of cultural diversity and pluralism should be given due regard. However, such considerations are not to be invoked to infringe upon human dignity, human rights and fundamental freedoms, nor upon the principles set out in this Declaration, nor to limit their scope.”

The 2013 “Human Rights and Multiculturalism” workshop was held in Hong Kong from December 3 to 5 at Hong Kong Baptist University and was co-organized by that university’s Department of Religion and Philosophy and its Centre for Applied Ethics and Centre for Sino-Christian Studies. The workshop theme focused on the relation between human rights and cultural diversity in bioethics. In particular, the participants analyzed this relationship in the life sciences, healthcare, and the appropriate use of technology. The stakeholders involved in these issues are primarily researchers and physicians as well as patients and research subjects. As in previous workshops, participants discussed how these rights conflict with local diversity from the different religious perspectives.

Bioethics scholars from Buddhism, Christianity, Confucianism, Daoism, Hinduism, Islam, and Judaism were commissioned to write either a main paper from their respective traditions or a response. The main paper was to address the following points based on the major tenets of the author’s tradition in relation to the UNESCO Declaration on Bioethics and Human Rights: (a) its understanding of human rights and duties, (b) possible conflicts of human rights claims and accepted practices in the tradition, and (c) the possibility human rights could supersede traditional norms with regard to healthcare and life sciences. For each main paper on the seven religious traditions, there were two expert responses, one from the same tradition and one from a different one. The main papers were received about 2 months before the actual workshop and the responses about a month before.

The authors were from 12 countries. However, the reality is much more diversified due to our globalized world. If one were to take into account the cultural backgrounds of the presenters and participants, the following countries were represented: Canada, the Caribbean, China, France, Germany, Greece, Holland, Hong Kong, India, Iran, Israel, Italy, Korea, Mexico, Morocco, Pakistan, Singapore, Spain, Switzerland, Thailand, and the USA. In fact, there are also diversities within the different religious traditions themselves: Catholics, Protestants, and Orthodox Christians, Secular and Orthodox Jews, and Sunni and Shiite Muslims conversed in this setting.

Participants were encouraged to read all the other papers before attending the workshop. Each workshop session focuses on one tradition and lasts about 3 h. Authors of the main paper are allowed some time to summarize their papers followed by two short commentaries from the respondents. This is followed by an ample period of discussion, clarification, and questions from all the participants of the event. These lively discussions and debates seek to clarify the different religious or tradition views on human rights. As many of the speakers and participants were present in previous meetings, there was an atmosphere of respect and friendship that allowed for frank exchanges. Such intellectually stimulating dialogue and encounters allow a rare glimpse of how people of good faith can work together and foster

dialogue. After the meeting, the authors were asked to modify their papers based on the feedbacks and peer reviews. These final drafts are collected here.

In one main narrative, the use of human rights in international relations and law dates to the end of WW2. The international community was horrified by “the scourge of war” and, in another attempt to outlaw war, formed the United Nations (UN) in June 1945, just months after the end of the war. Earlier attempts to end war altogether were made after WW1, but neither the League of Nations nor the Kellogg-Briand Pact was successful. Discussions about a UN-type arrangement started relatively early during the war and involved a discussion about what came to be known as human rights. Once the UN was formed, it took another 3 years before the General Assembly could agree on a positive expression of what human rights could be. This was published in 1948 as the Universal Declaration of Human Rights (UDHR). The UDHR was not intended to be a legal document; rather it was understood to be a framework for a subsequent treaty or law on human rights.

The effort to make positive human rights law from the UDHR took 28 years. It was only in 1966 that the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) would be put out for signature, and they did not enter into force until 1976. Apart from difficulties in the drafting and inclusion of specific norms, the drafters had to grapple with conflicts in the values from which the norms were to be derived. The drafters of both the UN Charter and the UDHR had tried to avoid grounding the ethical imperatives of human rights norms in any philosophical, theological, or cultural system by focusing attention on the word and concept of *dignity*. Human dignity was the textual source of human rights, the source of the attempts through international law to end “the scourge of war.”

While *dignity* would remain the textual source of rights, the drafters began their task just as the Cold War was beginning to dominate post-WW2 international relations. Since the drafters were from both liberal and socialist member states, the creation of the new positive international normative system was hampered by the differences in values. How were the drafters to create a hierarchy of politico-legal norms when the norms conflicted? On the one hand was the liberal West, to whom human rights in large part were associated with democracy (suffrage, individualism, due process) and a kind of American model of rights. On the other hand was the socialist East, to whom the community was more important than the individual and the state was to own and provide the necessities of life. The main objection liberal countries had toward the socialist vision was that the implementation of, say, a right to health would force the state to spend money to alleviate poverty and deliver health services. While the state might desire to do that, it might not have the money. And many states were poor. In poor states, the West then argued, the solution was to give the citizens the right to vote and democratically control the state and then let the popular sovereign sort out the problems of resource allocation. Although this simplifies 18 years of complex negotiation, the covenants reflect this argument. The ICCPR embodies civil and political rights that envision a democratic or republican state, and that do not require much of the state other than recognition of the rights. The ICESCR prescribes rights (e.g., the right to health, the right to work) that

require the states to take positive civil action. In recognition of the fact that many states do not have the resources to provide those rights, the ICESCR demands only that its rights be “progressively realized” by the state.

In retrospect, we see that although human rights were conceived as a possible political and legal instrument to prevent future atrocities, such as those perpetrated by the Nazi regime against the Jews and other minorities, by the Japanese against the Chinese, and by other powers (including the USA), the way the drafters managed the source values left a legacy of inconsistency in international ethical/legal order. While they pointed to dignity in all of the texts as the unitary source of human rights norms, they in fact produced two covenants that are philosophically at odds with each other. Moreover, they did not give any guidance as how to resolve conflicts between norms, even conflicts *within* each covenant.

The failure to identify a unitary source for human rights, an extremely complex philosophical/political problem for which the drafters are not to be criticized, has certain negative effects. Human rights have proliferated, including greater ambits in subsequent generations of rights. Because of its power to bind nations and win arguments, human rights may fall victim to ideological manipulations and political maneuvers. Religionists and secularists, jurists and politicians, and lobbyists and activists all want a piece of moral high ground under the banner of human rights to further their claims. When that is multiplied by the 193 members of the United Nations, the diversity of voices and opinions can create a sense of cacophony.

Certainly, the tension between universalism and particularism in ethics is an old one, but it has become more urgent in today’s global context touching a multitude of bioethical issues. Does the claim of global ethics’ or rights’ universality necessarily stifle the right to local particularism and thus suppress cultural and religious patrimonies? Does the reality of cultural diversity necessarily infer the inevitability of moral pluralism? The answers are not readily available.

The philosopher and ethicist Alasdair MacIntyre has offered one solution that allows for the expression of cultural diversity and yet eschews moral pluralism. Accordingly, different moral traditions can confront each another on equal footing. In this engagement of culture and traditions, it is possible to enter the conversation with intellectual honesty and “maximal vulnerability” without hiding one’s own defects. In this painstaking, slow, and difficult process of soul searching, exchanges and comparisons would allow the rival traditions to see their weaknesses and strengths and rationally recognize their own incoherence and the superiority of their rival, with the possibility of abandonment of their own tradition (MacIntyre 1989). Like our previous publication, this book provides a rare opportunity to compare religious views on human rights from major world religions.

The Chapters

The first part of the book consists in several articles discussing the principle in general and especially the tension between universal human rights and local particular customs that can come into conflict with this, with examples taken from bioethics.

The following chapters provide thought-provoking insights on the relationship between universal human rights and local cultural and religious diversity. In the discussions on the basis of human rights and its universality, it became apparent that there are two visions or approaches. The “thick” or substantive approach wishes to base human rights on natural reason found in our common nature. This vision claims that while the origin of human rights discourse could take its origin from the West, its validity is nonetheless universal in scope and not limited to geography. It recognizes the fact that human rights discourse is an unfinished product and is undergoing evolution and further elucidation. Some traditions find it compatible with a religious base such as being created in the image of God or the metaphysical conception of a common human nature.

On the other hand, the “thin” approach would see human rights as a practical or pragmatic solution that was conceived in the first place to lessen the occurrence of abuses against humanity, as evidenced in recent history. Hence, it willingly accepts the lack of a common basis for human rights and may even find the diversity of cultures precluding such a possibility. In this thin version, there is awareness that the human rights discourse can be manipulated or hijacked by different ideologies when it is not based on a thicker basis. It is this approach that generates the positive legal norms that give human rights their bite in the real world, removing them from the world of abstract right.

These articles set the background to the debate on human rights and cultural diversity according to different cultures and religious traditions. The way different traditions approach this debate depends on how they envision the interplay between faith and reason. On the one hand, universalism is prominent in the secular and liberal post-Enlightenment approach that exalts rationality as the common basis of humanity that allows for dialogue and agreement on shared beliefs in human rights. This common rationality is traced especially to the Judeo-Christian conception of humans being creatures and not the Creator, thus all being equal in the eyes of God. On the other hand, we find particularism in some religious traditions that stress revealed truths to the exclusion of human rationality and that sees this diversity as an important value. However, this “fundamentalist” and voluntarist vision can be troubling as it can lead to violence against those who are different. However, in between these two positions is a middle approach that embraces both faith and reason, either in the natural law tradition or in an appeal to human dignity based on *imago Dei*, on the recognition of the “Other” as a person, or on the recognition of compassion as the central defining characteristic and mother of all virtues.

When examining the different papers from the seven religio-cultural groups, differences of ethical sensitivities are found not only among the different groups but also within each group. What makes this discussion interesting is that religious tra-

ditions are not static but are constantly evolving in their engagement with other religions, philosophies, cultural variances, and challenges from science, technology, and modernity in a globalized reality.

These considerations lead to further examination of a complex web of different issues—culture, religion, politics, philosophy, law, theology, and ethics—that intersect, interact, and cross-pollinate. The debate of the “thick” vs. “thin” approach to ethics and human rights in fact overlaps with the discussions on duties vs. rights, religious vs. secular, faith vs. science, individual vs. societal, nature vs. nurture, and the perennial metaphysical tension of the one vs. many.

Scholars and students interested in religious ethics, human rights, bioethics, cultural diversity, and multiculturalism will find this collection of original articles an important contribution in these cultural debates of our time.

Joseph Tham

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