

RELIGION AND HUMAN RIGHTS: CONVERGENCE AND DIVERGENCE

INTRODUCTORY REMARK

Woubeshet Senegiorgis (Ethiopia)

Historical events and legends show us that man kinds have been passed a miserable life, disorganized and lived in paradoxical phenomena¹. Historical legends evidence also that there was a time when people lived without moral, family, marriage² and in the absence of humane inspired treatments.³ There was no organized belief or common rules for all man kinds at least in fundamental life aspects. For example, before the emergence of centralized religions such as Christianity, Islam and Buddhism, there were primitive beliefs such as Animism,⁴ Fetishism,⁵ and Totemism.⁶ During this time, there was no religion in its strict sense, no concept and protection of human rights as well.

Thanks to the evolution of human mind the miserable, disorganized, as well as immoral phenomenas if not came totally at stake, improved gradually.

Religious rules started to make the life of human beings more meaningful and organized and human rights law started to protect naturally inherited or inalienable rights of human beings.

Such religious and human rights laws were not emerged simply at once or in a simple way or at the emergence of society, but gradually through interpretation of God and Man, the correlation between Man and God, God and natural Phenomena.

Since it would be very difficult to broadly expose religion and human rights in this particular article, the objective of the author is only to generally high light and expose:

1. Origin of religion (with special reference to Christian religion) and its role in bringing peace and order in the society.;
2. Origin of human rights law and its role in assuring respectation and equality among the members of the society ; and
3. The convergence (similarities) and divergence (differences) between religious rules and human rights

1. **History of Political and Legal Studies (2nd. 1988)**

2. **Dr. Girma Gizaw, The World History of Law and Legal Institutions: Ancient, Modern and Contemporary, 2nd ed. 2007**

3. **Id. PP 150-151**

4. **Belief that all natural objects and phenomena, such as trees, stones, wind, etc. have souls**

5. **Belief that a spirit lives in an object**

6. **Belief that natural object, specially an animal is considered as the emblem of the clan or family**

**Origin of Religion (with Special Reference to Christian Religion) and its Role in
Bringing Peace and Order in Society.**

Before the emergence of the religion as more organized and centralized belief, primitive beliefs such as animism, totemism, and fetishism as mentioned above were primary beliefs that primitive society connected with. These primitive beliefs gradually gave a way to the emergence of the currently universally recognized religions such as Christianity, Islam, Buddhism, etc.

The main prerequisites for the emergence of centralized religion were:

- (i) the socially organized relation of people; and
- (ii) the existence of the recognized and centralized primitive beliefs, in ancient Greece, such as Zeus⁷, Apollo⁸ and Athens.⁹

These all ancient centralized beliefs dictated the universal nature of religion and accordingly they put all human beings in the same position.

However, Bible is the Holy Book and the most world translated document, first in the history of man kind and religion, provided the human rights provisions. It is the first Holy Book where the word "Equality" of human being solemnized. Before the Bible, some laws adopted in Mesopotamia (Sumerians around 3000 B.C., Babylon around 18 c B.C.), none of them provided a single provision regarding human rights.¹⁰

Even though there is no agreed conclusion among the writers as when the writing of the Bible began and when it ended up, as some historical legends evidence, the writing of the Bible was connected to the times of Moses (XIII B.C.) and most probably its writing was ended in VII c B.C.¹¹ Genesis, Chapter One, Verses 26, provides that human beings are created in the image of God.

As Lalfak, Zuola stated in his book on human rights quoting the remark of George Mathew, the image of God is the most fundamental theological principle behind the idea of human rights. The assumption that God created human being in God's image likewise implies that every one is equal before the God. This in return means the denial of equality among the human beings to amount to distortion of the image of God in humanity.¹²

7. Zeus in Greek mythology the god of the Sky and ruler of the Olympian gods. According to Homer, Zeus was considered the father of the gods and mortals. Available at "Microsoft ® Encarta ® 2009 [DVD]. Redmond, WA: Microsoft Corporation.

8. In Greek Mythology, Apollo was Son of the god Zeus and god of Arts. In Homeric legend, Apollo was primarily a god of Prophecy. Available at Microsoft ® Encarta ®, 2009 [DVD], Redmond, WA: Microsoft Corporation.

9. In Greek Mythology Athens (Athena) was Primarily the goddess of Greek Cities, of industry and the arts and in later Mythology, of Wisdom, She was also goddess of war. She was the favorite child of Zeus. Available at Microsoft ® Encarta ® [DVD]. Redmond, WA: Microsoft Corporation

10. See Girma Supra note 2

11. Id.

12. Lalfak Zuola, Human Rights in Deuteronomy: A Sociological Approach, Cambridge Press, 2004.p. xv

The first nation in the world accepted the postulation that all people are equal by the image of God was Israel, who made the Old Testament (The Mosaic Law) as its fundamental law. Before and after the Bible in most ancient nations such as ancient Greek, China, Rome and Egypt, foreigners were regarded as enemies and could be killed at their appearance. But first in the history foreigners were considered as humans thanks to the Mosaic Law, which solemnly declared that foreigners and Israelites have the same law- the Mosaic Law, and then they should live accordingly.¹³

Further it is seemed hat this underlying Biblical postulation led to the acceptance that God is the creator of all human beings-and the universal truth and human beings should be put in the position of brotherhood without any discrimination based on sex, color, nationality, age, religion and the like.

It was this underlying idea that became further after the object of interpretation of the essence of the rights of human being by the Greek sophists, stoics and Roman stoics, further by the Middle Ages legal and political thinkers, the 17th and 18th centuries classical thinkers.

Origin of Human Rights Law and its Role in Assuring Respection and Equality

Among the Members of the Society

The phrase “human rights” is among the most popular phrases frequently used in the modern International as well as National laws. Obviously the phrase “human rights” consists of two independent words namely human and right.

The word “Human” denotes a being rather than other living or non-living beings.

In Oxford Advanced Learner’s Dictionary, the word “Human” stands for the man contrasted with God, animals and machines. The same Dictionary further exposes, that the word “Human” denotes or shows the better quality of man and it also exactly matches the word or phrase “Human Being,” which stands for indicating man, woman, child or any person¹⁴.

The Phrase “Human Rights” denotes the rights generally through that every living person should have (example, the right to freedom, Justice, etc.)¹⁵

Thus, the phrase “Human Rights” has also been precisely expressed as right and freedom to which every human beings is entitled.

Modern Definition Of Human Rights

Numerous definitions of human rights can be revealed in the International Law among which basic rights, fundamental rights, natural rights, inalienable rights, claim rights, common or universal rights, fundamental freedoms etc. could be mentioned.

13. **The Beginning of International Law Relatively Foreigners in the Ancient World, Peters burg, 1870,pp.3-4**

14. **See Oxford Advanced Learner’s Dictionary,4th ed.**

15. **Id.**

As far as the Phrase “Human Rights” denotes a bundle of rights, giving its precise and a single whole definition is difficult. Thus, different writers defined human rights differently. To justify this thesis, let us see the following definitions of Human Rights given by different writers: Jack Donnelly defines Human Rights as “Natural Rights,” right held simply by virtue of being a person; since such rights are natural in the sense that their source is human nature.¹⁶

On the other hand, Balams, Aswal describes “Human Rights” as rights that one has simply because one is human They are universal, equal and inalienable and they are held by all human beings universally.¹⁷

S.K Kapoor, another writer in the sphere of human rights, defines them as fundamental and inalienable rights which are essential for life as human being; rights possessed by every human being, irrespective of his race, religion, sex, color, etc.¹⁸

Irrespective of the absence of exactly matched definitions of human rights, the three definitions given above have common sense in that all definitions in one or another denote human rights emanating from the natural or inalienable rights that possessed only by human person or human being in distinct to other non-human, (such as animals or other artificially created beings), which in the modern law generally are known as legal persons. Many writers in the area of International law firmly advised states to protect and guarantee such natural and inalienable rights of human beings.

For example, a well-known Soviet legal scholar, Prof. Tunkin wrote that the content of the principle of respect for human rights in International Law may be expressed in the following three propositions:

- 1/ All states have a duty to respect the fundamental right and freedom of all persons within their territories;
- 2/ States have a duty not to permit discrimination by reason of sex, race, religion or language, and;
- 3/ States have a duty to promote universal respect to human rights and to co-operate each other to achieve this objective.

It is obvious that these propositions drawn by prof. Tunkin in one or another way have got expression different International Human rights instruments such as UDHR, International Covenant on Civil and Political rights and others.¹⁹

16. Jack Donnelly, Human Rights as a Natural Rights, Oxford University Press, 1982,p.391

17. Balm Singh Aswal, Human Rights, Select International Instruments, New Delhi (2007)

18. S.K Kappor, International Law and Human Rights, Alabama (India), 2002,p.785

19. Shaw Malcolm, International Law 5th ed. P.250

Short Historical Sketch

The concept of human rights was not emerged in a simple way or not emerged just at the emergence of society. As historical development of jurisprudence (Legal science) evidences, that the elements of human rights law emerged in the course of interpreting God and his fundamental creation, Justice. Such interpretation was started first in the history of law not before the VIIIth c by the ancient Greek writers (Poets)²⁰ which later on was further developed by the ancient Greek wise men, Philosophers and stoics.²¹ The interpretation of nature, man, justice and equality of men later on was developed by the Roman Stoics, Middle Ages Legal, Religious and political thinkers the philosophers of the modern time, the classical philosophers of the 19th and human rights thinkers or supporters of the 20th c.

All human rights stipulations, interpretation shaped and refined theoretically throughout the history of mankind got recognition in the first of its kind and the most world's translated document, Universal Declaration of Human Rights, (1948)²².

Universal Declaration of Human Rights here in after referred to as UDHR is supposed to be the great achievement of the struggles and efforts of humane inspired people, Philosophers and thinkers. Since its adoption it has become the basic source of other succeeding human rights instruments, both international and national.²³

Greek poets (VIII-VI B.C) paved a way to the emergence of human rights concretion through interpreting the essence of ancient Greek goddess.

The ancient Greek poets such as Homer (VIII cB.C) and Hesiod (VII cB.C) first tried to illustrate God, his essence and justices in their historical poems.

Homer, in his poem Iliad and Odyssey wrote that the God has the highest of all power for all justice. One, who violates the justice and completes unfair trial, shall be punished by the highest God.²⁴ By doing so, he tried to expose that every one should be obedient to the God, the creator of all things and should complete fair trial and should refrain from violating justice. Other ancient Greek poet, Hesiod (VII B.C.) wrote, that the God is the creator of endless natural order, moral, legal principles and power. He wrote also, that justices in its nature is natural and divine.

Hesiod tried to convince the people, that justice is the same for all and all people should be obedient to such natural and divine justice.²⁵

20. See History of Political and Legal Studies Supra at 1p.45

21. Id. P.76

22. See Universal Declaration of Human Rights, Dec.10,1948,Art

23. See Universal Declaration of Human Rights, Dec. 10,1948, Art

24. International Covenants an Civil and Political rights, International Covenant on Social, Economic and Cultural Rights and the constitutions of the civilized nations designed on the ground of the Fundamental Human rights principles provided on the UDHR.

25. Id. P.46

This mythological expression of two ancient Greek poets tried to formulate the idea that all human creatures are equal in their relations and possess the same fate, but should respect the law or justice which was also invented by the God. It was since then, that the concept of universalism originated, which later on started to be applied and extended to the idea that natural law is universe and human persons are citizens of the universe.

The Convergence (similarities) and Divergence (differences) Between Religious and Human Rights Law

Similarities between Religious and Human rights Laws

We have mentioned above that religion as the well centralized and organized belief is a sacred engagement that is believed to be a spiritual reality.

It is possible to consider the importance of religion in human life without making claims about what is really is or ought to be.

Religion is not an object with a single fixed meaning or even a zone with clear boundaries but it is an aspect of human experience that may intersect, incorporate or transcend other aspects of life and society.²⁶ Thus, religious rule can be said to be the universal truth.

Human rights law on the other hand- a body of rules or human rights instruments that has universal character.

We can draw out the following some similarities between religion and human rights law

1. In terms of universalism

Both religion and human rights have universal character in that both address not to the particular person or a group of persons or a particular region but to all man kinds,

2. In terms of subjects

The primary subjects of both religious and human rights law are human beings, natural and reasonable beings;

3. In terms of promotion of equality among the human persons

Both do not allow discrimination among the people on the ground of sex, colour, ethnicity, economic and social status;

4. In terms of duration of application

Both religious and human rights rules are demanded to be observed/ respected both in peace and during the period of armed conflicts;²⁷

5. In terms of sources

For both the primary source or origin is the mythological interpretation of god, the creator of all completed and endless natural order

26. Paden William "Religion" Microsoft [R] Encarta [R] 2009 [DVD] Redmond. WA: Microsoft Corporation

27. See Anonymous, Human Rights in the Horn of Africa/ Indiana International and Comparative Law Review, vol. 11, No 3, 2001 p.543

6. In terms of moral concern-

In both religion and human rights law, moral is the beginnings criteria and the most relevant element to be observed/respected.

Differences Between Religion and Human Rights Law

Irrespective of the fact that the above illustrated/ similarities could be exposed, there are fundamental differences between religion and human rights, among which the following can be drawn out:

1. In terms of scope of application

Human rights law should always be universal, even if its practical application in to the life of members of society can be varied from place to place /from region to region (as its application can be blocked by the customs and traditions of countries), but religion is connected firmly to human experience and traditions which can be varied from place to place. For example, there are universally recognized religions such as Christianity, Islam, Buddhism, Judaism etc, but we can not have scattered human rights law such as African, Asian, American or Ethiopian one.

2. In terms of sources

Human rights law consists of both moral and positive elements that are accepted as law by the consensus of people or states, but religion is a sacred engagement that is believed to be spiritual reality

3. In terms of enforcement

Human rights law is part of international law that can be also part of domestic law, which violation is equated by the punishment through the acts of state institutions, but religion teaches patience, tolerance and submissiveness and is spiritual phenomena that lacks uniform mechanism of implementation and man made institutions that to punish-negligent believers (those who breach religious rules)

4. In terms of performance

Human rights law is supposed to be performed or realized in to the life of members of society just simply by observing and respecting its fundamental elements, but religious law is supposed performed or realized by active participation of the believers through actively expressing the religious experiences, imitating visual symbols, dance and performance, elaborate philosophical systems, legendary and imaginative stories, formal ceremonies, meditative techniques, and detailed rules of ethical conduct and law.²⁸

The above illustrated similarities and differences between religious and human rights law will enable us know the essence of both and evaluate their contributions to bring peace and order in the society.

28. See Supra note at 23.

Conclusion

After having discussed on the origin, conceptions, historical events, similarities and differences of both religion and human rights law, we would come to the following short conclusions:

- 1) Both religion and human rights possess universal character since both of them address to all mankind;
- 2) Both religion and human rights possess moral rules and thus do not allow discrimination among the people on any ground, such as sex, color, ethnicity, social or economic status;
- 3) Religion and human rights are to operate both in peace and during the period of armed conflicts;
- 4) In both morality is to be put into the center of gravity and both religion and human rights laws have been developed from the mythological interpretation of god – the creator of all endless natural order and the universal truth;

On the other hand human rights are consisted of the consensual (positive) rules, but religious laws are conservative and spiritual realities.

Human rights are more universal than religion, since religion is personal conviction that can be varied from place to place.

The other important point that should be underlined is that after having read about the religious and human right rules, we came to the conclusion that in religion there is no mechanism of punishing the believer to pursue the religious rituals, since the punishment of wrong believers is as if the discretion of God, but since human rights supposed designed by man (states), mechanisms of punishment for the wrongdoers of the human rights are also designed by the states.

Irrespective of some differences to be appeared or manifested between religious and human rights laws, we can come to the general conclusion that religious and human rights laws have been played and will continue to play a role of bringing peace and order in the society.

Prepared by :- Dr. Girma Gizaw President of Praetor Law College,

Dr. Woubeshet S/Georgis The Vice President of Praetor Law College