Religion and Human Rights – Compatible Locations of Identity
Amilee Myson

Part I Introduction

There are few more controversial concepts upon which to ruminate than the interaction of human rights and religion. Whether and how the two conflict or conflate has been considered by a host of brilliant and inquisitive minds.[1] However, all too often these enquiries take place on the basis of an ethnocentric or otherwise reductive definition of the key concepts, human rights and religion. Perceived incompatibility is often mistakenly identified when highly contextualised and contingent applications of uniquely controversial religious and human rights issues are highlighted.[2] This paper will posit that the very definition of the concepts is axiomatic to providing a fruitful interrogation of their interaction. As such, this paper will construe the concepts from a historical sociological perspective as systems of values assisting in the reproduction of identity. This conceptual approach renders the concepts as compatible - complimentary, even.

The process of seeking identity, what it means to be human, is increasingly a project of seeking the truth about human nature.[3] This inquiry is assisted by a reflection on the normative systems that inform behaviour.[4] According to the edicts of religion and human rights, these norms derive from, *inter alia*, the objective recognition of what it means to live a 'good' life.[5] Religion and human rights

---

[1] For one example see Ziebertz, H., Crpic, G. (eds.) *Religion and Human Rights: An International Perspective* (Springer: Switzerland 2015).

[2] See for example, European Court of Human Rights case regarding the adornment of face concealing attire *S.A.S.v France* Application no. 43835/11.

[3] Lawler, S., *Identity: Sociological Perspectives* (Cambridge: Polity, 2008), 69 -70; see also Rose, N., *Governing the Soul: Shaping of the Private Self*, (London: Free Association Books 2nd ed. 1999).

[4] Ibid.

[5] Lawler, S., *Identity: Sociological Perspectives* (Cambridge: Polity, 2008), 69 -70; see also Rose, N., *Governing the Soul: Shaping of the Private Self*, (London: Free Association Books 2nd ed. 1999).

understood as systems of values, represent key institutions through which societies and individuals derive a sense of identity. [6]

The subsequent parts of this paper will consider the manner in which human rights and religion can be understood as systems of values that inform identity. These unique, yet compatible, systems contribute to the construction of identity by enshrining norms that reinforce behaviour that is cognisant of individual and universal human dignity.

Part II Human Rights - Identity through Objective Recognition and Universal Norms

This paper invokes a definition of human rights as a system of universal values, or prescriptive norms, that informs identity through the recognition of an objective entitlement to dignity. Human rights in their doctrinal incarnation were enshrined as a response to the abhorrent disregard for human life and human dignity displayed in the Second World War.[7] The global community, having witnessed the capacity for tyranny resulting from an arbitrary and subjective allocation of inferior identities, harnessed the impetus to forge a system aimed at universalising the recognition of dignity inherent to individuals as human. The preamble to the UNDHR expressly acknowledges the "inherent dignity" of "all members of the human family."[8]

Understanding identity through common humanity as well as through individuality and difference is assisted through the human rights system. The right to define oneself internally, through difference, has been interpreted from the succinct yet influential provisions of a "right to respect for one's private life" set out in the text of Article 8 of the ECHR;[9] the UNDHR provision for the right to personality development;[10] the African Charters Provisions;[11] and various instruments protecting the rights of ethnic minorities, issues of race, religion and disability all contain provisions relating to identity and its formation and protection.[12] Human rights doctrine protects the objective right to identity, as defined through the solipsistic endeavour to understand and protect the inner self.

Accompanying the right to self-identity and protection is the necessary, corollary recognition of the objective value of each individual human life. The viability of a universal human rights system depends upon the recognition of a common humanity shared by all.[13] Thus, human rights posits the

---

[6] See analysis by Harries, R., "Secular and Religious Perspective" in Ghanea, N., Stephens, A., and Walden, R. (eds) *Does God Believe in Human Rights: Essays on Religion and Human Rights* (Leiden: Brill Martinus Nijhoff, 2007).

[7] See e.g. Ishay, M., *The history of human rights: from ancient times to the globalisation era* (Berkeley: University of California Press, 2004).

[8] *Universal Declaration of Human Rights,* G.A. Res. 217A(iii), UN GAOR, 3rd Session UN Doc A/810 (1948) ("***UNDHR***").

[9] See Marshall, J., "A Right to Personal Autonomy at the European Court of Human Rights" 3 EHRLR 2008, 336-55. (European Court of Human Rights hereinafter referred to as *"**ECHR**"*).

[10] Article 22, *UNDHR*.

[11] Article 11, Organization of African Unity (OAU), *African Charter on the Rights and Welfare of the Child*, 11 July 1990, CAB/LEG/24.9/49 (1990),.

[12] Marshall, J., *Human Rights Law and Personal Identity* (Taylor and Francis, 2014), 174.

[13] Glendon, M. A., *A world made new: Eleanor Roosevelt and the Universal Declaration of Human Rights*, (New York: Random House, 2001), 232.

source of identity and respect for oneself as the order of humanity. This is enshrined in a shared system of values accommodating the similarities and differences of humans individually, as members of certain groups and as members of the human species.[14] In this way, human rights institutionalise values that reflect human identity as individuals entitled to dignity through recognition of a shared humanity.

Part III Religion - Identity through Divine Recognition and Sacred Norms

Controversy over the definition of religion is constant.[15] Due to the requisite brevity and charge of this paper, a definition highlighting the concept of religion as a system of sacred norms which inform identity through the divine recognition of human value and dignity is adopted.[16]

Insofar as religion can be understood as a system of identity, Emile Durkheim has theorised that religion is "the place where society holds up an image of itself, reaffirms its bonds, renews its emotional ties, marks its, boundaries, sets itself apart - and so brings itself into being."[17] The idea that religion is pre-eminently a system of identity has become increasingly popular in modern anthropological and sociological accounts.[18] Religion is used as an assertion of commonality and difference in a similar manner to rights-based identity. This can be seen in the increasing visibility of religion in supposedly secular Europe or the assertion of religiously informed interpretations of ostensibly secular laws.[19]

The capacity of religion to engender and perpetuate a sense of identity comes, in a comparable manner to human rights, from its embrace of a system of prescriptive norms. Peter Berger favoured this approach in *The Sacred Company* where he described religion as providing a system of meaning that decrypts the world and "covers contingency with a canopy of sacrality.'[20] This stream of thought conceives of religion as a method by which humans impose "cognitive order upon the chaotic disorderliness of reality."[21] This approach is similar to Max Weber's approach to religion, which held it as a cultural cognitive force that helps make sense of the world through reproduction of values.[22] Whereas Weber and Berger see secularisation as incompatible with religion as a system of value invoking identity, a Parsonian scheme (which persuades the approach taken by this paper)

---

[14] Ibid, 4.

[15] See e.g. Woodhead, L., "Five concepts of religion" 21(2011) *International Review of Sociology*, 121-143.

[16] See e.g. Berger, P., *The Sacred Canopy: Elements of a sociological theory of religion*(NY: Doubleday, 1967).

[17] Durkheim, E., *The elementary forms of religious life* (Oxford: Oxfor d University Press, 2001) as cited in Woodhead, L., "Five Concepts of Religion" 21(2011) *International Review of Sociology*, 128.

[18] Brubaker, R., Cooper F., "Beyond Identity" 29(2000) *Theory and Society*, 1 - 47.

[19] Woodhead, L., "Five concepts of religion" 21(2011) *International Review of Sociology*, 129.

[20] Berger, P., *The sacred canopy: Elements of a sociological theory of religion*, (Doubleday: New York, 1967) as cited in Woodhead, L., "Five Concepts of Religion" 21(2011) *International Review of Sociology*, 124.

[21] Ibid, 124.

[22] Ibid.

understands modernisation and institutionalisation as involving a transformation and dissemination of religion. In this sense religious norms are rendered complementary to institutionalised norms.[23]

This paper has confined itself to an understanding of religion as a system of sacred values that informs identity. Religion, as Durkheim manifests it, answers the questions humanity poses about identity by espousing values that we emulate in ourselves. It is in this way, I argue, that religion and human rights conflate in providing a system of values by which we as individuals, communities and as humanity, can understand, define and reproduce our identities.

Part IV Conclusion - Compatibility Through Fruitful Diversity

The experience of humanity is imprinted with "ambivalence, incoherence and irrationality."[24] Humans are organised as cells, families, communities, nations and species. It is only fitting that concepts informing identity are influenced by similarly plethoric systems of cognitive order. Although this concept may seem highfalutin, it is a necessary acknowledgment of the magnitude and variation that defines the population to which systems of religion and human rights apply.

This essay commenced by acknowledging the definitional difficulties accompanying religion and human rights. It proceeded to define both human rights and religion as systems of values that provide a reference point for the reflection and perpetuation of identity. Each system enables identity to be understood as commonality and difference. Each system enshrines certain values (universal in human rights terms; sacred in religious terms) that provide society with coherent, shared standards. Far from incompatible, these values recognise the same fundamental sense of dignity inherent to humanity. Whereas human rights sees this as a virtue of human kind, religion sees it as a divine endowment.[25] Given the complexity of society, it is suggested that a plethora of unique, identity-informing systems can and do exist compatibly.

Human rights and religion contribute to the formation of identity, imploring their subjects to see themselves and others as embodying identical values and deserving of the same dignity.[26] The commands of the divine and the instruments of human rights institutionalise the wise, humanising aphorism of William Shakespeare:

When we are pricked do we not bleed?
When we are tickled do we not laugh?

---

[23] See Parsons, T., "The place of ultimate values in sociological theory" 45(1935) *International Journal of Ethics* and "Religious and economic symbolism in the Western World" 49(1979) *Sociological Enquiry*, 1 - 48.

[24] Rosner, J., *The Messy Self* (Boulder: Paradigm, 2006), xv.

[25] The origins of religious virtues was not the topic of this paper and has, thus, not been elaborated herein. See analysis by Harries, R., "Secular and Religious Perspectives" in Ghanea, N., Stephens, A., and Walden, R. (eds) *Does God Believe in Human Rights: Essays on Religion and Human Rights* (Leiden: Brill Martinus Nijhoff, 2007).

[26] Harries, R., "Secular and Religious Perspectives" in Ghanea, N., Stephens, A., and Walden, R. (eds) *Does God Believe in Human Rights: Essays on Religion and Human Rights* (Leiden: Brill Martinus Nijhoff, 2007), 23.

The sense of identity based on shared values, manifest and reproduced in the legal and sacred systems of human rights and religion is powerful where atrocities of poverty, torture, war and famine so often deny, in practice, the dignity these systems seek to protect.

Part V Bibliography

Berger, P., *The Sacred Canopy: Elements of a Sociological Theory of Religion* (NY: Doubleday, 1967)

Brubaker, R., Cooper F., "Beyond Identity" 29(2000) *Theory and Society*

Durkheim, E., *The Elementary Forms of Religious Life* (Oxford: Oxford University Press, 2001)

Ghanea, N., Stephens, A., and Walden, R. (eds) *Does God Believe in Human Rights: Essays on Religion and Human Rights* (Leiden: Brill Martinus Nijhoff, 2007)

Glendon, M. A., *A World Made New: Eleanor Roosevelt and the Universal Declaration of Human Rights* (New York: Random House, 2001)

Ishay, M., *The History of Human Rights: From Ancient Times to the Globalisation Era* (Berkeley: University of California Press, 2004)

Lawler, S., *Identity: Sociological Perspectives* (Cambridge: Polity, 2008)

Marshall, J., "A Right to Personal Autonomy at the European Court of Human Rights" 3 (2008) *European Human Rights Law Review*

Marshall, J., *Human Rights Law and Personal Identity* (Taylor and Francis, 2014)

Parsons, T., "The place of ultimate values in sociological theory" 45(1935) *International Journal of Ethics*

Parsons, T., "Religious and economic symbolism in the Western World" 49(1979) *Sociological Enquiry*

Rose, N., *Governing the Soul: Shaping of the Private Self*, (London: Free Association Books 2nd ed. 1999)

Rosner, J., *The Messy Self* (Boulder: Paradigm, 2006)

Woodhead, L., "Five concepts of religion" 21(2011) *International Review of Sociology,* 121

Ziebertz, H., Crpic, G. (eds.) *Religion and Human Rights: An International Perspective* (Springer: Switzerland 2015)