



OPINIONS

Reclaim Human Rights

by Mary Ann Glendon

Longtime readers of *FIRST THINGS* may recall that the April 1998 issue featured a nuanced statement “On Human Rights” by the Ramsey Colloquium, a diverse group of Christian and Jewish scholars led by Richard John Neuhaus. The group’s aim was to provide the Universal Declaration of Human Rights (UDHR) with “a more secure grounding in religious, philosophical, and moral reason” at a moment when that document was under attack from several directions. While acknowledging that rights discourse is often misused, the Ramsey group noted its roots “in our shared history” and affirmed its value as “the most available discourse for cross-cultural deliberation about the dignity of the human person.” They affirmed that it “makes possible a truly universal dialogue about our common human future.”

Much has changed since then. So much, in fact, that *FIRST THINGS* editor R. R. Reno announced in the May 2016 issue that he has become increasingly opposed to human rights and pledged that “*FIRST THINGS* will never call for dialogue.” In an editorial provocatively titled “Against Human Rights,” he argues that the concept of human rights has become an ideology that functions, at least in the West, as “an enemy of the responsible exercise of freedom,” indeed a “patron of negative freedom, pushing against demands and obligations arising from our shared culture.” Noting that two generations of Catholic leaders, including popes, have regarded human rights as important for the building of humane societies and have employed rights discourse themselves as a “bridge language” supporting the protection of human dignity, Reno declares that it is time

for the Catholic Church “to rethink its enthusiasm for human rights.”

As a participant in that 1998 Ramsey Colloquium, a longtime supporter of the cautious use of rights language, and a frequent critic of its misuses, I was moved by Reno’s arguments to ponder whether the noble post-World War II universal human-rights idea has finally been so manipulated and politicized as to justify its abandonment by men and women of good will.

It should be kept in mind that the twentieth-century popes never embraced the human-rights idea without reservations. The most distinctive feature of the Catholic Church’s posture toward the modern human-rights project, in fact, has been encouragement accompanied by constructive but pointed criticism. Although Pope John XXIII was a strong supporter of the Universal Declaration, and even helped to lobby for its adoption when he was papal nuncio in Paris in 1948, he noted in *Pacem in Terris*, “Some objections and reservations . . . were raised regarding certain points in the declaration, and rightly so.” The fathers of Vatican II specified some of those reservations in *Gaudium et Spes*, cautioning that the movement

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to respect human rights must be “protected from all appearance of mistaken autonomy.” When Pope John Paul II spoke on the occasion of the fiftieth birthday of the UDHR in 1998, he warned, “Certain shadows however hover over the anniversary, consisting in the reservations being expressed in relation to two essential characteristics of the very idea of human rights: their *universality* and their *indivisibility*.”

He did so with good reason. By 1998, governments and human-rights organizations alike were ignoring the fact that the UDHR was constructed as an integrated document whose core fundamental rights were meant to be “interdependent and indivisible.” The framers’ idea was that all parts of that core have to be kept in play. No right may be left out and none may be completely subordinated to others. But, as the authors of the Ramsey statement showed, the declaration and the documents based on it were being treated like menus from which to pick and choose. The sense of the interdependence among rights and the connections between rights and responsibilities was fading.

Ironically, the key role that human-rights ideas had played in the movements that led to the nonviolent collapse of totalitarian regimes in Eastern Europe and apartheid in South Africa had fueled another deleterious development. It inspired a host of special-interest groups to capture the moral force and prestige of the human-rights project for their own purposes. As the Ramsey statement pointed out, the core of basic human rights that might be said to be universal was being undermined by “multiplying the number of interests, goods, and desires that are elevated to the status of rights.”

By the time Pope Benedict XVI addressed the U.N. General Assembly on the sixtieth anniversary of the UDHR in 2008, opportunistic uses of human rights

were in full swing, prompting the pope to announce, “Efforts need to be redoubled in the face of pressure to reinterpret the foundations of the *Declaration* and to compromise its inner unity so as to facilitate a move away from the protection of human dignity towards the satisfaction of simple interests, often particular interests.” He reminded the diplomats and dignitaries that the UDHR “was adopted as a ‘common standard of achievement’ and cannot be applied piecemeal, according to trends or selective choices that merely run the risk of contradicting the unity of the human person and thus the indivisibility of human rights.”

Today the post-World War II dream of universal human rights risks dissolving into scattered rights of personal autonomy. One is reminded of the late Jean Elshtain’s warning that a range of novel sexual liberties might one day become the bread and circuses of modern despots—consolation prizes for the loss of effective political and civil liberties.

In his editorial, Reno does not base his opposition to human rights on concerns that popes and others have expressed about the risks of using human rights as a means of promoting justice, morality, and the common good in the public square. His focus falls on the way that human rights as an ideology detracts from the difficult and demanding work of politics. In our globalized and technocratic age, we’re often told, “we need expert management of monetary, trade, and tax policy, not collective deliberation about how, as a society, we are to order our common life.” He makes a compelling case for rethinking human rights on the ground that it has become “a powerful ideology that promises to relieve us of the burdens of political responsibility for the common good.”

In my view, Reno’s concern about the flight from politics deserves to be taken very seriously. In the United

States, more than in any other country, judicially created rights have displaced political judgments that could and should have been left to the ordinary processes of bargaining, education, persuasion, and voting. In the latter half of the twentieth century, after receiving well-merited praise for its pioneering decisions on racial equality, the Supreme Court began exercising the mighty power of judicial review in a particularly adventurous manner. With scant grounding in constitutional text or tradition, court majorities took it upon themselves (usually over strong dissents) to remove a number of matters from legislative and local control. In hindsight, it looks like a good thing taken to extremes, a powerful weapon against tyranny of the majority turned against democracy itself.

The damage to the American democratic experiment has been vast. In the first place, the chances of correcting an unwise decision are greatly diminished. Laws and ordinances can be amended or repealed. But when the Supreme Court strikes down legislation as unconstitutional, that ends the matter unless the Constitution is amended (an extremely cumbersome process) or the Court changes its mind or membership. That, naturally, has led to intense politicization of the judicial selection process. The removal of so many issues from legislative control has not only deprived the country of the benefits of experimentation with different solutions to difficult problems, but has accelerated the flight from politics that Reno rightly deplors.

With courts increasingly willing to nullify popular legislation and proclaim new rights, legislators are encouraged to avoid their responsibility for tackling controversial issues; interest groups are encouraged to take their cases to the courts rather than to try to persuade their fellow citizens; and citizens get the feeling that they have no say in setting the

conditions under which they live, work, and raise their children. Political skills atrophy. We forget how to build coalitions, develop consensus, hammer out compromises, try out new ideas, learn from mistakes, and try again. All this has no small part in the seething discontent that is so evident in this year's presidential campaign season.

The political problem is replicated at the international level, where the constant expansion of international rights, as in Europe, reduces the scope of political decision-making at lower levels, thus eroding one of the most important rights in the UDHR, namely, to live in a government based on "the will of the people" (Article 21).

The question for us is how to respond. Reno is certainly right that conditions for dialogue are often poor or nonexistent. He writes, "our moment calls for witness not dialogue." But why not witness plus dialogue, at least

whenever dialogue is possible? As Richard Neuhaus wrote in *The Naked Public Square*, unless our "engagement moves toward dialogue, we will continue to collaborate, knowingly or not, in discrediting the public responsibility of religion. . . . We will discredit it by giving a monopoly on religiously informed political action to the most strident moral majoritarians who show few signs of understanding the problems and promises inherent in the American experiment."

As for human rights, my inclination is to say that a concept of human rights properly understood is still well worth promoting, and need not detract from the political responsibilities that Reno rightly says have been neglected. Why not do both? I see no reason why church leaders should cease promoting Christian understandings of human rights in public settings as a way of promoting justice, morality, and the common good. To do so would be to leave the field to those who use human rights as a mere

pretext for imposing the views of the powerful upon the weak.

The proper course, it seems to me, is for church leaders and people of good will to make every effort to connect the human-rights project to an affirmation of the essential interplay between individual rights and democratic values. We should insist on the connection between rights and responsibilities. And we should foster an appreciation of the ultimate dependence of rights upon the creation of rights-respecting cultures.

Let us not underestimate the role of the international human rights project in training a spotlight on the appalling violations of human life, liberty, and dignity that occur every day in many parts of the world. As matters stand, one might say of the human rights project what Abraham Lincoln once said of the U.S. Declaration of Independence: "It has proved a stumbling block to tyrants, and ever will, unless brought into contempt by its pretended friends." ■

100th Street

by Brian Doyle

By chance I was in New York City seven months after September 11, and I saw a moment that I still turn over and over in my mind like a puzzle, like a koan, like a prism.

I had spent the day at a conference crammed with uninformed opinions and droning speeches and stern

lectures, and by the evening I was weary of it all, weary of being sermonized by pompous authority, weary of the cocksure and the arrogant and the tin-eared, weary of what sold itself as deeply religious but was actually grim moral policing with not the slightest hint of mercy or humility in the air, and I slipped out and away from the prescribed state

dinner, which promised only more speeches and lectures.

I was way up on the Upper West Side of the Island of the Manhattos, near the ephemeral border of Harlem, and as I was in the mood to walk off steam, I walked far and wide—down to the Soldiers' and Sailors' Monument, by the vast Hudson River, and up to Joan of Arc Park, with Joan on her rearing charger, and up to the Firemen's Memorial on 100th Street. I thought about wandering up to the

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