

## A BRIEF SURVEY ON HUMAN RIGHTS AND NONVIOLENCE

Johnny J. Mack, PhD

*Johnny J. Mack, Ph.D. is associate director of the World House Project at Stanford University Martin Luther King, Jr. Institute. He is the former director of the Martin Luther King, Jr. Center for Nonviolent Social Change and the Nelson Mandela Family Foundation president. He studies and writes on social movements, social change, and human development. He holds a doctorate from the Jimmy and Rosalynn Carter School for Peace and Conflict Resolution at George Mason University. He has traveled extensively throughout the Americas, Africa, the Middle East, Europe, and Asia working in peace, conflict, community development, and comprehensive community planning.*

### INTRODUCTION

Following is a discussion from an annotated bibliography (not included here) on human rights prepared by the author from some of the best critical thinking on the subject over the past century. Each author approaches the subject variously by concentrating on issues such as globalization, culture, political economy, legality, etc. Perhaps the single rubric under which one may view them as a coherent whole is through the lens of social change and human development. Of particular interest is the relationship between two ideas: human rights and nonviolence. These ideas have a substantive ideological kinship. Not the least of these is personhood. Before exploring that relationship, I will first discuss issues that the bibliographic annotations raise. This discussion provides background to discuss the connection between human rights and nonviolence. That relationship is significant if understanding Martin Luther King, Jr.'s metaphor of the global community as a "world house" where all human must learn to live together or suffer the violence (including complete destruction) of our inhumanity.

#### *The Source, Nature, and Location of Human Rights*

What are human rights' origin, their nature, and their location? We might otherwise term these ideas human rights source, substance, and seat, and ask other questions: What is the source of human rights? Is it government? Is it nature? Is it the collective human conscience? Is it metaphysical or theological? Johan Galtung argues that the origin of human rights is tied directly to the rise of the nation-state and its constructive contractual obligations to its citizens (Galtung 1994:10). The state grants specific rights to citizens who accept particular state commitments.

Michael Perry (1998) asserts that the notion of human rights can only make sense if it is grounded in a religious argument. He contends that human rights have two fundamental elements. First is "each and every human being is sacred," that is, "each and every human being...has inherent dignity and worth" and "is an end in himself" (Perry 1998: 5). These elements are the crux of personalism. It holds that personhood articulates human reality, which a personal God gives. Otherwise, according to Perry, there is no "intelligible" secular basis for self-hood.

Jack Donnelly counters that it is neither the government nor a god; one can only sustain the argument for human rights if it is rooted in a constructivist notion, not of what people are, but of "what they might become" (Donnelly 1985: 31). In other words, humans construct their moral reality from a natural need to affirm the dignity of humanity. Donnelly sees human rights as unenforceable claims. And, he asserts, that is how it should be: "This extralegality implies that the primary use of human rights [is] to change existing institutions" (1985: 21). Thus, the denial of a human right or satisfaction of its claim is institutional or *structural*. "If systematically unenforced rights are to be enforced and enjoyed, [then] institutions (or structures) must be transformed" (1985: 22). Therefore, enforcement is a function of governmental action: "the right is the claim *as* recognized in law and maintained by governmental action" (Rex Martin, as quoted in Donnelly 1985, 24). "Without legal recognition we may have morally valid claims, but not human *rights*"

(Donnelly 1985: 24). This suggests that human rights are “granted” by the government. But Donnelly quickly refutes the point. “Most claims of human rights do have a special reference to government, but that does not mean that human rights are or must be legal rights” (ibid.). He further notes that the state cannot be the *source* of human rights; it can only enforce such rights. In other words, states can be the source of citizenship rights, but not of being human.

There are societal rights, Donnelly observes, that some cultures (he notes predominantly in non-Western, under-developed states) subordinate individual rights to. He further points out that humans hold rights primarily *individually*; thus, with this argument, we might say the *seat* of human rights is the individual *vis a vis* government or the community. Donnelly’s observation reflects the contrast between the West’s propensity for individual-focused rights and those of other states who hold a societal predominance, which is worth quoting in full:

‘Westernization,’ ‘modernization,’ ‘development,’ and ‘underdevelopment’—the dominant social and economic forces of our era—have in fact severed the individual from the small, supportive community; and economic, social, and cultural intrusions into, and disruptions of, the traditional community have removed the support and protection that would ‘justify; or ‘compensate for’ the absence of individual human rights. A relatively isolated individual now faces social, economic and political forces that far too often appear to be aggressive and oppressive. Society, which once protected human dignity and provided each person with an important place in the world, now appears, in the form of the modern state, the modern economy and the modern city, as an alien power that assaults one’s dignity and that of one’s family. (1985: 82-83).

While it is arguable whether “society [has ever] protected human dignity and provided each person with an important place in the world,” Donnelly’s point is well taken that Western society emphasizes individual rights over the rights of groups. An-Na’im’s volume, *Human Rights in Cross-Cultural Perspectives*, argues that cultural propensities present in every group impinge on and thus preclude any universal construction of rights that is not rooted in a cross-cultural consensus. Avruch adds that such sensitivities are not the exclusive purview of culture since class difference impedes a universal thesis not constructed across social, cultural, religious, and other human relational lines (Avruch 2006: 98). That raises the question of the *substance* of human rights and whose “construction” counts as being right on rights.

Upendra Baxi argues that human rights require geopolitics’ fertile ground, including the formation of global states and the “*praxis* of emancipatory politics” (Baxi 1999:101-102). In this regard, “people and communities are the primary authors of human rights” (Baxi 2002:101). They should establish the substance of human rights and corresponding parameters of state sovereignty concerning its citizens and the state’s legitimation of governance.

### *Human Rights and Culture*

Some scholars and philosophers argue that one cannot rightly provide an essentialist answer to what it means to be human. Baxi observes that “critics of human rights essentialism remind us that the notion of ‘human’ is not pre-given...but constructed” (Baxi 2002: 77). That is a cultural phenomenon. Thus, different cultures may have different definitions of human beings and what being human means. In other words, what it means to be human is one issue; what inures to each individual as rights because of a common essence is quite another, which is a matter of shared essence versus shared values. That complicates the issue of the hegemonic culture of Western values, which “reduce all humanity to the Euro-American images of what it means to be human” (Baxi 2002: 79), and values that define and instruct, legitimize and rationalize behavior.

Further, using the example of the pre-Raj Meriah Wars in the Kond region of India (today, the state of Orissa), Avruch observes the British double standard of *consequential* ethics “whereby good or moral ends can justify the morally questionable means by which they are achieved” and *deontological* ethics “wherein ends, no matter how good or moral in themselves, can never justify immoral means.” In the former case, the British used brutally violent tactics against defenseless Indian subjects to foster their colonial enterprise while, in the latter, simultaneously expressing outrage in their attempts to eradicate tribal practices of human sacrifice in the region (quoted in Mertus and Helzing 2006: 99). His point is to highlight “that universalism and absolutism can never entirely escape the complexities of relativism in the real world where men and women act. This is in part because judgments—assertions—of universalism and absolutism are, in the end, at least for someone somewhere, inevitably relative” (Avruch 2006: 100).

When Avruch discusses culture’s plethora of definitions and characteristics, he refers to it particularly as an “analytical or technical term in the social sciences” vis a vis a social class or group identity construct (Avruch 2006: 102). He observes that the analytical/technical approach favors “the scientific understanding of difference, called ‘cultural analysis’” leading to *relativism*. The identity/class camp leans in favor of the ideology of “culturalism” or “the idea of using culture to underwrite or legitimize ethnic, racial, or national differences” (Avruch 2006: 104). He then turns his attention to cultural relativism versus universalism. Franz Boaz first expounded on cultural relativism, but his student, Melville Herskovits, provided the definition that

Cultural relativism is in essence an approach to the question of the nature and role of values in culture.... [Its] principle... is as follows: Judgments are based on experience, and experience is interpreted by each individual in terms of his own enculturation. (Avruch 2006: 105).

Avruch notes this definition questions “the existence of any ‘absolute moral standards’ that are separate from their cultural (and historical) context and is “opposed to the possibility of an absolute morality” (Avruch 2006: 105). He observes that relativism has three distinct means, two of which he finds plausible. “Descriptive relativism, referring to the empirical fact of cultural variability in customs, beliefs, values, and so on” (ibid.). “Moral, ethical, or normative relativism, which in its “strong” form “is taken to mean the recognition of difference combined with a requirement to *tolerate* or even *approve* of such difference” (Avruch 2006: 106). “Epistemological relativism [which] denies the existence of the ‘really real,’ and absolute reality over and above all the variant cultural constructions of it” (Avruch 2006: 106-107). Avruch dismisses epistemological relativism as “existentially and morally quite simply insupportable” (Avruch 2006: 107). He suggests that descriptive relativism’s recognition of varying moral ideas is subsumed as a “weak” form of moral relativism. In its “strong” position, moral relativism is tolerant, even giving approbation to differences in cultural mores and norms, while shunning universals and absolutes. What is, perhaps, most striking is that it may even make room to deny “a universal ‘human nature’” (ibid.).

Moral relativism stands in rather stark contrast to moral universalism, which holds the idea there is some essential ingredient in human nature, an indivisible least common denominator of humankind. This notion is not to be confused “with what some have called human absolutes,” which “are fixed and invariant, changeless from individual to individual, culture to culture, and epoch to epoch” (Avruch 2006: 109). Examples Avruch offers include human experiences common to all cultures and societies such as family life or particular proclivity to an economic system such as capitalism.

### *Human Rights and Globalization*

Today’s technologies, communications capabilities, and open market economies foster globalization that positions human rights and its violations outside the sole machinations of the nation-state. That broadens

human rights purveyors of violation and crusaders of remediation as trans-global phenomena (Brysk ed. 2002: 5). This position is made possible according to Brysk, who defers to Jan Aart Scholte's definition of globalization as "an ensemble of developments that make the world a single place, changing the meaning and importance of distance and national identity in world affairs (quoted in Brysk ed. 2002: 6). Thus, Brysk sees world politics as a complex of the international realm, global markets, and global civil society (Brysk ed. 2002: 7). Galtung (1994) calls these complex components the state, capital, and people or state, corporate, and civil society systems. These systems represent respectively, intergovernmental organizations, transnational corporations, and international non-governmental organizations (Galtung 1994: 147).

Globalization presents challenges to citizens and *their* human rights. Among the writers in Brysk's edited volume, Kristen Hill Maher discusses persons who might be excluded from human rights "coverage" due to their citizenship status. That is, in "Who has a Right to Rights?" as a fundamental element of globalization, she notes transnational migration leaves large swatches of people outside the human rights veil and even subject to active violations of such rights. In such cases, Maher argues, "universal personhood [is] subordinated to citizenship" (Brysk ed. 2002: 21). She provides two "dimensions" to which this relegation pertains. First is the idea that migrants are *illegals*, "voluntary criminals, trespassers, and usurpers who have forfeited claims to rights by virtue of individual breaches of contract or law" (ibid.). The second idea favors people of "First World status" over those of the developing world.

Central to this reality is an underlying liberal contractarian logic in Donnelly's argument above. Membership is a function of citizenship, a function of the social contract between the state and its consenting subjects or citizens. Maher notes, however, that even within states, such as the US, membership has historically been a tiered notion based upon social/cultural standing within the body politic (Brysk ed. 2002: 32). A class and culture logic has been the gatekeeper of immigrants/migrants and even enslaved people throughout US history. It continues in this century's globalized world and has become part of its economic framework, as immigrants are at once welcomed laborers and unwelcome invaders. In any regard, her higher point is the distinction between "deserving citizen" and "undeserving alien": the citizen enjoys certain rights and privileges that the alien, as the undeserving other, cannot claim.

As noted above, Aryeh Neier (2012) credits the establishment of international institutions *and* a bevy of nongovernmental organizations that represent a global human rights movement for the progress of the human rights idea over the past century. Richard Flak addresses globalization and human rights developments as bi-directional phenomena: Developed World/top-down and Developing World/bottom-up. For Falk, top-down globalization represents the international realm of nation-states, multilateral organizations, and transnational corporations whose focus is civil and political rights (Brysk ed. 2002: 55). The bottom-up consists of civil society, where interests in globalization's impact on human rights expand to include social, economic, and cultural components. As Flak observes, the former direction is driven by a neoliberal focus that exacerbates the wealth gap while failing to address the misery prevailing throughout the developing world. Thus, today's human rights agendas are very different from those of millennia past. What has transpired is the ebb and flow of social change and human development.

### *Human Rights, Social Change and Human Development*

One way to view human history is the story of how peoples of the world have created society—the principles, values, structures, systems, and processes that serve as the framework for the human lived experience. One way of understanding this process is as social change and human development. Social theorists have written about such change and development in the context of modernity. In his book, *Change and Development in the Twentieth-first Century*, Thomas C. Patterson (1999) surveys the various metaphors for change over the past 2500 years. They begin with "growth" for Greek social theorists, "cyclical renewal" during the fourteenth and

fifteenth centuries, and “progress” from the sixteenth to the seventeenth century. The seventeenth century birthed the idea of the scientific method with Francis Bacon’s *New Organon*, and his discussion of reason as the process of employing techniques for investigating phenomena and gaining knowledge. Renee Descartes responded with *Discourse on [Scientific] Method*. Then Thomas Hobbes provided the century with *Leviathan*—his critique of human and social development, and the century was cap stoned with the birth of modern society. The consequences of such thinking were the ushering of the eighteenth century with industrial capitalism, bourgeois culture, and the notion of development.

But the obvious question comes: what was *developing and changing*? Patterson notes that change and development were processes operant on both the human mind and society. “The development of society and the mind were...parts of the same historical process” (Patterson 1995: 15). Theorists began to investigate more closely the impact of the development of society and the condition of humanity. In *Discourse on the origin of Inequality*, Jean Jacques Rousseau responded to Hobbes’ critique asserting that humans in their natural state had virtues—compassion and generosity, and kindness and empathy—that are washed away by the tide of modernity’s development and social change. Where Rousseau saw no good change in the human condition with development and modernity, Adam Smith countered there should be a separation between the narratives of economics, politics, and humankind’s moral condition. Morality (or moral development) was and remains part of the equation of change and development. Indeed, the mid-twentieth century formulation of the Universal Declaration of Human Rights reflects this reality. These millennia and their terms tendered the notion of change as an *evolving process*—yielding social evolution as the dominant change idea and social change as its metonym. Throughout the nineteenth century, such was the case as theorists such as Charles Darwin, Thomas Malthus, and Herbert Spencer emphasized that change progressed inevitably “through successive stages of intellectual and social development” (Patterson 1999: 20).

Patterson follows the flow of social change as it touches global regions and their populations “too numerous to crush and too culturally different to be easily assimilated” (Patterson 1999:5). The consequences are the internationalization of capitalization and its attendant accumulation and concentration of capital masquerading as development and fostering colonization, decolonization, imperialism, wars, and revolutions. Patterson sees these changes all at the hands of the global West’s elite, who are its principal driver. The point is that capitalism’s resilience (a la Herbert Marcuse) in the hands of the elites is formidable. Patterson notes, “The core capitalist states organize the world economy and control the activities of the other states” (Patterson 1995:2).

Then, “core capitalist economies” dominated the international/global world, and their elites benefited from the concentration and centralization of capital. Patterson carries out his examination of twentieth-century social change and development through the prisms of arguably the three social theorists whose work dominated the period and whose critiques covered the late nineteenth century: “an era marked by the concentration and centralization of capital, imperialism, and class conflict” (Patterson 1999: 1)—Karl Marx, Emile Durkheim, and Max Weber. Marx held the view that society is the natural condition of human beings. His critiques of development and social change see class, production, and exploitation as the tools for capitalism’s principal purpose of concentrating and centralizing capital. Durkheim held the notion of society as an evolving wonder made by each human family member. His concern was about the morality of modern industrial society. Thus, his idea of development and social change centered on institutions (such as community, religion, and law), morality, and social behavior. Weber’s rejection of a social construct, except as each individual responds to life conditions as they find them, and his focus on exchange in the market drove his view of development and social change. His concern was capitalism’s rational approach to “the provisioning of needs [‘irrespective of what need is involved’] by private, profit-seeking businesses” (Patterson 1999: 46).

Patterson reminds the reader that each had a profound impact on how theorists view social change and development. “Marx wanted to change the world, Durkheim preferred to adapt to it” by preserving individual freedom and “strengthen[ing] the nation-state to forge a new moral order” to offset the negative consequences of the market, and “Weber was concerned with the historical development of humanity, the diversity of its social relations, and the constraints imposed by bureaucracies and instrumental rationality on its further development” (Patterson 1999: 29-30). Each has his vision and agenda for it. Still, important analyses remain to help understand and, more importantly, respond to today’s international/global crises and their relationship to human rights. But, Patterson cautions, “we continually need to examine whose interests are served by championing theories that reductively locate motors for change exclusively in the economic, political, social or cultural realms of society” (Patterson 1999: 184). That caution invokes the ideas of violence and nonviolence.

To understand their relationships social change and human development, we must first establish a working definition and relate them to individuals, groups, and society. Violence is more than a physical action or event. When it comes to nation states, it is more than “momentary aberrations in a well-oiled, economy-driven machine of global order” (Lawrence et al. eds. 2007). Indeed, violence, for too many, *is* the machine, or the machine is violent. Thus, “Violence is a fundamental force in the framework of the ordinary world and in the multiple processes of that world” (ibid.). In other words, it is also structural, finding expression in the institutions, systems, and processes of state-making and the functions of state sovereignty. The editors of *On Violence* (ibid.) note that Michael Foucault argues violence is not something—tangible or intangible—that is ontological to human beings. Rather, it is created, organized, planned, and made part of the processes of the human experience. Hence, it is human-made, and therefore, if it is to be expunged from the human experience, the same creative conscious processes that give its existence must cause its eradication.

Violence manifests in many forms, such as physical, psychological, and structural. As it relates to humans as individuals and groups, all three forms are often present and mutually reinforcing. They breed powerlessness, too often resulting from such circumstances as poverty, discrimination, and other forms of structural violence vis a vis justice, equality, and community. Some argue that physical violence is often the desperate voice of the unheard. This notion contrasts with structural violence as the collective voice of the unaffected and the indifferent.

Our focus is on the presence of violence as core to the calculus of change and development. But understanding this calculus is arguably comprehending the algorithms of state sovereignty. I begin first with an axiom: sovereignty is to the state what personalism is to the person. That raises the question of what personalism is. The answer may be formulated as a theory of the person. The *sine qua non* of any endeavor to understand the human experience is to apprehend the essence of what it is to be human. This questions whether there is an ontological, *a priori* “something” awaiting discovery, reification, meaning-making, or manifestation. Or is the function of the human experience to discover, reify, meaning-make, and manifest human essence? This paper argues that personalism gives all human reality meaning, such that reality is *personal*, and every person has its highest value. Thus, anything that limits a person from achieving their full potential is violent.

Answering our query—is the essence of the human experience an ontological, *a priori* “something,” ... or is the function of the human experience to ... manifest human essence—is indeed a function of one's epistemological orientation. That is, it is apprehended through the cognitive tools one's orientation makes available. Thus, for example, the anthropologist, the sociologist, the historian, the theologian, the mathematician, the economist, and the psychologist may each see through a window framed by their discipline's canon (or theory/methodology). In truth (as I see it), making meaning of the human experience is likely to be most meaning-full if benefited by all these views.

Yet, one must be careful that the accommodation of everything does not become cacophony rendering nothing, but instead the colophony that brings symphony to the various strands of meaning making. As

Clifford Geertz would say, “it is not necessary to know everything to understand something (Geertz 1973: 20).” Since understanding everything is not possible, how much of something is necessary and sufficient to say we know enough? I propose, when it comes to theories of the person, knowing enough in large part is establishing criteria necessary and sufficient such that, all things being equal, political philosophies, professional disciplines, and cultures can find a common rosin. In other words, they must recognize and honor dignity and worth of the person, irrespective of characteristics of such things as identity, culture, and the like.

It seems productive to find this common rosin to lay a foundation that would be palpable as a sort of *canon commons*. I would argue that each discipline finds meaning in the consciousness of human dignity, which would be the fencing around such commons. Further, what are consciousness and its relationship to personalism? If consciousness is merely a matter of schematization, i.e., the ordering of DNA, then where does the DNA come from? Some would argue there is a grand Planner/Organizer who sets the combination of DNA that unlocks consciousness. Others hold a position captured in the paraphrase of the Greek philosopher Sextus Empiricus: the wheels of evolution turn patiently but effectively toward consciousness. I do not intend to equate consciousness as the sole ingredient that gives humanity dignity. After all, it is arguable that other animals possess some form of consciousness (Bekoff et al. 2002; Sagan and Druyan 1993). But the transaction that moves humankind from inanimate to animate, from non-conscious to conscious, then to self-consciousness and rationality is a calculus that renders every human a *personal* being. While other animals might be able (that is, trained) to recognize themselves when passing a mirror, they cannot make moral judgments about what they see. Thus, the common rosin that gives symphony to a common canon is moral consciousness that apprehends the notion of personalism as the highest value of human essence and, thus, of the moral consciousness of human dignity and worth.

With this back drape, we can consider the impact of social change and human development on human rights. We begin by recalling the argument that historical change and development processes focus on the political, social, cultural, and economic accumulation of the world’s benefits in the hands of the too few and is rationalized/legitimized as rights, thereby justifying the suffering of the too many. Upendra Baxi (2002) punctuates this point by declaring “sovereign power constantly negotiates the imperatives of the rule of law in ways that, for example, somehow tender as legitimate the affluence of a few with the extreme impoverishment of many, locally and globally” (Baxi 2002: 8).

Baxi reminds us “that the ‘monoculture of human rights’ continues the cultural imperialism of colonialism’ perpetuating the belief that the ‘underdeveloped’ cultures are too poor or primitive to promote the good of their people, while imposing the dominant cultures’ notions of human well-being” (Baxi 2002: 78). Baxi also notes every society has mores and norms that define what human being means; and thus, what rights attend being human. And these social constructs are also as diverse as they are rooted in state sovereignty. Hence, no truth is self-evident or universal regarding human rights. This first point is complicated by a second: the discursive dissonance of the ontological and epistemological meanings of human rights. Such discord is the post-colonial progeny of Western hegemonic imperialism that is at once geopolitical, geo-cultural, and geo-economic, which forecloses any opportunity for a global “metanarrative” of human rights.

Baxi’s assessment of the future of human rights is sobering. The idea of a system that places profit over people as “human” rights logic is absurd. Yet, in the United States, we see that a corporation is indeed a person. Baxi notes that one might argue a new paradigm of human rights that favors capital as an inevitable and logical enterprise sense “in the absence of economic development human rights have no future at all” (Baxi 2002: 152).

Baxi notes, “Respect for ‘human rights’ or the right to be human, entails a complex, interlocking network of meanings that has to be sustained, renovated, and replenished, at *all* levels: individuals, associations, markets, states, regional organizations of the states, and international agencies and organizations

constitute a new totality that now stands addressed by the logics and paralogics of human rights” (Baxi, 2002:92). That brings us full circle and a closer look at the seat of the idea of human rights—personhood.

*Personalism: The Connection Between Human Rights and Nonviolence*

From the outset, we framed our discussion in considerable measure on the notion of personhood and its importance to the idea of human rights. *Theistic-personalism* is the theological belief in a personal God, who gives to every individual personal worth and dignity (Baldwin et al. 2002). *Philosophical-personalism* is an ideology most frequently associated with Immanuel Kant. “He posited a dichotomy between price and dignity, whereby ‘something that has a price can be exchanged for something else of equal value; whereas that which exceeds all price and therefore admits of no equivalent, has dignity (Stanford Encyclopedia of Philosophy).’” It is an approach that makes the person central to all reality (ibid.). As the focal point, each person brings meaning to reality through thought and action. Whether one conceives this construct as theistic or philosophic, if human dignity, worth, and well-being are the refractory bricks of the human experience, then personalism is their periclyse. These elements adhere and cohere in the fundamental makeup of the person. Under this rubric of personalism, contemporary human rights, according to Baxi, is linked to human suffering. Even more, however, “The ‘contemporary’ human rights paradigm...is based on the premise of radical self-determination. Self-determination insists that every human person has a right to a *voice*, a right to bear witness to violation, a right to immunity against disarticulation by concentrations of economic, social, and political formations” (Baxi 2002: 31). Such self-determination does not end there. Personalism demands that human dignity, worth, and well-being find expression in every aspect of the human experience. Thus, disarticulating the person from society’s economic, social, and political structures and their benefits is a violation of their personhood, and thus, of human rights.

As Baxi notes, “modern human rights regarded large-scale imposition of human suffering as *just* and *right* in pursuit of a Eurocentric notion of *human ‘progress’*” (35 italics are his). Yet, contemporary human rights logic ignores the suffering from global capitalism’s accumulation and concentration of the world’s benefits in the hands of too few while too many suffer.

Personalism addresses both the *is* and the *ought* of human rights. Baxi describes the former as the question of human nature and the latter as “who counts as human” (Baxi 1999: 109). Both of which he reminds the reader are constructs, i.e., “human” and “human rights” (Baxi 1999: 118). Regarding human nature and the distinction between the moral/ethical and pragmatic/scientific, Baxi provides a very straightforward and concise explanation:

“The theistic responses trace the origins of human nature in the Divine Will; the secular in contingencies of evolution of life on earth. The theistic approaches, even when recognizing the holiness of all creation, insist on Man being created in God’s image, and therefore, capable of perfection in ways no other being in the world is. The secular/scientific approaches view human beings as complex psychosomatic systems co-determined by both genetic endowment and the environment and open to experimentation, like all other objects in ‘nature.’” (Baxi 1999: 109 fn).

As noted above, Donnelly refers to rights as having nature (or substance) and source. We might then refer to human rights as substance, source, and seat, i.e., their theoretical *nature*, origin, and *location*. Donnelly posits, “Society plays a crucial role in determining how human potentialities will be realized. Human rights are institutions specifically devoted to the most complete possible realization of that potential” (Donnelly 1985: 31-32). If we are islands unto ourselves, we alone can determine the substance, source, and seat of our “rights.” But, when two or more come together, such determination must be mutually and equally beneficial. To deny



one diminishes the *nature* of that one's status and, thus, of her essence. In some real sense, the denied dies, that is, ceases to be "one with." That invokes Martin Buber's (1923) I-You and I-It relationships.

As regards source, the calculus of human rights is that of (human) nature, (human) need, (human) necessity or *right*. These are somatic functions. They are fundamental and universal. Personalism is the product of this function. Donnelly notes that basic needs may be scientifically established, with "minimum amounts of food energy, protein, water and other nutrients, shelter, and perhaps companion" making the list (Donnelly 1985: 29). But, what about the claim of personalism that appends the right to achieve one's full potential or Donnelly's "full personal development" (*ibid.*)? Personalism is inextricably tied to human interdependence and interconnectedness when it comes to human rights.

Baxi observes that the traditional language of human rights and suffering favors application to those forms of violence (the subject is human rights violations) in war and war-like circumstances, while ignoring the slow suffering in situations of (negative) peace (Baxi 2002: vi-vii). Thus, human rights logic and language tend toward physical and psychological, but not structural and cultural forms of violence. Again Baxi, "The emerging standards of international criminal law in war-like situations do not extend to systematic, sustained and planned peacetime denials of the right to satisfaction of basic human needs, such as food, clothing, housing, and health" (Baxi 2002: vii).

In the preface of his book, Baxi discusses the dichotomy between human rights as a matter of war and peace and its relationship to human suffering. He recognizes a certain ambivalence to human suffering at the hands of the state in peacetime, which is a function of its sovereignty, which trumps war: "languages of suffering are not writ large in times of peace as they are in times of war" (Baxi 2002: vi-vii). "Conditions of extreme impoverishment, forced labour, markets for systematically organized rape through sex trafficking, child labour, planned displacement of peoples in the name of 'development', for example, represent from the standpoint of the violated the same order of liquidation of human potential as war and war-like situations" (vii). In this regard, says Baxi, the very language of human rights may result in "the production of human suffering" (Baxi 2002: viii). Baxi further notes, "The obligation to minimize human suffering [in war and war-like] situations grounded in an order of non-negotiable moral obligations of 'civilized behavior even in situations of armed conflict, does not attach to states of peace, even when 'peace' appears to millions of people as forms of belligerency by other means" (Baxi 2002: vii).

In discussing human rights as a function of governance, Baxi refers to "the rights-integrity of [the] structures of government" (Baxi 2002: 9). He observes a state's capacity to foment "structural violations by virtue of its capacity to reproduce legitimate law. The sovereign power constantly negotiates the imperatives of the rule of law in ways that, for example, somehow render as legitimate the affluence of a few with the extreme impoverishment of many, locally and globally. This form of reproduction of rights and legality often, at least from the standpoint of those violated, combines, and recombines, the rule of law with the reign of terror" (Baxi 2002: 8). "Emancipation is realized through human rights, but the relationship is functional rather than definitional; that is, we know which are the fundamental human rights through learning what is needed to secure emancipation, not the other way round" (Baxi 2002: 145).

The idea of Kant's religious notion, "radical evil" or its secular twin in Hegel's theodicy, places the moral imperative on every human being to challenge the propensities that militate against the logic of personhood and rights and the ideals of shared humanity and community. That is what makes the language of human rights a moral vocabulary.

## CONCLUSION

The history of humanity has centered, in one significant way, on the inexorable change and its attending development of societies into nation-states and their ensuing consequences. Among them is the need to realize

citizens' dignity, worth, and well-being. What makes the need and societies' corresponding responses existential is the impact such matters as nation-state formations, capitalization of the global economy, and the proliferation of new technologies have had on the accumulation and concentration of power, in virtually all its forms, first in the global north, and then among a relatively minuscule number of persons. This need has also led to recognizing the rights that appertain to being human and denizens of the world. They are existential consequences the of social change and human development over millennia.

This paper has centered less on the specifics of the rights themselves and more on the history, theory, principles, and values that scholars and philosophers have sought to surmise into the formal recognition and codification of human rights since the mid-twentieth century. In addition, it has endeavored to conflate the idea of human rights with that of nonviolence as a preliminary step toward understanding their meaning and relevance to effecting positive social change and human development norms. Such norms are what Martin Luther King Jr. had in mind in his call for a revolution of values and restructuring of the social edifice.

## Bibliography

- Ahmed An-Na'im, Abdullahi. 1992. *Human Rights in Cross-Cultural Perspectives: A Quest for Consensus*. (Philadelphia: University of Pennsylvania Press).
- Avruch, Kevin. 2006. "Culture, Relativism, and Human Rights." In *Human Rights and Conflict: Exploring the Links between Rights, Law and Peacebuilding*, edited by Julie A. Mertus and Jeffery W. Helsing, 91-120. (Washington, DC: United States Institute of Peace Press).
- Lewis V. Baldwin, Rufuss Burrow Jr., Barbara A. Holmes, and Susan Holmes Winfield. 2002. *Legacy of Martin Luther King, Jr.: The Boundaries of Law, Politics, and Religion*. (Notre Dame: University of Notre Dame Press).
- Baxi, Upendra. 2002. *The Future of Human Rights*. (Oxford: Oxford University Press).
- Baxi, Upendra. 1999. "Voices of Suffering, Fragmented Universality, and the Future of Human Rights" in *The Future of International Human Rights*. Burns H. Weston and Stephen P. Marks. (eds). (Ardsley, NY: Transnational Publishers, Inc.).
- Bekoff, Marc, Collin Allen and Gordon M. Burghardt. 2002. *The Cognitive Animal: Empirical and Theoretical Perspectives on Animal Cognition*. (Cambridge: MIT Press).
- Brysk, Alison. 2002. *Globalization and Human Rights*. (Berkeley: University of California Press).
- Buber, Martin. 1923. *I and Thou ((Ich und Du)*.
- Cowan, Jane K., Marie-Benedicte Dembour and Richard A. Wilson (eds.). 2001. *Culture and Rights: Anthropological Perspectives*. (Cambridge: Cambridge University Press).
- Donnelly, Jack. 1985. *The Concept of Human Rights*. (Bekenham, Kent AT: Croom Helm Ltd.).
- Douzinas, Costas. 2000. *The End of Human Rights*. (Oxford: Hart Publishing).
- Galtung, Johan. 1994. *Human Rights in Another Key*. (Cambridge: Polity Press/Blackwell Publishers).
- Goodhart, Michael. 2005. *Democracy as Human Rights: Freedom and Equality in the Age of Globalization*. (New York: Routledge).
- Jones, Charles, 1999. "Neo-Hegelianism, Sovereignty, and Rights." in *Global Justice: Defending Cosmopolitanism* (Oxford: Oxford University Press).
- Bruce B. Lawrence, et al. 2007. *On Violence: A Reader*. (Durham: Duke University Press).
- Neier, Aryeh. 2012. *International Human Rights Movement*. (Princeton: Princeton University Press).
- Patterson, Thomas C. 1999. *Change and Development in the Twentieth Century*. (Oxford: New York).
- Perry, Michael J. 1998. *The Idea of Human Rights: Four Inquiries*. (Oxford: Oxford University Press).

Sagan, Carl and Ann Druyan. 1993. *In Shadows of Forgotten Ancestors*. (New York: Ballantine Books Publishing Group).  
Stanford Encyclopedia of Philosophy, <http://plato.stanford.edu/entries/personalism/#PerHisAnt>, PDF