

Rights and Revelation

A Study of Particularism and Universality in the Advocacy of Human Rights

Oliver Davies

The claim that theology needs to be done from within a new sense of its own location in the world requires us to engage with significant matters of public debate, in the light of that claim. The issue of human rights would seem to be an ideal case. Never has this been a more vital aspect of our culture.¹ Since the Universal Declaration of Human Rights (1948), in the immediate aftermath of the Second World War, the affirmation and propagation of human rights have seemed to define Western civilisation in its adherence to both the principle of social equality and the importance of the individual. Although the strategic advantage of pointing to human rights abuses which characterised the Western political polemic against the Eastern Block countries, may have given way to something far more ambivalent, the rhetoric of human rights, if not always their practice, remains a constant in much contemporary politics, both international and national. Recent divisions over the balance between the security of the state and the rights of individuals, with respect to Guantanamo Bay in the United States and to the period of detention without charge in the United Kingdom, show the sensitivity of human rights issues with respect to our own identity as citizens of liberal democracies. But, as Conor Gearty has recently argued, a clear gap is to be observed between the present high regard for human rights on the one hand, with its concomitant language of commitment and engagement, and the marked relativism of our postmodern age on the other.² The traditional underpinnings of rights frameworks in either traditional religious or Enlightenment terms, have given way to something altogether

¹ I am grateful to the Dominican community of Blackfriars, Oxford, for inviting me to give the Aquinas lecture in 2005 and thus offering me the opportunity to address the question of human rights from a theological perspective. An early and unpublished version of this paper circulated under the title 'Divine Silence, Human Rights' (see Conor Gearty, *Can Human Rights Survive?*, Cambridge: Cambridge University Press, 2006, pp. 43–4, 48–9).

² Gearty, *Can Human Rights Survive?*. See also Costas Douzinas, *The End of Human Rights* (Oxford: Hart Publishing, 2000) who laments the loss of 'nature' as that which could exercise some restraining influence upon the rampant positivism of human rights thinking and legislation (see especially the summaries on p. 20 and p. 68).

more pragmatic and of the moment. Within such social and cultural contexts, legitimate fears are raised about the fundamental coherence and viability of human rights in a society which is ill at ease with both injunction and universalist arguments of reason and justification. It is therefore one of the obligations of those who are concerned with human rights and the future of human rights, to reflect upon ways in which they can be more securely embedded within our own highly mobile, somewhat relativist, inherently pluralist, times and culture.

This paper has two focal points of inquiry. In the first place I want to ask the question of how we can shape a distinctively Christian and theological approach to rights advocacy and secondly I want to reflect upon societal norms and practices (fundamentally of a linguistic nature) which may allow us to assert more confidently that there are indeed grounds for the view that scepticism regarding the viability of international or universal rights advocacy is misplaced. Both focal points lie within a common problematic, which is the perplexing contradictions between, on the one hand, the universalist claims of rights advocacy (i.e. they cannot be 'just for me'), and the seemingly irreducibly particular modes of their articulation and practice. This is the spectre that appears to haunt all the victories of human rights propagation. But I wish also, at the very end of this paper, to reflect upon the relation between these two focal points, and to suggest that the – first – theological reflection helps us to identify the second 'naturalistic' account of human rights by representing it in a more explicit or intensified form. Thus my long term goal is also to explore the way in which theology working closely from within Christian doctrinal tradition can actually teach us something about the common world of human experience which – though already present – now becomes visible and fully realisable through practices of reflection which are grounded in traditional sources of revelation.³

Grasping the Problem

If we are to properly understand this problematic of the particular and the universalism, then it will be useful to look back at the evolution of rights-based national cultures in our own history. The American Declaration of Independence of 1776, the French *Déclaration des Droits de l'Homme et du Citoyen* of 1789 and the American Bill of Rights of 1791 belong to the Enlightenment, and are expressive of a typically Enlightenment universalism in their appeal to the abstraction of a 'human nature'. In the case of the American Declaration there was the assumption (or perhaps proclamation would be a better

³ It is this final theological move which corresponds to the challenge of the project 'theology in the world'.

word) of the identity between the fundamental and natural order of things and the new statehood and social order of Americans. These rights already existed substantially for ‘Englishmen’ and the claim was now that they should be extended to Americans.⁴ The French Declaration was rather more radical in that it began with an evocation of the ‘ignorance, forgetfulness or contempt for the rights of man’ which are ‘the sole causes of public misfortune and governmental depravity’.⁵ The Bill of Rights (1791) was introduced as a series of amendments to the American Constitution whereas the French Declaration of Rights prefaced their Constitution. As Jürgen Habermas has observed: in America ‘it is a matter of setting free the spontaneous forces of self-regulation in harmony with Natural Law, while in [France, the Revolution] seeks to assert for the first time a total constitution in accordance with Natural Law against a depraved society and a human nature which has been corrupted’.⁶ The notion of the universal rights of ‘man’ was more vigorously represented in the French version than in the American since it sprang from the dark historical experience of Europe and was applied as a remedy, whereas for the Americans it was the natural order of things, realised elsewhere, to which appeal was being made. Crucially, what we see in both Declarations is an oscillation between the abstract universalist notion of ‘man’ or ‘human nature’ and a positivist turn in the recognition that only the nation state is capable of safeguarding those rights, backed up by punitive legislation (indeed it has this as one of its primary duties). But we should note that while both looked to universalism, neither understood the enactment of those rights as being universalist in scope: both the practical outcomes of the two Declarations were restricted to the securing of rights only for the citizens of France or America respectively. Indeed, it quickly became clear that what the original legislators had in mind was that citizens – whether French or American – should be defined as white, property-owning males. From this perspective therefore the great Rights Declarations of the second half of the eighteenth century were strategies whereby reasonably privileged social groups gained some degree of protection from and under the nation state. They were ways of controlling state power in the interests of elite groups of citizens.⁷

⁴ Douzinas, *The End of Human Rights*, pp. 86–7.

⁵ ‘Declaration of the Rights of Man and the Citizen’, in S. Finer, V. Bogdanor and B. Rudden, *Comparing Constitutions* (Oxford: Clarendon, 1995), pp. 208–10.

⁶ Jürgen Habermas, *Theory and Practice* (London: Heinemann, 1974), p. 88.

⁷ But the appeal to the universal rights of human kind which was bound up with the Declarations did open a door to the possibility of a perspective which was external to the positivist legislation and thus a potential means of reviewing and correcting it. In the French case this was sufficiently strong to lead initially to a kind of international solidarity, as in the making of Thomas Paine (who exerted such an influence on the American situation) and many other foreigners into honorary *citoyens*. Within a few years however these

The French and American declarations initiated a tradition which was to lead to the legislation which defines our landscape in terms of anti-discrimination law and the active fostering of human flourishing: the Universal Declaration of Human Rights of 1948, the Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights of 1966, as well as the European Convention on Human Rights and other domestic legislation. They leave a complex legacy, with three principal elements, which bears closer scrutiny. The first is the performative dimension of human rights. Rights need to be demanded and proclaimed. Indeed, there is something about rights that needs to be appropriated by those who exercise them: legislation on its own may provide for rights but it does not create them, any more than the legislative provision of benefits for the disadvantaged in society necessarily leads to their take-up and application. Rights have to be used and internalised. They have to be *claimed*. And this claiming of rights is based ultimately upon a first case in which they are *pro-claimed*: made real by being spoken into existence by those who would have them. Without that prior speaking, they are not yet existent. After that proclamatory speaking, they exist as a given: as something natural. The second element follows from the first. The naturalness of rights is their universality. Rights cannot be proclaimed by individuals who proclaim them for themselves without also becoming a possibility for any or all others who might also proclaim them. This point follows from the nature of speaking itself: speech is public and shared. While language divides, speech itself is a human universal. Any one speech act can be repeated by other speakers therefore; and so is infinitely repeatable. Implicitly therefore, the proclamation of rights by any one group for themselves is the recognition that anyone else may likewise proclaim rights for themselves; and thus is a form of universalism.

But thirdly, the further point that we learn about rights from the early Declarations is that they are only actualised through legislation which is carried out for and on behalf of the group or individuals who claim them. Legislation is an expression of the legislative community, and is inevitably particular (being bound up with community, sovereignty and delegated authority). Rights without legislative support remain proclamations – speech acts which lack their final, ultimately validating, illocutionary force.

The chief problematic in our human rights inheritance therefore comes from the fact that they need to be proclaimed before they can be realised and the very act of proclamation (because it is an infinitely repeatable speech act) introduces a necessary universalism into rights' proclamation. At the same time, the proclamation will fail

were threatened with execution, Thomas Paine included, Paine himself only escaping on account ironically of his non-French nationality following an intervention by the American Ambassador. See Douzinas, *The End of Human Rights*, p. 105.

as a speech act (which is always an utterance which seeks to change the structure of human relations in some respect), unless it leads to supportive legislation. That legislation however will enact rights only for those within its own competency. The very act of legislating is itself a primary expression of the separateness of human groups – our identity as an *ethnos* is bound up with such practices, and so the realisation of rights will inevitably contest, or stand in the way of the appeal or openness to their universality which is intrinsic to their originating proclamation. It is not difficult to see that this conundrum becomes particularly challenging for us today. We live without the benefit of Enlightenment belief in some unquantifiable ‘human nature’, and our preferred, non-essentialist term ‘culture’, which shifts the focus to local meanings and forms of expression, makes any attempt at universalism appear at best wooden and ill-founded. We are also endowed with a healthy degree of suspicion that such abstractive universalisms will turn out to be little more than artifices devised by empowered groups in society, or the empowered regions of the political North, in order to foster and maintain a particular ideological superstructure which serves the narrow political interest of maintaining control over the distribution of resources. And yet still, if there is indeed no significant commonality between different ‘legislative communities’, then a pessimistic and highly paradoxical view of humanity emerges in which every proclamation of human rights manifests a claim to universality which is at once extinguished by the proclamation’s subsequent success. A narrowly Darwinian account of social evolution, of competing discourses in the public square, would seem to be close at hand here.

Perhaps the place in which this dilemma is most evident is the sphere of Refugee Law, in which the national interests of legislatures and the ‘aspirational’ interests of those who support rights for the most marginalised in our society come most visibly into conflict with each other. There exists extensive legislation in the area of legal protection for those who are displaced from their countries of origin, entailing obligations for those states to whom such people make an appeal for refuge or asylum. And yet, seemingly often with the extensive collusion of those involved on the part of international agencies, observers note a widespread neglect and ad hoc adaptation of the precepts of the legislation in a way that suggests that national governments are seeking apparent support in international law for programmes that lead to the active repatriation of individuals and communities who may themselves remain unconvinced as to the security of the places to which they are being required to return. Writing on international law as a source of refugee rights, James Hathaway has pointed to ‘a blurring of the boundary between the law and the politics of human rights’. He continues: ‘This entanglement of admittedly worthy moral claims with matters of

strict legal duty is not only intellectually and legally dubious, but risks stigmatizing all human rights law as no more than a matter of aspiration'.⁸ The divergence between national governments who are answerable to their own citizens or otherwise concerned with their own interests, and the rights of those for whom no legislative body can speak, becomes evident where international law is re-interpreted or neglected.

A Christian Response

The Christian engagement with something which has the aspect of modern human rights advocacy begins in the early sixteenth century. Roger Ruston has shown the way in which the doctrine of the creation (affirming that all human beings are made in the 'image' of God, with an equal right to the goods of the creation⁹) powerfully influenced Thomas Aquinas and deeply shaped the rights theology of Francisco de Vitoria and his Salamanca school, at the height of the Spanish *conquista* of the gold-rich lands of the New World.¹⁰ The conversion to the Indian cause of Bartolomé de las Casas, who was to be the most committed advocate of their natural rights, at Pentecost 1514, was 'prompted by a biblical text he was reading which finally broke through to his conscience: "The bread of the needy is the life of the poor; whoever deprives them of it is a man of blood. To take away a neighbour's living is to murder him; to deprive a labourer of his wages is to shed blood"¹¹ Several years earlier, in Hispaniola in 1511, Friar Antón Montesino had delivered the great sermon which has been taken to have initiated the modern period of human rights. At the climax of that sermon, Montesino assumed prophetic diction and spoke of himself as 'the voice of Christ in the wilderness of this island. . . such a voice you have never yet heard, more harsh, more terrifying and dangerous than you ever thought you would hear. The voice says that you are all in mortal sin and that you will live and die in it for the cruelty and tyranny with which you use these innocent people. . .'.¹²

Such a statement coming at that time and place, cannot but have universal resonance in its emotional integrity and power. But however appropriate and natural the use of Catholic Christian language was for that audience, we have to recognise today, as we ask ourselves

⁸ James C. Hathaway, *The Rights of Refugees under International Law* (Cambridge: Cambridge University Press, 2005), p. 17.

⁹ Gen 1:27–9.

¹⁰ Roger Ruston, *Human Rights and the Image of God* (London: SCM Press, 2004), pp. 99–100.

¹¹ Ecclesiasticus 34:25–7. Ruston, *Human Rights*, p. 123.

¹² Ruston, *Human Rights*, p. 67.

difficult questions concerning the Christian claim to universalism in a world that is both interfaith and secular, multi-cultural and global, whether the application of this language today would not also carry with it an invitation to its audience to accept the validity for themselves of our distinctively Christian language and concepts? To the degree that this double message is communicated, particularism and universality combine in ways that will inevitably serve to confuse the communicative act where its intended audience is not the Christian community itself.¹³

This example from the New World shows the difficulty presented by the *content* of our Christian speech when we wish to set aside the mission of the Church, as an explicit communicative intentionality, in order to address a situation which is of legitimate Christian concern to us but in which many of those most deeply involved will not share our Christian faith. In order to escape this constraining paradox, we shall have to exchange it for another which can only come into view if we make distinctions between language as *act* and language as *discourse*. My intention here is to turn precisely to revealed sources for gaining a sense of direction. These sources tell us of a God who makes himself known to us (I use that gendered term with all the appropriate caveats). This is not generic deity however but is rather the self-disclosure of Yahweh, the Creator God of Israel. The very name Yahweh, given in the narrative of the Burning Bush, presupposes that God is communicating himself to humanity as Creator. What we have therefore is a Creator who is himself necessarily *uncreated* revealing himself to us within the creation. ‘Uncreated Creator in the creation’ is therefore the primary model of revelation (and is shared, in different ways, by Jews and Muslims) which I am using here. If God is not in the creation (where we are), then he cannot be known; if God is not uncreated, then he cannot be Creator. Immediately the juxtaposition of ‘uncreated’ and creation – or more specifically human ‘creatures’ – suggest the structure of that revelatory communication. A God who is Creator cannot choose to communicate himself to his creatures in a way that will or may fail to succeed. We may assume that the

¹³ For all our claim to speak in terms which are consistent with ‘natural law’ for instance, the reality is that such claims only work if we have a conception of ‘nature’ which is at least in part indebted to a scriptural account of what ‘nature’ and the ‘natural’ is. Reason requires such a prior consent if it is to function ‘autonomously’ within any system of natural reality which understands the natural order to be intrinsically orientated to the divine order in a way that is accessible to reason and thus ‘universalisable’. These modes of reasoning as coherence must be distinguished from modes of reasoning as persuasion: there are many positions we observe in others’ thinking which are perfectly reasonable, in the sense of coherent, given certain starting points or presuppositions, but we do not regard such positions as being necessary ones if we don’t ourselves share the presuppositions which accompany them. On the parameters within which natural law theory can usefully inform our ethical thinking today, see Jean Porter, *Natural and Divine Law* (Grand Rapids, Michigan: William B. Eerdmans, 1999), pp. 303–18.

creature, if properly a creature and thus free in a contingent world, can choose not to accept the revelation, or can be disqualified from receiving it on contingent grounds of context, but we cannot assume that the Creator may fail to communicate it.

This brings us in a way back to the starting point of our conundrum concerning the particular and the universal. A successful revelatory communication must surely be a universal one: it must be communicated to everybody (even if not everybody receives it). But history shows us that it seems precisely not to be communicated to everyone. Indeed, from the very beginning the revelation appeared to be contained within specific language forms and specific ethnic communities. The revelation to the Jews is a case in point, but the problematic remains intensely alive in our modern multicultural and multi-faith world. How then can we get purchase, or how can the theologian get purchase, on a revelation which is truly universal but also empirically local?

The answer surely resides in the structure of the Incarnation itself as the primary mode of God's self-communication to humanity, as uncreated Creator in his creation. The Incarnation, as we know, was a highly complex event. Its complexity is found not least in the problem of terminology. Exegetes tell us that there were two competing paradigms of Messiahship: the one based on the Davidic Kingship tradition and the other based on Deutero-Isaiah and the suffering servant motif.¹⁴ The coalescence of these two imagistic paradigms only took place in the post-resurrection Church of the earliest Christian period. It is also to be recalled that the movement from the expressive but imprecise language of the biblical community to the more precise definitional language of creedal formulae was a process that took a considerable period of time: some four and a half centuries if we take Chalcedon as the summation of this transfer from kerygmatic *expression* (with its scriptural images), to kerygmatic *definition* (with its philosophical formulae).

What we have to consider therefore is the basic communicative structure of incarnation as revelation: the becoming flesh (as we are flesh) of the uncreated Word. It may be helpful at this stage to point to the way that human linguistic communication works as a created analogue of this divine communicative act. Human linguistic communication is constituted in two ways. In the first place it has content, which is to say *what* is said. And secondly it has a more formal property, which is *how* it is said. If both aspects – the what and the how – are in harmony, then we can say that the communication is direct and disingenuous. If what is – really – being said is at odds with the manner of the speaking in inoffensive or interesting ways,

¹⁴ James D. G. Dunn, *Unity and Diversity in the New Testament*, 2nd ed. (London: SCM Press, 1990), pp. 203–31.

we may feel that the utterance is an ironic one, or even comical. If they are less innocently at odds with each other, then we may feel that the utterance is possibly misleading, or even deceitful. In other words, when something is said, we always need to be alert to what we know about that person and, above all, to the look in their eye and to the body language of the speaker as a whole. We match their words against what their bodily expression is telling us. This appears to be a basic human communicative mechanism, which is quite independent of any intellectual or analytical capacity the addressee might have to judge the purely linguistic content of what is being said. The genius, it seems to me, is no more likely to read the body language of another person than the unlettered. It is a facility which we may liken to common sense. What do we get if we apply this basic distinction – between communication as *what* is being said and communication as *how* it is being said – to revelation itself?

The answer, or the beginning of the answer, is that the distinction between the Word *as* God incarnate and human language *about* the Word incarnate, now appears in a new light. In the incarnation, it is the body language which predominates as communicative mode. What is said – the proclamation of Jesus either by others or in the contested area of his possible self-declaration – is fleeting and fragmentary. As speech mode, it is subordinated to the sheer presence of the incarnate word among men and women who have to orientate their lives towards it in the light of the eschatological decision it brings upon them. But this orientation is undertaken precisely in the absence of any explicit account of the meaning of who Jesus is. The evocations of his divinity are partial and imprecise, for there is in this period no summary understanding of his Messiahship in the terms which later tradition will take to be integral to Christian belief.

The first centuries of the Christian Church constituted a hard tutelage in the grammar of this strange new language. Suddenly to speak of God was both a necessity and an impossibility. It was a necessity because the God of scripture had spoken of himself and had mandated a certain kind of speech about himself. God's proximity in the scriptures brought with it a need for Christians to speak of him and a naturalness to such speech about him (theology) or to him (hymn). But, on the other hand, it was impossible to speak of him since – as Creator – he transcended any human mode of imagining or address. Christian speech was formed in the intervals between these two incontrovertible rules of grammar: the need to speak and the impossibility of speech about God.¹⁵

¹⁵ Commenting on Maimonides, Günter Bader argues that affirmations about God are a mode of speech which brings the speaker and God into closer relation, while negations allows the otherness of God to appear in its own truth (Günter Bader, *Die Emergenz des Namens*, Tübingen: Mohr Siebeck, 2006), p.66.

The discipline which inheres in authentic Christian speech about God is most manifest in the linguistic tradition which is remembered as apophatic or negative theology, which attained its early classic expression in the *Mystical Theology* of Pseudo-Dionysius. This is a text which set precise limits to the operation of speech about God, choosing negatives based on the Greek privative *a-* and the prefix *hyper-* (equivalent to the English ‘super-’) in the service of a higher expressivity, or what Derrida called a ‘hyperessentiality’, which understood such limits to be the sole parameters within which human affirmations about the divinity of God became possible, without either speaking *past* God (i.e. treating him as an object in the world) or falling into incoherence.¹⁶ It is an irony of translation history that the *Mystical Theology* itself circulated relatively widely in Latin in the medieval West as a singular text, whereas in the original Greek corpus of Pseudo-Dionysius’ work, it clearly has the role of a counter-point to the abundant expressivities of the liturgical language of the Christian Church which the author brings wonderfully to the fore for instance in *The Celestial Hierarchy* and *The Ecclesiastical Hierarchy*.¹⁷

The classical tradition of apophatic theology reaches its high point not in the at times tortuous ‘hyperessentialities’ of the names of God as *definitions* (e.g. ‘the unlimited’, ‘the ungenerate’) but rather in the use of the vocative in moments of intimate communitarian address which finds its consummation in the hymn.¹⁸ While the former connects (sometimes with little reference to Scripture) to Greek philosophical traditions, the latter locates the discipline of negative speech within a linguistic movement, or gesture, which is grounded in *relation*, rather than definition, and thus in a radical asceticism of mind and body. This is speech at its limit in the light of abundant if complex presence rather than language which generates its own negative image, rather as the human form necessarily casts a shadow when we walk in the light of the sun.

So-called negative theology is the acknowledgement on the part of the worshipping community that the language in which we authentically speak to and of God has already at its core been overtaken by a prior movement of God’s universalist self-communication. This

¹⁶ Jacques Derrida, ‘On How Not to Speak: Denials’, in Sanford Budick and Wolfgang Iser, eds., *Languages of the Unsayable: the Play of Negativity in Literature and Literary Theory*, (New York: Columbia University Press 1989), pp. 3–70 (here p. 8).

¹⁷ See the essay by Jean Leclercq ‘Influence and Non-Influence of Dionysius in the Western Middle Ages’, in *Pseudo-Dionysius. The Complete Works*, ed. and transl. Colm Luibheid (New York: Paulist Press 1987), pp. 25–32.

¹⁸ Pseudo-Dionysius’ ‘Mystical Theology’ actually begins with a hymn of address. See *Pseudo-Dionysius. The Complete Works*, p. 135. Günter Bader has a fascinating discussion of the genre of the hymn as theological address in the context of an apophaticism of the Divine Name (Bader, *Emergenz*, pp. 90–1): ‘Nun ist Hymnologie nach der griechischen Bedeutung des Begriffs nichts als Theologie’ (p. 91).

prior movement corresponds to our 'body language'. The incarnation is just such 'body language' or radical gesture, and it must at all times precede any possible human articulation or response of faith to it. Our language of God will always be both necessary and impossible; it will always be conceived in the presence of the prior and fundamental communicative act of God who – as uncreated Word – became human, and thus universal, to meet us.

This inheritance of Greek negative theology can appear arcane at times and esoteric, but it represents nevertheless an important resource for the kind of thinking we are undertaking here with respect to universal claims in local language. The problem is the relation between particular and universal, and the fact that the claim to the universal is only ever realised in particular form. Negative theology teaches us that authentic Christian language or speaking must always understand itself to have been already overtaken by the prior communicative movement of God. This 'body language' of God, as we have called it, preceded the discourse which would come over time to map its strangeness. Indeed, the capacity of a divine revelation to call forth and to shape (or determine) its own definitions through history may well be analytically a property of the divinity of the communication. It is precisely at odds with current human categories of knowledge; it contests and disrupts them; it imposes upon them a new logic which derives not from causal human thinking (a 'thin' rationalism) but rather from human beings shaped in their entirety in the liturgical-existential-ethical forms of Christian discipleship. The thinking of such individuals, called to live out their lives in the light of the revelation, is surely a 'thick' rationality: one shaped by the sources of revelation and by the ethical and liturgical life forms predicated upon it. We might want to call it wisdom.

We can summarise therefore: human communication, even of precepts and principles of action (such as human rights) which may look to the authoritative sources of revelation and seek to communicate their ethical values, still remains *human* communication. But it is – or should be – human communication which understands itself to be grounded in a prior divine communication. Human communication which understands itself to be no more than that and human communication which understands itself to be precisely the communication in and of discipleship, are to be distinguished therefore in the extent to which they body forth the principles of the divine communication. *They are to be distinguished in so far as Christian communication itself pushes beyond the boundaries of its own discourse community, into a universalist space which is the communication of the divine love by non-linguistic means.*

But what does this mean from the point of view of human rights? How can we be advocates of human rights, using a language distinctive to Christian thought and experience, and yet still make the

claim that our language has, or should have, universal intelligibility? This seems to be fraught with contradiction. It is a contradiction which can only be resolved if we take the view that there is something in the Christian position which is universal, or potentially universal (non-coercively universal), and which is not simply to be defined as the rational content of the message. The message will always bear the accents of a 'local' speech, which are expressive of its fundamental doctrinal character. Christian speech, or the Christian advocacy of human rights, must always betray its origins in scripture and tradition if it is authentically to be *Christian* speech. But if this restricts its non-coercive universality, then there must be something about this way of speaking which also constitutes its universal character and yet is not simply reducible to its content. What might that be?

The answer, I believe, corresponds very closely to what we observe in quite ordinary human communication. When a person in authority speaks to us of rights, and asks us to moderate our behaviour accordingly, we ask ourselves whether such a person keeps the same principles themselves as they are asking us to do. If we have reason to believe that they are not, then we may well become sceptical regarding the authority of the message itself: in this case, an advocacy of rights. Thus if we know for instance that Government ministers are chastising foreign states for breaking international human rights laws, while the same Government ministers are repeatedly breaking the spirit if not the letter of international refugee law, then the authority of the message will be correspondingly diminished.

What does this mean for Christian rights advocacy today? In order to answer this question, we have to ask ourselves: what does the communicative structure of revelation as divine 'body language' as outlined above actually mean? What is the content of its structure? How does the manner of the divine speaking inform the content of what is said? We have already pointed to the basic structure of communication as revelation: as uncreated Creator in the creation.¹⁹ What exactly happens when an uncreated Creator reveals himself to his creatures from within the creation? A scriptural answer to this would point to the key Old Testament passages in which Yahweh describes himself in terms of compassion (Hebrew: *rachemim*), which is to say a divine revelatory involvement in the world which is visible as an empathetic and liberating engagement with humanity and the creation. There is in fact a rich diversity in the terminology and conceptualisation of compassion in the Old Testament, which requires

¹⁹ The exposition of this has been in a Christian format here, though I believe there is no reason why it could not also be expounded in specifically Jewish and Muslim terms.

more careful linguistic analysis than we can give here.²⁰ The theme is substantially governed by passages from Exodus (especially Ex 3; 6:1-13; 33:12-23) which combine reference to the compassionate acts of God, who promises to liberate his people from slavery in Egypt, with the divine theophany of the Name. In these texts, God emerges as Creator (as is implied by the name Yahweh²¹) who liberates his people from their suffering in Egypt, having 'heard their cry' (cf. Ex 2:23). Later Jewish tradition will posit an intensification of this association so that the name Yahweh is specifically linked with God's quality of compassion.²² If, in key passages from Exodus 3 and 33, God invites us to speak of him as 'compassionate' (or *raham*), then he also evidently expects us (that is, Israel) to ourselves be compassionate, for those who fear the Lord are 'gracious, compassionate and righteous' (Ps 112:4: *raham*). This compassionate intent of God does not remain purely intentional and linguistic however since it is given legal and covenantal expression in the Deuteronomic law codes which determine that Israel is to show compassion, for instance, to 'orphans, widows and resident aliens'.²³

This conception of the one God of Israel as a compassionate Creator, whose holiness is mirrored in the committed and compassionate holiness of his people, returns in the New Testament in the faith conviction that Jesus Christ comes as the *splanghna eleou theou* or 'the compassion of the mercy of God', of the Song of Zechariah.²⁴ It is Jesus who represents for Christians the consummate degree of divine recognition of, sympathy for, and active healing of our human condition. The requirement to be compassionate as a kind of fundamental principle of law governing our relations with others, and specifically those who are most socially vulnerable, now becomes the Pauline principle of *splanghna* or loving compassion of Christ as the

²⁰ See Oliver Davies, *A Theology of Compassion* (London: SCM Press, 2001), pp. 240–4. See also the recent study by Matthew B. Schlimm, 'Different Perspectives on Divine Pathos', *Catholic Biblical Quarterly* (forthcoming).

²¹ Cross argued that the name Yahweh, which also stands in close relation to Ex 3:14, was originally the hiphil form of the verb *h*y*h*, meaning 'to cause to be' (Frank M. Cross, 'The religion of Canaan and the God of Israel', *Canaanite Myth and Hebrew Epic: Essays in the History of Israelite Religion*, Cambridge; Harvard University Press, 1973, pp. 60–75), a view for which Walter Brueggemann shows sympathy (*Theology of the Old Testament*, Minneapolis: Fortress Press, 1997, p. 172).

²² This occurs for instance in the passage from the midrash Rabbah on Exodus 3:14: 'Rabbi Abba bar Mammel said: God said to Moses: I am called according to my acts. At times I am called El Shaddai, Seba'ot, Elohim and Yahweh. When I judge creatures, I am called Elohim; when I forgive sins, I am called El Shaddai; when I wage war against the wicked, I am called Seba'ot, and when I show compassion for my world, I am called Yahweh' (see S. M. Lehrman, *Midrash Rabbah III*, London: The Soncino Press, 1961, p. 64).

²³ Dt 14:29.

²⁴ Lk 1:78.

ecclesial heart of the Church or the foundational relational disposition of the Christian community.²⁵

From this scriptural perspective, the content given by the formal structure of the revelatory communication as ‘uncreated Creator in the creation’ is the compassion of God and the compassionate disposition of those whose lives are radically shaped by that communication or revelation. In the particular communicative terms developed here, compassion is the ‘body language’ of God: God’s preparedness to himself get involved in our earthly condition: his preparedness indeed from a Christian perspective fully to share, in his own way, in our human reality.

In a seminal article, Martha Nussbaum defined compassion as a tripartite combination of three elements: emotive, volitional and cognitive. A compassionate person is one who empathises with the condition of another in such a way as to *wish* to relieve their suffering and as to *think* how best to do so.²⁶ A Church which is following in the compassionate ways of God will be one in which compassion will not just be preached, and taught, but also practised (in line with our distinction between the content of what is said and the manner of its saying or ‘body language’). Compassion, according to the Deuteronomic texts, entails obligations precisely towards those who have the most fragile political identity, and accompanying natural rights, within the Israelite society of the day. What man would speak for the orphan and the widow?²⁷ Who would speak for the stranger? The Deuteronomic imperatives that we should exercise compassion to the ‘strangers’ in our midst show that there is something subversive, indiscriminate and boundary-crossing about compassion. The legal strictures which accompanied God’s self-declaration as compassionate, and which were binding upon his people whom he called into his holiness, showed the universalist thrust of compassion and its inherently transgressive character with respect to the *ethnos* to which this ideal had been disclosed.

For the Catholic Church today, for instance, such a transgressive compassionate disposition would suggest that we should speak out not only for the marginalised but also for those who are marginalised with respect to Catholic Christianity itself. Paradoxically, the Church should speak also for rights of those who reject or fail to take account of Catholic Christian moral teaching: for those who reject our discourse. Homosexuals, transsexuals, the divorced and remarried, those with HIV, or who choose abortion, might be examples of the category of those whose life-style is a rejection of our moral teaching. But this

²⁵ Phil. 1:8.

²⁶ Martha Nussbaum, ‘Compassion: the Basic Social Emotion’, *Social Philosophy and Policy*, Vol. 13, No. 1 (Winter 1996), pp. 27–58.

²⁷ E.g. Deut 10:18.

leads in turn to another question: how can the Church represent the voices, perspectives or subjectivities of those whose way of life is, in her judgement, intrinsically sinful? Is this not in fact to compromise the mission of the Church, which is to proclaim the divine teaching and to speak out against corruption with public clarity?

This is a perfectly proper question to ask, but in answering it, we need once again to keep before our eyes the critical distinction outlined above between the content (or 'what') and the manner (or 'how') of speech. Clarity of content requires consistency of content if it is to be properly understood, but the how of speech also requires consistency with what is being said. This is however a different kind of consistency, which is to do with the extent to which the audience believe in the *messenger*. The message itself may command a high degree of support, while the person of the messenger may be regarded with suspicion. This becomes particularly acute where the message given is an ethical one (or is 'proclaimed'). Here, in a situational or contextual communication of admonition or exhortation, the authority of the messenger is critical to the reception of the message. Ethical – even prophetic – pronouncements are always particular in their meaning; they are uttered with respect to specific situations, and can be said to apply to specific groups of people. The teaching of the Catholic Church on homosexuality is well documented, for instance, and can easily be consulted in written form. But when Church leaders make a pronouncement on this issue, they are inevitably speaking from a perceived need to address a particular situation, at a particular time and place. Church pronouncements are not lecture notes to be disseminated by eager students; they are teaching that is uttered to and in specific situations. Teaching against same-sex unions by a Church leader who is himself a practising homosexual, would wholly undermine the authority of that teaching. The 'body language' would be at odds with the content of the teaching. Similarly, given the clear distinction to be made between homosexual practices and homophobia (or the disadvantaging of homosexual people on the grounds of who they are), teaching against homosexual practices by a Church leader who himself shows tendencies towards homophobic attitudes would also undermine the authority of that teaching. It would suggest to the audience a confusion between two prohibited moral stances, and would undermine the clarity of the message proclaimed. The point at issue here is that 'body language' really is critical to communication, since the clarity of the content requires consistency with the life values of the one proclaiming it. It is not an issue of whether the content is right or wrong, but of the authority with which the content is being communicated to others, and thus also inevitably of the persuasiveness of the message as it is proclaimed.

In the case of human rights advocacy therefore, we have to have regard for the extent to which Church engagement reflects properly

universalistic aspirations and foundations. If human rights engagement is restricted to our own community, or lends itself to being perceived as such, then the moral warrant of Church advocacy may diminish in proportion to its restriction. It will be important for the Church to continue to do what it has historically done well, which is display its willingness to act as a medium, to undertake a voice-bearing mission, in order to make publically present the reality of those who fall outside the domain of public debate by reason of their social marginality. The Church must continue to 'give voice' to the perspectives and interests of the poor and disadvantaged in national society as well as those outside that society who may be negatively affected by the economic or political decisions made by powerful national governments. But it will be important also for the Church to be at the forefront of advocating the rights precisely of those who fall outside our community, or who even set themselves in opposition to it. Only this kind of 'body language' will show, and ultimately persuade people, that human rights advocacy by the Church is not like that of nation states (for whom restriction to their own citizens so often appears to be almost axiomatic), it is not merely one particularist discourse amongst others, but is grounded in something quite different. It takes its strength from and is shaped by the prior divine speech or revelation, which relocates human speech within a new, eschatological situation of radical challenge, universalist self-risk, and unquenchable hope.

A Naturalist Response

The discussion of Christian rights advocacy has attempted to show how a potentially damaging contradiction between universalism and particularism in ethical proclamation by a particular discourse community can potentially be resolved into a creative paradox or dialectic between the manner of the 'how' and the 'what' of saying. The universalist trajectory resides in the 'how' rather than the 'what'. This was in effect to turn to a deeper dialectic of speech which was given doctrinally, within the discourse itself, forming part of its particularity. But this resolution into such creativity cannot serve for those who do not inhabit a specifically Christian doctrinal discourse (or some equivalent in another religious particularity). In order to address the same question from within a naturalist or universalist framework, we need to work from quite different precepts and look to wholly different resources.

But the place to begin is once again the act of speaking itself. Speaking, though innate to human capacities, is nevertheless learned. We learn to speak from our closest carers as 'infants' (who, to follow a Latin etymology, 'cannot speak'). The structure of learning

is worth reflecting upon since human subjectivity, once shaped by speech, seems so autonomous. The very word 'I' seems to isolate the self within a pocket of irreducibly individualistic intentionalities and perceptions. It is with good reason that Descartes' declaration *cogito ergo sum* has been taken by Jaako Hintikka and others to have 'existential presuppositions'.²⁸ Thus Descartes' *cogito* means 'I am self-constituting in the very act of speaking my self-constitution', as though one could equally have said 'I am riding a bike, therefore I am'. The very act of *declaring* that one does something, whatever it may be, is sufficient for grounding the viability of the self who utters 'I'. Speaking is being. However communal or shared language may be as a repository or system of signs, it is always 'I' who am responsible for my own speech. It is 'I' who speak and no other.

But the *learning* of speech suggests a very different trajectory. The image of the child learning to speak from its mother, of a mother or father teaching a child to speak, suggests fundamental narratives of relation and interdependence (the parents need the child as the child the parents). The learning of language is a profoundly social, indeed perhaps definitively social act. It entails above all the imitative learning of a link between sounds produced by the vocal chords and intentionalities or states of mind. Nowhere is the complexity of language and its paradoxes so evident than in the learning of the first person pronoun (English: 'I'). If language itself is imitative, then we can only learn this primary performative expression of our own selfhood by understanding at some level what it is *for another* to use it. This 'understanding' is likely to be substantially pre-thematic and to belong to the pre-conscious period of child development. Ironically therefore, the genesis of the very icon of interiority, selfhood and focal consciousness – the first person or word 'I' – is predicated upon the prior absorption of a socio-linguistic structure, in and for which sociality as such is axiomatic.

Recent research in neurology is casting new light on the physiology of this process. Areas of the brain designated as 'mirror neurons' have been identified which show the extent to which imitation is at the heart of human (and higher primate) cultural transmission, including language acquisition.²⁹ 'Mirror neurons' are neurons which fire equally when we carry out specific actions (such as vocalisation) as when we observe somebody else performing those actions. In other

²⁸ Jaako Hintikka, 'Cogito, Ergo Sum: Inference or Performance', in Wallis Doney, *Descartes: a Collection of Critical Essays*, Notre Dame: University of Notre Dame Press, 1968, pp. 108–139 (especially pp. 113–114). According to Hintikka, the relation of the *cogito* to the *sum* may not be that of 'a premise to a conclusion' but rather that of a 'process to its product' (p. 122).

²⁹ See India Morrison, 'Mirror Neurons and Cultural Transmission', in Maxim I. Stamenov and Vittorio Gallese, eds., *Mirror Neurons and the Evolution of Brain and Language* (Amsterdam and Philadelphia: John Benjamins Publishing Company, 2002), pp.333–40.

words, they represent the innate capacity of the brain to begin to build pathways in accordance with the observed actions of others, facilitating our imitation of those same actions.³⁰ They thus suggest that our physiology dictates that we are uniquely sensitive to the actions of others, and that this is the basis of our capacity to learn. In the case of language acquisition, ‘mirror neurons’ show that language acquisition (such as learning how to use the first person pronoun) always involves an understanding of what it is for another to use language which is neither optional or incidental but is rather constitutive of the act of learning on the grounds of physiological processes in the brain.

The discovery of ‘mirror neurons’ opens up new possibilities of self-understanding with respect to another aspect of human behaviour however. We have already touched upon the role of compassion in Christian ethical discourse, informing the theoretical basis of a Christian human rights advocacy. Compassion begins in empathy and has a tripartite structure. According to Martha Nussbaum’s analysis, it involves emotive, volitional and cognitive elements (a compassionate person must empathise with another in such a way as to *wish* to relieve their suffering and as to *think* how best to do so.³¹ In this respect it is to be distinguished from *Schadenfreude*, which involves empathy but not in such a way as to wish to come to the aid of the one who suffers. This corresponds to ‘simple pity’ in which, as Paul Ricoeur reminds us ‘the self is secretly pleased to know it has been spared’.³² Here the suffering of another gives relief that one is not oneself afflicted in such a way. It is with cruelty that compassion approximates more closely in its complex structure. The compassionate person understands the suffering of another and wishes to relieve it; the cruel person understands the suffering of another but wants to inflict it. Calculation is inevitably involved in both, as each considers the best way to reach their goal. It is only in their contrasting intentionalities that compassion and cruelty can be distinguished.³³ All these states of mind are based in empathy however, and represent the different ways in which the self negotiates the otherness of the suffering other from within a basic empathetic orientation, which grounds our own understanding of what someone else is, or must be, experiencing.

³⁰ Giacomo Rizzolatti, Laila Craighero and Luciano Fadiga, ‘The Mirror System in Humans’, in Stamenov and Gallese, eds., *Mirror Neurons*, pp. 37–59.

³¹ Nussbaum, Martha, ‘Compassion: the Basic Social Emotion’, *Social Philosophy and Policy*, Vol. 13, No. 1 (Winter 1996), pp. 27–58.

³² Paul Ricoeur, *Oneself as Another* (transl. Kathleen Blamey, Chicago: Chicago University Press, 1992), p. 191.

³³ By this argument, human beings who show no capacity for empathy, cannot be guilty of cruelty, though of course they may be very capable of inflicting random violence.

The discovery of ‘mirror neurons’ shows us that some degree of understanding of the other, involving in particular an imitative understanding of the meaning of another’s bodily actions, is hard-wired. It is this that underlies our capacity to learn from each other, which is the foundation of our cultural and social life, embracing not only the development of speech but also the acquisition and development of technology and advanced forms of cultural interaction through learned ritual and performance. To be human is to be empathetic in this narrow sense therefore, to the extent at least to which we can internalise and repeat meaningfully the actions of others, in the development of ‘languages’ of cultural transmission and social interaction. But this suggests also that empathy in a broader sense must likewise be ‘hard-wired’. The very same neural function which allows us to imitate speech, also conditions us to react imitatively when we observe the actions of others, not where they are the active agent but where they are the passive victim. Thus we wince involuntarily when someone else is struck. We withdraw our own leg when someone else is kicked. We feel shock, perhaps nausea, at violence against others which either takes place, or which seems to take place, before our very eyes. These are natural human responses and, being based on the same physiological processes of ‘mirror neurons’ which underlie speech acquisition, they can be deemed to be universal.³⁴

What does not follow from this, of course, is that compassion itself is ‘hard-wired’. As we have seen, compassion requires elements of emotion and calculation, but principally of will. Indeed, it is primarily in the *volitional* that we see the distinction between cruelty and compassion. Inevitably, questions of intentionality and free will draw us towards the realms of culture, education and choice, rather than physiology. What is it that causes our empathetic nature to be realised as compassion, for instance, which is the ‘basic social emotion’ (as Nussbaum calls it), rather than cruelty or Ricoeur’s uncommitted and voyeuristic ‘simple pity’?

Particular and Universal in Dialogue

The preceding section suggests that there may be more points of contact between an outrightly particularist discourse such as Christian advocacy of human rights and a naturalist one of the kind developed above. The basic intersection between the two occurs at a fundamental level however, in basic language acquisition on the one hand and

³⁴ There is also the possibility that these neural responses may have comparable effects in other higher primates. See Leonardo Fogassi and Vittorio Gallese, ‘The Neural Correlates of Action Understanding in Non-Human Primates’, in Stamenov and Gallese, eds., *Mirror Neurons*, pp. 13–35.

neuroscience on the other. Neither of these are remotely adequate to explain the higher level processes which will surely determine whether in any one individual the hard-wired empathetic tendencies common to all human beings will develop in an altruistic or malign manner, or will simply locate that person uncommittedly between the two. The particular question which arises in the context of this paper is the extent to which a high-level particularist discourse such as Christianity, in its advocacy of human rights, represents an alternative to 'naturalist' or 'secular' theories of rights, or whether it is a potential or even necessary ally. Together with this latter point comes the question of under what conditions an alliance might be made between, for instance, NGOs which traditionally espouse a secular rights foundation and Catholic Christianity, for instance, which traditionally espouses a particularist account of the values of the self. Many parts of the political South, where much of the NGO activity takes place, are deeply influenced by Catholic Christianity. As Conor Gearty has reminded us, this question has a particular urgency in view of the Amnesty International's imminent reconsideration of what rights a woman may have over her unborn child.³⁵ Lurking behind this particular problematic is the further issue of the relation between secular rights advocacy and those world religions – principally, though not exclusively, Christianity, Judaism and Islam – in whose authoritative traditions 'compassion' is given a central place as an ideal of human behaviour and orientation.³⁶

We can begin to address these questions by examining the 'discourse ethics' of Jürgen Habermas, which is perhaps the most influential high level secular account of altruism or compassion that is current today. Habermas conceives of language as the primary locus and structure of society. Language exhibits the character of irreducibility (or what the Germans call *Nichtintergebarkeit*). We cannot escape from it, nor can we relativise it. But language is primarily a social space. It is the domain in which we encounter and recognise the other, in which we enjoy and negotiate shared meanings with our community of speakers. But Habermas understands language also to be the medium of human action in the world. We interrelate with others through language and thus the world as a linguistic space becomes the domain of our political activity. We are driven to establish a consensus with those with whom we live, our language community, which can only happen through open dialogical

³⁵ Conor Gearty, 'Reading the Runes', *The Tablet* (30 December 2006), Vol 260, no. 8671, pp. 4–5.

³⁶ Buddhism, especially Mahāyāna Buddhism, also gives particular place to compassion of course. See M. Vanden Eynde, 'Reflections on Martha Nussbaum's Work on Compassion from a Buddhist Perspective', *Journal of Buddhist Ethics* (2004), p. 46 (quoted by Gearty, *Can Human Rights Survive?*, p. 44).

and communicative processes which have a public as well as a private character. It is from within such a system which establishes language as the given social domain in which human beings interactively communicate with one another, negotiate shared meanings and build the consensus which stabilises the world, that Habermas identifies the emergence of a normative 'discourse ethics'. Since language carries with it a cognitive dimension (the primary linguistic act is always that of two speech-agents who speak with one another about the world³⁷), the question of veracity and trustworthiness is also always in play. Since the sole domain within which a consensus as to the veracity of what is spoken could emerge is the active speech community (that is within the community of those who have common access to communication, and who are recognised by each other as being participants in social, public discourse), it is necessarily the case that a greater discourse community, or an 'ideal discourse community' (as Habermas has it) constitutes a horizon of possibility against which every communicative act takes place. The human other is thus always inscribed in discourse as a part realised, part unrealised, possibility. Such a social philosophy predicated upon the equality of speaking partners has implications necessarily for the desirability of inclusion of all potential partners within the public discourse since here alone the ultimate authenticity and thus also the ultimate persuasiveness of the communicative act can be displayed.

In his relatively recent work, *The Inclusion of the Other*, Habermas recognises the significance of the loss of the Judaeo-Christian consensus on the metaphysical presuppositions of reality and posits a discourse ethic as a way of retrieving moral consensus. If in his words 'consensus on the underlying moral norms has been shattered'³⁸, then their participation 'in *some* communicative form of life which is structured by linguistically mediated understanding' must itself constitute a moral base.³⁹ 'Morality', states Habermas, 'derives a genuine meaning, independent of the various conceptions of the good, from the form and perspectival structure of unimpaired, intersubjective socialisation'.⁴⁰ This is moreover a form of universalisation which includes within itself the paradox of the equality and difference of the other: 'The equal respect for everyone else demanded by a moral universalism sensitive to difference thus takes the form of a *non-leveling* and *non-appropriating* inclusion of the other *in his otherness*'.⁴¹

³⁷ Jürgen Habermas, *On the Pragmatics of Social Interaction* (Cambridge: Polity Press, 2001), p. 62.

³⁸ Jürgen Habermas, *The Inclusion of the Other. Studies in Political Theory* (Cambridge: Polity Press, 1999), p. 39.

³⁹ Habermas, *The Inclusion of the Other*, p. 40.

⁴⁰ *Ibid.*

⁴¹ *Ibid.*

Habermas is at pains to point out that something of us is at stake in this linguistic dynamic of mutual recognition. A discourse ethics does have a genuinely moral character to it therefore. Our intentionality is involved for instance, as is 'the reciprocal reflexivity of expectations'.⁴² We are called here to exercise a real openness to the other, to our discourse partner, and thus by implication to those who fall outside our linguistic group: 'the family, the tribe, the city or the nation'.⁴³ The possibility of applying this as a resource for reflection on human rights, not only for those who are suppressed within our discourse community, but also for those outside or between discourse communities, is evident.

Habermas clearly sets out a secular account of language in its possible relation to human rights, though he does so with more than a nod towards the Judaeo-Christian tradition. It is important at this point therefore to note the distinction between what we might call a secular, universalist-particularist account of human rights advocacy on the one hand and a religious particularist-universalist account on the other. The former sets out a framework for the reasonableness and naturalness of human rights advocacy, with all its implications for political recognition of the fundamental equality of all human beings in a right to life that is free from discrimination and open to flourishing. Such a framework is already implied in the everyday way in which we negotiate with our neighbours for shared resources and common action, and in the way we intrinsically understand that in order to build the trust that is required for such common action, we must acknowledge the importance of the testability of our claims about the world by showing that we can persuade others who can make their own minds up freely and in an informed way. Free and informed public consent to our views is a good sign that they should be taken seriously. Our own credibility is bound up with such testability, which in turn is an important factor in what it is that we can achieve in the world, for ourselves and for and with others. This is what Habermas himself likes to term a 'post-traditional ethics'.⁴⁴

And so what of the 'traditional', the particularist, paradigms of a universal human ethic? What of the religious advocacy of human rights, based on sources which are held by their respective communities to be revealed and therefore authoritative in some ultimate sense? Do these seek to show that rights are reasonable and natural? Clearly

⁴² Habermas, *Pragmatics of Social Interaction*, p. 60.

⁴³ Habermas, *The Inclusion of the Other*, p. 41.

⁴⁴ For the relation of his work to the Judaeo-Christian tradition, see the essays in Habermas, *Religion and Rationality* (Cambridge: Polity Press, 2002) and Habermas, *The Future of Human Nature* (Cambridge: Polity Press, 2003). See also his dialogue with Joseph Ratzinger, *The Dialectic of Secularism: On Reason and Religion* (Ft Collins, CO: Ignatius Press, 2007).

not; at least not in ways that are comparable to Habermas' analysis of the ethical implications of discourse as such. The Christian (for instance) 'evidence' for a universalist compassion rest on prior personal commitments of a fiduciary kind. They only 'work' within such a context, and have limited if any purchase in the secular world beyond it. And yet as a form of communicative *practice* (the 'how' of communication rather than the 'what') Christian human rights advocacy can have a very special nuance. It can, indeed it *needs* to go beyond its own discourse community if it is to be faithful to its own revealed source. The *transformational* implications of revealed religions (the understanding that the recipients of the revelatory communication will be *changed* by it in terms of values, life-orientation and practices or behaviour) means that commitment to a rights advocacy can take on a quite unusual intensity. Moreover, that intensity can manifest in a particular way when it leads to a contestation of the apparent institutional interests of the discourse community itself. It is exactly this nuance that comes to the fore, remarkably, in Friar Antón Montesino's great sermon of 1511, which shook and shocked the Church of his day. It is one thing to advocate human rights from the 'neutral' land of non-belonging, and it is another to advocate human rights against the apparent interests of the very institution of which one is a part and on which one is dependent for one's own identity (not to mention food and lodging). This advocacy, which we can call the prophetic advocacy of Friar Antón Montesino or Bartolomé de las Casas, or any of their modern followers, stands in a real relation to Habermas' 'discourse ethics' but it is nevertheless a remote one. Religious rights advocacy can have an intensity and an urgency in its universalism which goes far beyond what is 'reasonable and the natural'. It can turn even upon itself, and thus become a contestation of where the real 'interests' of its own institution lie: it calls into question current assumptions about the nature of the Church. It points prophetically to some other, more radical notion of Church, and thus evidences the passion for reform which is the uniquely subversive language of those who belong.

In sum therefore, we can say that a naturalist, language based account such as Habermas' 'discourse ethics' points to a weak predisposition to compassionate attitudes and acts on the part of human beings who are already fundamentally socialised into empathetic relations with others through language use in its social ramifications. We can add to this arguments from language acquisition and the neural properties of the brain which accompany cultural transmission, with effects that inform human behaviour more broadly. A religious advocacy of human rights, on the other hand, has the potential to realise itself as a universalist altruism which puts the advocate at risk and registers a much higher level of intensity, even putting them at odds with the religious body of which they are themselves committedly a

part. It is not clear how the Habermasian model, as a paradigm of the reasonable and the natural, can inspire an individual to put themselves radically at risk for the sake of the other. Christianity, on the other hand, as an example of religious rights advocacy, has strong resources for supporting the individual in radical action or speech for the sake of the other, even – in prophetic cases – when it is the mission of the Church of the day itself which is called into question.

What then is the relation between these two registers of engagement? That is the question we must ask before we can address the final problematic of whether they can and should form an alliance?

Let us return to Christianity as a religion which thematises compassion as an ideal of human life. It is unquestionably the case that scripture sets compassion as a primary quality of both divinity and human holiness, which is a sharing in the life of the divine. But it does so in very specific terms. Compassion is notably missing from the traditional list of virtues, for instance. It is not properly speaking a virtue to be practised amongst others therefore. There is no one identifiable act that is compassionate (such as forgiveness, or almsgiving, or visiting the sick); rather all good acts towards others can be said to be compassionate to the extent that they embody an intentionality which recognizes the suffering of another, is moved by it and seeks to relieve it, if at all possible. Compassion then is a virtuous disposition which underlies virtue but is not to be identified with it *tout court*. This makes it similar to Thomas' *synderesis*, which is to say something in us that constitutes an unquenchable propensity towards the good, and away from evil, but which is so fundamentally embedded within us as a virtuous disposition that it defies more precise definition.⁴⁵ For Thomas, *synderesis* was precisely not *conscientia* which was the domain of rational calculation of the good within specific contexts. In its actualised form as virtue then, compassion would be the unity of *synderesis* and *conscientia*. In its universal and potential form, it would be like *synderesis* alone.

What then is compassion? What I would like to suggest is that 'compassion' is the thematisation of what, on the basis of our reflections upon empathy, mirror neurons and language, we have seen to be a faculty of empathy, which is constitutive for all human beings, and which thus grounds a potential universal ethic. Compassion is the determination of this empathetic constitution for its realisation in altruism and virtue, rather than cruelty and maliciousness, or indeed, as most commonly happens, in the no man's land of the uncommitted. As a determination, it undoubtedly requires fostering and a cultural environment which identifies and supports it, as practice and ideal. And yet still it remains implicit, as a universal possibility within

⁴⁵ E.g. ST 1. q.79.a.12.

human kind. Thus Martha Nussbaum can speak of compassion, pointing to its ordinariness, as ‘the basic social emotion’⁴⁶, while Paul Ricoeur describes it as ‘the paradox of the exchange at the very place of the irreplaceable’.⁴⁷ It is both natural and miraculous.

Religion and Rights: a Future Orientation

If a natural Habermasian or other account of human rights can support the idea that compassion is *an intensification of the sociality of language itself*, then we need perhaps to acknowledge that the cultural processes which offer the best possibility of realising the sociality within us along positive rather than negative, or indeed indifferentist lines, are the great world religions which put the ideal of compassion at the forefront of human existence. That intensification does not take place of itself. It requires culture, support, pedagogy and effort; it requires decision.

In his study *Can Human Rights Survive?*, Conor Gearty speaks of the appeal of a human rights culture, which can support the future of rights and their values, in the following terms. They are ‘a particular view of the world that we share with others and that we aspire to share with still greater numbers of people. That view is one rooted in the simple insight that each of us counts, that we are each equally worthy of esteem. This esteem is not on account of what we do, or how we look, or how bright we are, or what colour we are, or where we come from, or our ethnic group: it is simply on account of the fact that we are’.⁴⁸ If Gearty is right in his analysis of the threat to human rights in our world, from the lack of an authoritative philosophical context, an excessive reliance on legislation divorced from popular consent, to the current crisis in ‘national security’, then the development of such a robust ‘human rights culture’ becomes imperative. An allegiance to the cause of human rights which are aimed at protecting the dignity of all human beings, by protecting them from discrimination and creating conditions in which human lives can flourish, is, as Conor Gearty puts it, ‘an Esperanto of the virtuous’.⁴⁹ Human rights are something with which religions which advocate altruism should be concerned and engaged. An alliance between the powerful cultural-ethical forces represented by the global world religions, and a human rights agenda, becomes highly desirable. Very obvious points of tension remain between Catholic Christianity and a

⁴⁶ See note 26 above.

⁴⁷ Paul Ricoeur, *Oneself as Another* (Chicago: University of Chicago Press, 1992), p. 193.

⁴⁸ Gearty, *Can Human Rights Survive?*, p. 4.

⁴⁹ Gearty, *Can Human Rights Survive?*, p. 157.

secularist human rights agenda, of course, which can rapidly become overt political conflict, as we have seen recently in the case of the non-exemption of Catholic Adoption Agencies from Equality Legislation (2007), with prejudicial effects for the viability of the valuable work of these agencies. Nevertheless, even such cases can be taken as an exploration and a deepening of the range of human rights, beyond the community of those who claim them on their own behalf.⁵⁰

But there are other reasons for seeking alliances between secular and religious advocacy of human rights. There may, for instance, be lessons to be learned for society more generally – in so far as we wish to be and to consolidate ourselves as a society in which human rights are or can become foundational – from the pedagogy of religions: from how they understand the transmission of what philosophers like to call ‘moral knowledge’. Compassion cannot be taught; it is communicated more indirectly and more subtly, through narrative and example, for instance: through illustration. Talk of compassion quickly wearies us, while acts of compassion fascinate us with the vision they evoke of what ordinary human beings (and therefore ourselves) are capable of. It may be that future political leaders will feel the need to address criminality, for instance, in more radical, prophylactic ways, by consolidating the ‘basic social emotion’.

It may also be that the prophetic moment in organised, traditional religion can point the way to a reform impulse in secular rights activism. Prophecy reminds us that the messengers are themselves circumscribed by and answerable to the message. There is enough of the ethical in the support of human rights to require consistency between the ‘how’ and the ‘what’ of its propagation. As an institution, organised religion understands that particularly well.

And thirdly human rights are likely to prove a key instrument in the extension of the rule of law and of enlightened civil order in a globalised world that is out of balance with the glaringly unequal distribution of resources. As a world community, we face deep challenges in terms of decisions about birth and death (euthanasia), as well as the limits of genetic ‘design’. We face the challenge of climate change and world hunger. As Conor Gearty points out, human rights are a key resource in coming to terms with practical decisions with far reaching consequences.⁵¹ Many of these issues, from the threatening extinction of species and destruction of habitats, to questions about free speech and internet, or interventions in places of severe human rights abuses, are global in kind and, in many cases, beyond the reach of any controlling context but that of international law. As a global community, we all have an investment in the strengthening

⁵⁰ This issue is one to which I hope to return in a future paper.

⁵¹ Gearty, *Can Human Rights Survive?*, pp. 140–57.

and development of law, based as extensively as possible, in communities of mutual recognition, in which one affirms for the other a basic equality of voice and of right.

Oliver Davies
Professor of Christian Doctrine
Chesham Building Strand Campus,
King's College London,
Strand, London WC2R 2LS
Email: oliver.davies@kcl.ac.uk