

RIGHTS WITH RESERVATION

By Gabriel Moran

I am somewhat embarrassed to admit that I do not really believe in human rights. I am not against the idea. I cannot imagine any human being who is. It is just that I do not believe in the idea of human rights with bedrock faith as a building block for a system of ideas or a community of people. I am skeptical of anything that seems only too easy to endorse. The literature on human rights these days is similar to ecological writing. One is expected to applaud the idea instead of raising critical questions about it. The writing in both areas is heavily sermonic. As a result, the inflated language does not seem to do much other than draw applause from the already converted.

The idea of human rights is especially crucial for those of us in the United States, the country that speaks as if it invented the idea. Certainly, the United States talks the most on the subject, acting as international preacher (with words and bombs). This irritates other countries to the degree that they do not share the cultural assumptions of the United States. Thus, China, a frequent object of United States criticism, has issued its own human rights report on the United States, attacking the U.S. failure to provide for the sick and homeless.

No one in the United States took seriously Chinese criticism; such criticism could be dismissed by saying that China was simply avoiding its own problems. The same cannot be said for the March, 1999, meeting of the United Nations Human Rights Commission. The fifteen member European Union submitted an anti-death-penalty resolution. No one had to guess who the resolution was directly aimed at. In the United States, 38 states have the death penalty; 3500 people are currently on death row.

Worse still, at the same meeting was a report of Amnesty International which each year targets a half dozen nations as the worst violators of human rights. For the first time the United States joined Algeria, Cambodia and Turkey among others. The Secretary General of Amnesty International said: Human rights violations in the United States are persistent, widespread and appear to disproportionately affect people of racial or ethnic minority backgrounds. Something deeper than political imperialism is involved in the startling differences around the idea of human rights. Where does the idea come from and what does it mean?

A new British Library opened in 1998 in London. It finally provides a properly exalted setting for the Magna Carta, the document of 1215 which

arguably begins the idea of rights. The note of explanation next to the document begins: **A**he Magna Carta is a disappointing document. It contains none of the sweeping principles of the Declaration of Independence. **@**I suspect that there is a bit of British irony here. The British value their long political tradition and are well aware that there would have been no Declaration of Independence without that tradition.

The Declaration of Independence starts with a well-known pronouncement **A**hat all men are created equal; that they are endowed by their Creator with certain inalienable rights. **@**The body of the Declaration, however, is a series of accusations which are critical of one English king at one moment of history. The citizens of British America were appealing to parliament to defend their rights against the King George III, rights that had been guaranteed by the **A**lorious revolution **@**f 1688. Although the United States dates its origin to 1776, the Declaration had little political effect, except to bring the French into the war. What established the United States was not the Declaration but instead the prosaic details of the Constitution and its so called Bill of Rights.

Declarations of universal principles are not worth much without a political tradition preceding them and a political-judicial system to enforce them. The Magna Carta itself was a conservative document. It articulated long established conventions of feudal society in common law. For example, it very specifically excluded imprisonment without a trial. It also established a 25 person committee, including the Mayor and the Archbishop of London, as a check on the king's power.

It was not until the end of the 13th century that **A**parliament **@** could be said to be in existence. King Edward I established parliament as a consulting body to strengthen his own royal powers. But as happens when political bodies grow in urban environments, parliament in the course of a century became a force to be reckoned with. By the end of the 14th century there were three different parts of parliament: the clergy, the king and his barons, the knights of shires and burghers. This last was condescendingly called **A**he Commons, **@** but from it came the base for political power.

In 1376, the Commons refused money to King Edward III. They did not send petitions but instead they made demands. One of their actions was to send away the King's mistress. Their action was called, *ampeschement*, in Norman French, which means embarrassment. It was the first but it was not the last time that a parliament has embarrassed a king or president by the process of impeachment.

The main tool which the United Nations has had is embarrassment. The hope is that if horribly evil actions are brought into the view of the community of nations, the perpetrators will be ashamed to be exposed in their nakedness. It is encouraging that the process does sometimes work, especially when those who are doing the embarrassing make good use of the television and the Internet.

In this new world of shaky state authority, new entities have grown up whose power to embarrass is sometimes more effective than is military might. Amnesty International or Greenpeace get respect by moral authority and can lobby in defense of the vulnerable. One should note, however, that any kind of authority takes time to develop and, even after it has come into existence, the life of a political and moral tradition is always fragile. Like a great work of art, innumerable people may have contributed to the preservation of political tradition, but the slashing of one crazed person can undo the work of generations.

The relation of art and political tradition is more than a mere analogy. People's lives are stabilized by the names of places, the architecture of their public space, the music, painting and theater that dwell in a community. A worrisome aspect of the U.S. bombing of cities such as Belgrade and Baghdad is the destruction of ancient settlements and priceless art, some of which goes back more than a millennium. Even if no civilians were killed - an impossibility - the destruction of a place and its traditions is horrifying; it is precisely, a crime against humanity.

Like many people in the United States I was surprised when Sunday night broadcasts of the British Commons appeared on our television. The surprise was the raucous and disorderly behavior of members of Parliament. But one gradually comes to sense that there is an order within the disorder. Seven hundred years of practice provides rituals for lively expressions of disagreement that do not tear the political fabric. One does not have the same confidence on seeing two members of the Duma in Russia having a fist fight. The Russians need 700 years of experience that they don't have.

The idea of rights started out as very specific protections against the power of the king. One can easily replace king with president or legislature or court. The development of this idea throughout the world is surely to be applauded. But I am skeptical about the attempt to proclaim a universal human rights. Who or what are these rights against? Implicit in the 17th century was the belief that humans have rights against the nonhuman world. This presumption has collapsed or is at least becoming blurred just as the political side has revved up.

Inevitably, one must come to a religious question: who or what is the ultimate basis for claims of right and wrong. Is there a common human good that grounds the idea of a human right to participate in that good? The seventeenth century began replacing God with humanity (Aman@). What men have always worshiped, Durkheim argued, was Society@s represented by a god. Intellectuals of the 18th and 19th centuries believed that religion was disappearing and that, with the disappearance of religion, there would be peace.

The history of the 20th century has cast serious doubt on that fervent belief. The divisiveness of religion is back (it never left, just went out of the journalist's sight); modern humanism never succeeded in being an adequate replacement for religion. Many of the wars in the world are indeed religious in nature, but religion can also deal with mundane details in ways that can support *this* child, *this* necessity of life over against *this* oppressive government. Religion is here to stay. That may irk many intellectual leaders but they nevertheless have to investigate how religion and morality are related, and how religion can be a support of human rights by grounding the language of morality in the practical world of human dependence.