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**Choosing our Gods and Demons
Christianity, Disenchantment and Human Rights Discourse**

by

Clinton T. Curle

A thesis submitted to the Faculty of Graduate Studies and Research in partial fulfilment of
the requirements of the degree of

Master of Arts (Legal Studies)

Department of Law
Carleton University
Ottawa, Ontario, Canada

September, 2001

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**Choosing our Gods and Demons
Christianity, Disenchantment and Human Rights Discourse**

Submitted by Clinton T. Curle
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Master of Arts (Legal Studies)

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Abstract

Is there any compatibility between current human rights discourse and Christianity?

The present thesis seeks to answer this question at a theoretical level as a necessary precondition to any practical rapprochement between the two universalizing moral frameworks. In order to answer this question the author proposes an interpretation of human rights discourse from the perspective of Max Weber's theory of disenchantment which understands the human rights movement as the West's ongoing attempt to create/discover meaning in the vacuum left by the disappearance of the shared Christian metaphysical framework. With this understanding of human rights, the thesis turns to the work of Ernst Troeltsch in order to establish the requirements for a synthesis of human rights culture and Christianity. These criteria are then used to analyze Max Stackhouse's suggestion that the human rights movement requires public theology as a validation necessary for the survival of human rights. The author concludes that Stackhouse's proposal is a satisfactory compromise, but that this compromise has a high price for both sides; human rights culture must relinquish the immanent orientation which is inherent in Modernity, and Christianity must "liberalize" by adapting its notion of authority when it engages the political sphere of pluralistic society. The author anticipates that the price is too high for both sides in relation to the perceived benefits of such a synthesis.

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Choosing our Gods and Demons

Christianity, Disenchantment and Human Rights Discourse

Introduction

The rationale of this thesis rests on the intuition that current human rights discourse represents Western society's vigorous attempt to make the Modern ethos habitable for human beings.¹ That is, our rights-talk presents us with a window through which we can understand who we are, who we were, and the tensions between our intellectual and social past and present. Like all intuitions, it is simply indefensible in itself. It is a hunch. The only way to legitimize intuitions is to follow them and see whether they lead to conclusions that correspond to reality as we experience it. John the Apostle challenged skeptics with the prophetic call to "taste and see that the Lord is good!" So it is with all rivals for presuppositional starting-point. To put it in more secular (but equally culinary) terms, the proof of the pudding is under the crust.

The task of thinking about human society as a whole increasingly comes to us as an imperative. The growth of international trade and the interpenetration of national economies, the increasing transnational movements of people, the ease of international

¹We use the nouns "Modern" and "Modernity" as referents to what we, as a society in the West have become. Modernity is the principle of Western society. Krishan Kumar offers this definition: "It was industrial and scientific. Its political form was the nation-state, legitimated by some species of popular sovereignty. It gave an unprecedented role to the economy and economic growth. Its working philosophies were rationalism and utilitarianism. In all these ways it rejected not just its own past but all other cultures that did not measure up to its self-understanding." Krishan Kumar, "Modernity," in The Blackwell Dictionary of Twentieth-Century Social Thought, William Outhwaite and Tom Bottomore, eds. (Oxford: Blackwell Publishers, 1994), 392. See *infra*, pp 10-12.

communication and travel, and the rise of transnational organizations and corporations, all of which is commonly summed up under the term “globalization,” require us to reflect on the human condition in its most general sense. This exercise of considering the world is absolutely necessary if we are to understand anything about ourselves as social beings in the present milieu.

As we consider the world and reflect on the large-scale forces at work in human society, we find that at least some of these forces are not difficult to identify. Two of the most obvious social forces are religion and law. The question of how these two great forces have interacted, and how they might interact in the future, forms the general topic of inquiry for this thesis .

Thesis Question and Definition of Key Terms

Analysing such a grand question in general terms is impossible, not least due to the wide variety of expressions and understandings that can exist in relation to both law and religion. It is necessary to restrict the scope of the inquiry while maintaining the hope that the conclusions of the inquiry will hold some relevance for the general question. We will thus consider not law and religion *per se*, but narrow our focus to current human rights discourse and Christianity. By current human rights discourse we mean the international movement which started in the wake of World War II and continues to the present, the central concern of which is to assert legally enshrined human rights universally. As for Christianity, it is infamously difficult to define. In light of the widely divergent forms of Christianity, it will be adequate for the purposes of this paper to define Christianity in its

widest sense, as that religion which confesses (in whatever fashion) that the Jesus described in the New Testament (however interpreted) is saviour (however understood). Defining human rights and Christianity so generally orients this thesis toward generalized, theoretical conclusions. The advantage of such conclusions is that they are of wide relevance; the detriment is that they do not translate easily into “policy positions.”

To further narrow our inquiry, we will attend to only one question of all those possible to ask regarding human rights and Christianity. Is there potential for compatibility between Christianity and current human rights discourse? Or, to put it negatively, are Christianity and human rights discourse competing ways of living in society?

Theoretical Framework and Analytical Technique

There are a wide variety of angles one could take to answering this question. We propose the following approach. Working from the concept of “disenchantment” given to us by Max Weber, we will first set forth an interpretation of human rights discourse from this point of view. In order to accomplish this, it will be necessary to position Weber in the context of the intellectual history of Europe, succinctly describe Weber’s secularization thesis and its implications in light of the dominant concept of “rationalization” in Weber’s thought, and then offer an interpretation of human rights discourse derived from our analysis.² This task will form the first chapter of the thesis.

²At this point, it would be helpful to offer some working definitions of three of Weber’s key terms. These concepts will be revisited in greater detail in the next chapter. In Weber’s work, “secularization” describes the process in which concepts or practices

The whole point of this exercise is to understand current human rights discourse in terms that render it capable of being discussed in a religious structure of understanding. By making the implicit secularity of human rights explicit, we avoid the radical conceptual disjointedness between religion and rights that tends to automatically reduce such discussions to simplistic either-or approaches. This is not to assert that human rights is a form of “religion.” Rather, we are using Weber’s secularization thesis in an instrumental way so as to render a deep inquiry into the relationship between human rights and religion possible. It allows us to both chart the historical evolutionary links between Christianity and human rights in the West, and also to see the similarities and differences between them.

It should be noted that this section is not intended to describe the actual historical transformation of rights-talk from its original rootedness in Natural Law doctrine to its present secular articulation. This fundamental theoretical shift is assumed. Rather, the focus of this first section is on understanding what human rights are as a secular phenomenon. Toward this end, we will refer to notable figures in the history of ideas in

which were formerly embedded in a religious metaphysical foundation are removed from this foundation and continue to persist in society in a way divorced from their original religious foundation. Weber’s most famous example of secularization is his theory that the Protestant work ethic, which was formerly anchored in the need to assure oneself that one was chosen by God for salvation, has evolved into capitalism. Weber saw secularization as the operation of “rationalization” in the area of religion. For Weber, rationalization described the process of coming to understand the world in terms of fixed rules and immanent explanations. “Disenchantment” is the end result of secularization. It describes the spirit of society after all religious, transcendent explanations are marginalized or rendered untenable by the process of rationalization.

the West, only so far as they enable us to understand Weber better.³

With human rights set forth in this theoretical framework, we will be in a position to ask whether there is any sort of compatibility possible between rights and Christianity. We will approach this question via the work of theologian and social theorist Ernst Troeltsch.⁴ Troeltsch was a close companion to Weber, and much of his work was done in response to Weber's theories of religion and society.⁵ Given Troeltsch's relationship to Weber and the relevancy of his intellectual concerns to our inquiry, his struggle to hold together Christianity and Modernity provides us with a way to explore the potential for compatibility between human rights and religion.

³There have been rigorous critiques of Weber's system of thought from other theorists such as Leo Strauss and Eric Voegelin. We will not deal with these critiques in this essay.

⁴Ernst Troeltsch (1865-1923), German theologian, sociologist, and philosopher of religion, taught at Bonn (1892), Heidelberg (1894-1913) and Berlin (1914-23). From D. Lyle Dabney, "Troeltsch, Ernst," in The Biographical Dictionary of Christian Theologians, Patrick W. Carey and Joseph T. Lienhard, eds. (Westport, CT: Greenwood Press, 2000), 511: "Born into the bourgeois home of a prominent physician in Augsburg, Troeltsch took his central concern the emerging crisis of values, which he--along with many others in the last quarter of the nineteenth century--perceived as undermining European Christendom. Convinced of the centrality of the role played by Christianity in Western history in the development of the notion of individual freedom, its highest value in his estimation, he undertook a wide-ranging investigation of the relationship between church and culture in an effort to lay a new foundation for the ethical norms of Christianity as a defence against what he saw as the Modern threats to such freedom: technology, capitalism, and governmental bureaucratization. Thus, he sought to identify and ground a set of common ethical values associated with the notion of freedom that could serve as a basis for an increasingly fractured society."

⁵In terms of the accessibility of the writings of both Weber and Troeltsch, there have been English translations of almost all of their major works, and most of their minor works. Additionally, there is a massive library of commentary on both thinkers.

It should be noted at the outset that Troeltsch is working from within the tradition of “liberal” Christianity, and as such cannot be considered representative of all Christians, much less a representative of all religions. This is a problem endemic to the exclusive use of any theologian for an inquiry such as ours. Because of this unavoidable problem, we will use Troeltsch not as a model for an ideal synthesis of human rights discourse and Christianity, but rather as a way to identify the issues at stake in any attempt at synthesis of this kind.

In light of the foregoing discussion, the second section will proceed like this: After setting Troeltsch in his intellectual context, particularly with regard to Weber on the one hand, and liberal Christianity on the other, we will explore Troeltsch’s thought by a chronological review of his treatment of the idea of “the rights of man” throughout his career. The third and final chapter will build on our understanding of the problems and potentialities of a synthesis between rights-culture and Christianity arrived at through our analysis of Troeltsch by taking up a debate between two Modern rights theorists. Max Stackhouse, working from a Troeltschian paradigm, proposes a synthesis of Christianity and rights-culture. Louis Henkin disagrees with him, regarding the two as competitors. The paper will end with a discussion of the potential for compatibility between Christianity and human rights culture.

Chapter 1. Weber, Secularization and Human Rights

1. Understanding Weber

The governing assumption of this chapter is that Max Weber was a prophet of the twentieth century. Writing at the turn of the century, he was able to comprehend the sum of eighteenth and nineteenth century philosophy and to discern where this would lead us in the twentieth century. The goal of the present chapter is to get to know Weber and to draw from his thought the concepts that are particularly applicable to our present quest. After placing Weber in his theoretical setting in relation to Nietzsche and Marx, we will focus on the notion of disenchantment and the related concepts of rationalization and secularization as they appear in Weber's writings. But before proceeding to Weber, we will first offer a very brief description of legal theory as it was prior to the Modern period, in order to better understand Weber.

A. The traditional metaphysics of Law in the West

To adequately understand the flow of juridical thought in the West, it is helpful to understand the background of legal theory prior to the Modern period. The purpose of this short section is to delineate the basic shape of natural law as it was worked out by Aquinas.⁶ Our goal here is not to provide a definitive statement on Thomistic jurisprudence, but simply to provide a background for the sections to follow. This is the

⁶Why Aquinas? It is commonly acknowledged that all of the religious Natural Law theories are merely variations on the elaborate articulation of the nature of law set forth by Aquinas.

beginning of our story.

The following pithy quotation captures the heart of natural law theory in its Medieval manifestation. In scholastic form, Aquinas always conducts his argumentation in the form of questions and answers. In response to the question, “Whether there is in us a Natural Law?” Aquinas presents the following reply, based explicitly on a statement made by the Apostle Paul in Romans 2:14 regarding the “requirements of the [Mosaic] law written on the heart”:

Wherefore, since all things subject to Divine providence are ruled and measured by the eternal law...it is evident that all things partake somewhat of the eternal law, in so far as, namely, from its being imprinted on them, they derive their respective inclinations to their proper acts and ends. Now among all others, the rational creature is subject to Divine providence in the most excellent way, in so far as it partakes of a share of providence, by being provident both for itself and for others. Wherefore it has a share of the Eternal Reason, whereby it has a natural inclination to its proper act and end; and this participation of the eternal law in the [very nature of the] rational creature is called the natural law. Hence the Psalmist after saying (Ps. 4:6): *Offer up the sacrifice of justice*, as though someone asked what the works of justice are, adds: *Many say, Who showeth us good things?* in answer to which question he says: *The light of Thy countenance, O Lord, is signed upon us*: thus implying that the light of natural reason, whereby we discern what is good and what is evil, which is the function of the natural law, is nothing else than an imprint on us of the Divine light. It is therefore evident that the natural law is nothing else than the rational creature's participation of the eternal law.⁷

This quotation encapsulates the foundational assertions of natural law theory. The following article adds the important next step, that

...just as, in the speculative reason, from naturally known indemonstrable

⁷Thomas Aquinas, “Question 91, Second Article,” *Summa Theologica*, The Fathers of the English Dominican Province, transl., in Peter Kreeft, *A Summa of the Summa: The Essential Philosophical Passages of St. Thomas Aquinas' Summa Theologica Edited and Explained for Beginners*, (San Francisco: Ignatius Press, 1990), 504.

principles, we draw the conclusions of the various sciences, the knowledge of which is not imparted to us by nature, but acquired by the efforts of reason, so too it is from the precepts of the natural law, as from general and indemonstrable principles, that the human reason needs to proceed to the more particular determination of certain matters. These particular determinations, devised by human reason, are called human laws.⁸

We can sum up the essence of natural law theory in three assertions, based on the above quotations from the Summa. 1. There is an eternal, divinely inspired order which governs the cosmos. We can dissect this assertion into two separate ideas. First, this order is considered to be a “law” because its source is the decrees of a God who reigns sovereignly over creation. Second, this order defines what is “natural,” or in other words, it establishes teleological ends for the various components of the cosmos, including humankind. The former idea is Judeo-Christian; the latter Classical Greek, particularly the Stoic tradition.⁹ 2. This order, or “natural law,” is knowable to humans via their “natural inclination” to use reason to judge between good and evil. Implicit within this assertion is the *telos* of humankind. We are rational animals whose natural end is to will the good. Again one sees the interpenetration of Classical and Judeo-Christian ideas. 3. Human laws are reasoned extrapolations from the natural law. Aquinas presents a more nuanced interpretation of this relationship elsewhere, but the basic tenet is essential to natural law theory.¹⁰

⁸Ibid, 504-5.

⁹On the identification of nature with destiny in Stoicism, and the identification of nature with reason in humans, see Charles N. Cochrane, Christianity and Classical Culture (London: Oxford, 1940), 165-6.

¹⁰The precise nature of the relationships between human laws, natural law and the eternal law is debatable. Without entering into these debates, we may safely say that there

This conception of the transcendent ordering of the world and of humanity produced a clear vision of the nature and purpose of human laws. Human laws were intended to be reasoned conclusions regarding the common good, based on the divinely established nature of things. The quotations above show the extent to which the understanding of law was theologically and metaphysically oriented in the thought of Aquinas, and in all of Europe prior to the Enlightenment.

B. Nietzsche, Marx and Weber: The Modern Crisis of the Loss of Transcendence

This section, like the previous one, is intended to assist us in setting Weber in his intellectual context as a step toward understanding his thoughts in their application to human rights. The question at hand is why the Thomistic account of law, which held within itself the traditional wisdom of the Ancients as well as of Christianity as it had been handed down in Western Europe, was challenged in European thought.¹¹

Of course, it is quite impossible to provide both a short and defensible answer to this question. The issues are just too complicated. Nevertheless, it is helpful for our purposes to at least set before us a rough outline of the development and shape of Modernity if we are to understand Weber. Given the hopelessness of furnishing a brief and adequate account of Modernity, we will restrict our comments to the Enlightenment,

is some sort of tie between “God’s plan” and human laws, and that this is the kernel within the nut of Aquinas’ treatment of law. For an interesting analysis of the said debate see Ludger Honnefelder, “Rationalization and Natural Law: Max Weber’s and Ernst Troeltsch’s Interpretation of the Medieval Doctrine of Natural Law,” Review of Metaphysics 49 (December 1995), 275-94.

¹¹This is not to say that the Natural Law approach is now extinct.

understood as that historical development, occurring mostly in France, during the eighteenth century which precipitated the French Revolution of 1789.

In the most general terms, the Enlightenment marks the rise of a new framework of ideas regarding humankind, nature and human society which were different from the traditional world-view of the West dominated by Christianity.¹² The very name, “Enlightenment,” provides us with a handy, if overly optimistic, metaphor to help understand this development. It suggests bright rays of reason shining forth, illuminating shadowy areas formerly haunted by ignorance and superstition. This new framework of ideas found expression in virtually every arena of human existence.

One of the core features of the Enlightenment was the desire to replace religious authority with knowledge derived from experiment and reason; i.e, science. Out of this shift in authority there grew a new enthusiasm for technology, leading to progress, understood as the infinite enhancement of human happiness and liberty. The Enlightenment required a new way to understand law, a way that was “scientific” in nature, as opposed to being derived from “revelation.” Thus, within the framework of the Enlightenment, theories of natural law were untenable, at least in their Thomistic

¹²The following paragraph is a very loose summary of Peter Hamilton, “The Enlightenment and the Birth of Social Science,” in Modernity: An Introduction to Modern Societies, Stuart Hall, David Held, Don Hubert, and Kenneth Thomson, eds. (Oxford: Blackwell Publishers Inc., 1996), 19-54. This essay illustrates all of the difficulties inherent in trying to summarize large intellectual movements. Gross and even misleading oversimplifications are festooned across every page. This is unavoidable in such an undertaking. Even so, these sorts of attempts are helpful. The benefits of having at least a general “feel” for the intellectual trajectories outweigh the detriments which inhere in such summaries, so long as one is aware of the necessarily inaccurate nature of such efforts.

formulation.

Perhaps the most consistent herald of this change from religiously derived authority to scientific authority was Friedrich Nietzsche.¹³ Nietzsche's famous dictum: "God is dead, and we have killed him" captures the crisis of thought which attends the shift from a divine, transcendent intellectual centre to one which was anthropological and immanent.¹⁴ By locating the essence of the Modern spirit in Nietzsche, we do not mean to imply that Nietzsche was in any sense representative of the ocean of scholarship produced from the Renaissance to now. In fact, he was highly critical of the mainstream liberalism produced by Modernity, due to its ultimate reliance on some form of transcendental, knowing subject which is removed from phenomenal life.¹⁵ These philosophical constructs Nietzsche regarded as both inconsistent and unreal. What we are asserting is simply that of all the well-known scholars in the Modern era, Nietzsche most consistently thought through the ramifications of the Modern project and its relationship with all that went

¹³On Nietzsche's rightful place as the high prophet of Modernity, see George Grant, Time as History, (Toronto: CBC, 1969), 24-27.

¹⁴Friedrich Nietzsche, "The Gay Science," in The Portable Nietzsche, Walter Kaufmann, transl. (New York: Penguin Books, 1982), 93-102 at 95-6.

¹⁵

All such theories rely on Kant's division between the phenomenal object and the object-in-itself, between empirical knowledge and "pure" knowledge. Writes Kant: "...certain of our cognitions rise completely above the sphere of all possible experience, and by means of conceptions, to which there exists in the whole extent of our experience no corresponding object, seem to extend the range of our judgments beyond its bounds. And just in this transcendental or supersensible sphere, where experience affords us neither instruction nor guidance, lie the investigations of *Reason*..." Immanuel Kant, "Critique of Pure Reason," in Immanuel Kant: Philosophical Writings, Ernst Behler, ed. (New York Continuum Publishing Co., 1986), 3-51 at 24.

before.¹⁶ Of significance to the project at hand is Nietzsche's clear break with all things Christian in his search for an alternative vision for a radically secularized human culture.

For example, Nietzsche's corpus is replete with statements such as these:

The problem I thus pose is not what shall succeed mankind in the sequence of living beings (man is an end), but what type of man shall be bred, shall be willed, for being higher in value, worthier of life, more certain of a future...from dread the opposite type was willed, bred and attained: the domestic animal, the herd, the sick human animal--the Christian....¹⁷

Along with Nietzsche we would do well to consider Marx as a paradigmatic Modern. If Nietzsche thought through to the ends of Modernity most consistently, Marx *was* Modernity itself. The Materialist point of view which Marx so fully propounded is an excellent example of a system of thought that was completely divorced from any notion of transcendence. In Marx's thought, transcendence was replaced by historical development, so that ultimate meaning regarding human existence could be found in completely immanent categories, such as class struggle or liberation from political and economic oppression.¹⁸

It is helpful, perhaps even essential, to understand Weber in light of this great transition of thought heralded by Nietzsche and manifested by Marx. Weber himself is

¹⁶See Grant, *ibid.*, ch. 3-5; and David Owen, Nietzsche, Politics and Modernity (London: Sage, 1992), ch. 1-2.

¹⁷Friedrich Nietzsche, The Antichrist, from "Friedrich Nietzsche," in Approaches to Ethics, W. T. Jones, Frederick Sontag, Morton O. Beckner and Robert J. Fogelin, eds. (New York: McGraw-Hill, 1977), 332-3.

¹⁸This viewpoint is implicit in the opening remark of chapter I of the Manifesto: "The history of all hitherto existing society is the history of class struggles." Karl Marx and Friedrich Engels, The Communist Manifesto (Halifax: Fernwood Publishing, 1998), I.

purported to have said the following statement only weeks before his death:

The honesty of a present-day scholar, and above all a present-day philosopher, can be measured by his attitude to Nietzsche and Marx. Whoever does not admit that considerable parts of his own work could not have been carried out in the absence of the work of these two, only fools himself and others. The world in which we spiritually and intellectually live today is a world substantially shaped by Marx and Nietzsche.¹⁹

Specifically, we note that in Marxian fashion Weber turned his scholarly attention to the economy, to the organization of production. And we further note that along with Nietzsche he embraced the notion of struggle as central for human existence.²⁰ That is not to say that Weber was a disciple of Nietzsche and Marx, but rather that his work took its shape in response, perhaps quite independently, to the issues that Nietzsche and Marx identified as key to the Modern ethos.²¹ In fact, Weber's strenuous rejection of the utopian aspirations of both Nietzsche's superman and Marx's proletarian revolution show him to be ultimately independent of his two great interlocutors. With that, we will now turn to Weber himself.

¹⁹Reported in Wilhelm Hennis, Max Weber: Essays in Reconstruction, Keith Tribe, transl. (London: Allen and Unwin, 1988), 146.

²⁰See Reinhard Bendix, "What Max Weber means to me?" in Max Weber's Political Sociology: A Pessimistic Vision of a Rationalized World, Ronald M. Glassman and Vatro Murvar, eds. (Westport, CT: Greenwood Press, 1984), 18-9.

²¹Weber's work stands in a complicated relationship to both Nietzsche and Marx, at once reacting against them even as he built on their respective analyses. We perhaps see in Weber more reaction against Marx and more construction on Nietzsche, but the generalization holds for both. On Weber's relationship to Nietzsche and Marx see Lawrence Scaff, "Weber before Weberian Sociology," in Reading Weber, Keith Tribe, ed. (London: Routledge, 1989), 15-41 at 18.

C. Rationalization, Religion and Capitalism: Max Weber

In the early days of the Reformation, a satirical caricature of Martin Luther was published and widely distributed. It was entitled “Seven-Headed Luther,” and displayed a picture of the Reformer with seven heads, each of which was respectively labelled according to Luther’s various vocational pursuits.²² The intent was to impugn Luther as one who was inconsistent and confused, but Luther scholars have since applauded this caricature as a tribute to the complexity of Luther’s thought. Likewise, it would not be a mistake to fancy a “Seven-Headed Weber.” Our caricature of Weber could show Weber the German Politician, Weber the jurist, Weber the critic of Modernity, Weber the promoter of Modernity, Weber the historian, Weber the philosopher, and Weber the sociologist. This does not come close to exhausting Weber’s life output, and we could easily add even more heads to our caricature. However, like Luther, Weber possessed one central insight which tied all his interests together. For Luther, this insight was the radical grace he discovered in the message of the Christian gospel. For Weber, the central and centralizing insight was the phenomena he identified as “rationalization.”

The goal of this subsection is to provide a summary of Weber’s system of thought and the key concepts in that system. Again, like the previous subsections, we are approaching our topic instrumentally. It is a means to an end. That is, we are seeking not a definitive statement on Weber but merely an outline of his basic ideas in order to better understand his thinking regarding disenchantment. In offering such a brief summary,

²²See the Introduction to Peter Newman Brooks, ed., Seven-Headed Luther (Oxford: Clarendon Press, 1983).

oversimplification is unavoidable. Our standard must be the one Weber applied to his own work in discussing the historical development of cultures other than his own: "We only hope that [the expert] will find nothing definitely wrong in points that are essential."²³

Rather than conducting a survey of the numerous second-hand summaries of Weberian thought that abound today, which would terminate in our own bland third-hand summary, we will proceed with a fresh review of the introduction to one of Weber's early major works, The Protestant Ethic and the Spirit of Capitalism.²⁴ Most of Weber's central concerns are brought forward there, particularly in their relationship to rationalization.²⁵ We will also visit Weber's conclusion to that same work, as it provides further insight into Weber's perspective.

One *proviso* before we embark on our review: although Weber was surely influenced by the historical events of his life, we will not consider these in this thesis. The issues are simply too complex to lend themselves to easy causal statements, and rather

²³Max Weber, The Protestant Ethic and the Spirit of Capitalism, Talcott Parsons, transl. (New York: Charles Scribner's Sons, 1958), 28.

²⁴*Ibid.* Further references to The Protestant Ethic in this subsection will be noted by page numbers in brackets within the body of the text.

²⁵There is some debate regarding the unity of Weber's thought, particularly if one takes the sprawling Economy and Society (infra) as Weber's final and authoritative work and seeks a controlling theme therein. We have sought to dodge the force of this paralyzing debate by taking Weber's Protestant Ethic as our opening into Weber's thought. In The Protestant Ethic we find Weber's central concerns in their most fresh and compelling aspect. The issues surrounding the unity of Weber's work are carefully discussed in Friedrich H. Tenbruck, "The Problem of Thematic Unity in the Works of Max Weber," in Max Weber: Critical Assessments, vol. 1, Peter Hamilton, ed. (New York: Routledge, 1991), 232-263.

than stating falsities we will say nothing at all about this important topic.²⁶

Weber commences his introduction with the observation that Modern European civilization understands itself as universally significant and valuable (13). Weber devotes his introduction to exploring why that is so. He approaches the question by methodologically comparing the historical development of the Occident with other cultures, past and present, and concludes that in the areas of science, politics, law, art, etc. the West consistently shows a trajectory of development that leads to systematization and "rational concept" (14f). Weber cites many examples of this development which is peculiar to the Occident. For instance,

Institutions of higher education of all possible types, even some superficially similar to our universities, or at least academies, have existed (China, Islam). But a rational, systematic, and specialized pursuit of science, with trained and specialized personnel, has only existed in the West... (15-16).

The result of this development toward formalized and rule-governed social interactions--the essence of rationalization for Weber--is that "[t]he most important functions of the everyday life of society have come to be in the hands of technically, commercially, and above all legally trained government officials." (16)

Once he has established the nature of rationalization as a historical development peculiar to the West, he turns to one of his enduring themes, capitalism. He views capitalism as "the most fateful force in our Modern life," and understands it in terms of

²⁶If the reader is interested in the contemporaneous influences on Weber, the following resources are relevant: Ilse Dronberger, The Political Thought of Max Weber (New York: Meredith Corp., 1971); Marianne Weber, Max Weber: A Biography, Harry Zohn, transl. (New York: John Wiley, 1975); and Martin Green, The Von Richthofen Sisters: The Triumphant and the Tragic Modes of Love (New York: Basic Books, 1974).

continuous rational enterprise directed toward the pursuit of profit (17). Weber admits that there has always been capitalistic activity in human society, but now, in the Modern West, it has been developed and refined to a degree which was heretofore unimaginable (20-22). It has demanded large-scale changes to society, including the “rational capitalistic organization of (formally) free labour.”²⁷ (21) Western capitalism has been influenced and facilitated by technological developments which were made possible by the rationalization of Western science; that is, by the systematic use of mathematics plus careful and consistent application of the experimental method (24-5). In turn, development in science was encouraged by economic and social considerations. Both science and capitalism, in their rational forms, were made possible by the rationalization of law and public administration which produced a calculable and predictable social environment. Indeed, this is the only sort of environment in which a matrix of rules can successfully govern. Unexpected social events are minimized under a rationalized administration and legal system, which is required to make a system of finite rules workable in practice.

From the foregoing, it becomes clear that rationalization occurred as a historical development simultaneously in all areas of human activity in the West, forming an interdependent web of rationalized social behaviours. This is true despite the fact that rationalization in different fields meant very different things, according to the ultimate ends

²⁷Here we see one of the significant distinctions between Weber and Marx. Weber regards the proletariat as one of the many products of Western rationalization, and so co-opts Marx's insight into his more general analysis of history. This is discussed almost explicitly by Weber on 23-24.

of the fields in question (26). Weber accordingly restricts his book to the consideration of the rationalization of magic and religion and the influence this rationalization had on economics (27).

All of this Weber sets forth in an aloof and objective tone. However, he concludes his introduction with this statement. Speaking of his comparative methodology, he writes:

...whoever wants a sermon should go to a conventicle. The question of the relative value of the cultures which are compared here will not receive a single word. It is true that the path of human destiny cannot but appal him who surveys a section of it. But he will do well to keep his small personal commentaries to himself, as one does at the sight of the sea or of majestic mountains, unless he knows himself to be called and gifted to give them expression in artistic or prophetic form (29).

After exploring the relationship between the rationalization of religion and economics, Weber's conclusion is that the asceticism inherent in the Calvinist branch of Protestantism has been translated into vocational specialization in the rationalized Modern society in which we live. Per Weber: "One of the fundamental elements of the spirit of Modern capitalism, and not only of that but of all Modern culture: rational conduct on the basis of the idea of calling, was born--that is what this discussion has sought to demonstrate--from the spirit of Christian asceticism." (180) What does all this mean?

We will quote the most famous paragraph from the present book in full.

The Puritan wanted to work in a calling; we are forced to do so. For when asceticism was carried out of monastic cells into everyday life, and began to dominate worldly morality, it did its part in building the tremendous cosmos of the Modern economic order. This order is now bound to the technical and economic conditions of machine production which to-day determine the lives of all the individuals who are born into this mechanism, not only those directly concerned with economic acquisition, with

irresistible force. Perhaps it will so determine them until the last ton of fossilized coal is burnt. In Baxter's view the care for external goods should only lie on the shoulders of the "saint like a light cloak, which can be thrown aside at any moment". But fate decreed that the cloak should become an iron cage (181).

The very next paragraph clarifies what Weber means by the evocative phrase, "iron cage."

Since asceticism undertook to remodel the world and to work out its ideals in the world, material goods have gained an increasing and finally an inexorable power over the lives of men as at no previous period in history. To-day the spirit of religious asceticism--whether finally, who knows?--has escaped from the cage. But victorious capitalism, since it rests on mechanical foundations, needs its support no longer. The rosy blush of its laughing heir, the Enlightenment, seems also to be irretrievably fading, and the idea of duty in one's calling prowls about in our lives like the ghost of dead religious beliefs. Where the fulfilment of the calling cannot directly be related to the highest spiritual and cultural values, or when, on the other hand, it need not be felt simply as economic compulsion, the individual generally abandons the attempt to justify it at all. In the field of its highest development, in the United States, the pursuit of wealth, stripped of its religious and ethical meaning, tends to become associated with purely mundane passions, which often actually give it the character of sport.

Weber concludes his reflections on the meaning of rationalization in Western society by holding out some hope for the future. He sees the only way out of the iron cage of rationalization and materiality to be the appearance of new prophets, or else a rebirth of old ideas and ideals. If not, then Weber sees only a future of "mechanized petrification." He writes, "For of the last stage of this cultural development, it might well be truly said: 'Specialist without spirit, sensualists without heart; this nullity imagines that it has attained a level of civilization never before achieved.'" (182)

In this brief overview of the introduction and conclusion to The Protestant Ethic Weber has introduced us to rationalization as the controlling theme in the development of the West. Again, rationalization is Weber's term to refer to the process of subjecting

human action to predictable, internally consistent systems governed by stable rules and oriented toward particular ultimate ends, or values. For Weber, rationalization has been the path of the Occident. It has transformed every area of human activity. But in doing so, it has placed upon our shoulders a compulsion, even a tyranny. We here begin to see the shape of the end result of rationalization, which Weber later labels “disenchantment.” It is a view of life that is explainable in mechanistic terms, but is without “spirit” or “heart.”

An excellent example of the process of rationalization can be found in Leo Tolstoy’s Anna Karenina.²⁸ Levin, the protagonist of the story, attends the elections in Kashin province. There is a conflict between the “old” party, dominated by the Russian Nobility, and the “new” party, eager for democratic reforms. The following scene occurs:

The Commission entrusted with the task of auditing reported to the Assembly that the sums were all correct. The Marshal of the Nobility rose and with tears in his eyes thanked the Nobility for their confidence. The nobles loudly applauded him and pressed his hand. But at that moment one of the Nobles of Koznyshev’s party said he had heard that the Commission had not audited the funds, considering that a verification would be an insult to the Marshal of the Province. A member of the Commission imprudently confirmed this. Then a small, very young-looking, but very venomous man began saying that probably the Marshall of the Province would be pleased to account for the Funds, and that the excessive politeness of the members of the Commission was depriving him of that moral satisfaction. Thereupon the members of the Commission withdrew their report and Koznyshev began very logically to prove that they must admit either that they had audited the accounts or that they had not done so, and to elaborate this dilemma. . . . The Debate continued for a long time and did not come to any conclusion. Levin was surprised that they disputed about

²⁸It is clear from Weber’s frequent references to Tolstoy that he had read him and in fact followed him in his interpretation of Christianity as an other-worldly, idealistic religion whose essence is located in Christ’s Sermon on the Mount. We can speculate how much Tolstoy influenced Weber in his analysis of rationalization.

it so long, especially as, when he asked Koznyshev whether he thought that money had been misappropriated, he received the reply: "Oh no! He is an honest fellow, but this old-fashioned patriarchal and family management of the Nobility's affairs must be put a stop to!"²⁹

While Weber presents his theory in a dispassionate manner, his conclusions reveal his deep concern over "the iron cage" of rationalized, rule-oriented society.³⁰ As Gerth and Mills note, for Weber "[r]ationality, in this context, is seen as adverse to personal freedom."³¹ Apparently his fear was that individuals living in a rationalized environment would simply retreat into small-minded personal pursuits, in "the character of sport."

Our reading of The Protestant Ethic suggests that Weber shows a very deep ambivalence toward Modernity.³² On the one hand, he regards the process of rationalization as "fateful," one gets the idea that for Weber, given the decisions of the

²⁹Leo Tolstoy, Anna Karenina, Louise and Aylmer Maude, transl. (Ware: Wordsworth, 1995), 638-9.

³⁰It is helpful to note that Weber applies the idea of rationality in many different ways. This is implicit in his analysis of religion in The Protestant Ethic. Rationalization can be discussed at a macro-level, operating on the structures of society. But it can also be discussed at an individual level, wherein the personal world view is rationalized and submitted to a consistent, rule-oriented, de-mystified system, in which the comforts of transcendent religion are absent. We will discuss this further in the next sub-section.

³¹H. H. Gerth and C. Wright Mills, transl., ed., From Max Weber: Essays in Sociology (New York: Oxford University Press, 1946), 50.

³²For a thought-provoking discussion of the various and contradictory uses Weber has been subjected to in recent social theory, in part arising out of Weber's ultimate ambivalence toward Modernity, see Asher Horowitz and Terry Maley, The Barbarism of Reason: Max Weber and the Twilight of Enlightenment (Toronto: University of Toronto Press, 1994), 4-5.

past, it is unthinkable that our present could be other than it is.³³ On the other hand, the fact that Weber is “appalled” at these developments is hardly hidden. This is so, even as Weber promotes the possibility of being “value-neutral” in his approach to social study.

Before concluding, we should make note of Weber’s particular style of social analysis. For Weber, the task of social science is to produce “concepts and judgments which are not empirical reality, nor pictures of it; but which allow us to arrange it intellectually in a valid manner.”³⁴ He relies on the use of “types” to accomplish this. Thus, Weber does not feel the need to “prove” rationalization; he only uses it as an organizational principle to make sense of the world as it is.

We will now turn to a closer look at Weber’s theory of rationalization in its manifestation in the phenomena which Weber labelled “disenchantment.”

2. Weber’s Idea of Disenchantment

A. Whence Disenchantment?

In the previous subsection we discussed “rationalization.” We will now narrow our focus to a particular facet of rationalization--what Weber called the “disenchantment

³³Weber’s fatalism: The very size and complexity of mass society and mass capitalism absolutely requires a highly rationalized bureaucracy. This bureaucracy, necessarily hierarchical, is inherently authoritarian and oppressive of individuals. See Ronald M. Glassman and Vatro Murvar, “Introduction,” Max Weber’s Political Sociology, (Westport, CT: Greenwood Press, 1984), 3-11 at 4-5.

³⁴Ilse Dronberger, *op. cit.*, 1. For further discussion of Weber’s types, particularly in comparison to models in the natural sciences, see Friedel Weinert, “Weber’s Ideal Types as Models in the Social Sciences,” in Verstehen and Humane Understanding, Anthony O’Hear, ed. (Cambridge: Cambridge University Press, 1996), 73-98.

of the world.” The goal of this subsection is to arrive at a coherent understanding of that term, and why Weber believes that it adequately describes the destiny of the Modern world. We will pursue this goal via a review of Weber’s famous lecture, “Science as a Vocation.”³⁵

Weber commences his lecture with an empirically oriented review of the vocation of science as it is in Germany. He concludes that “academic life is a mad hazard” and that mediocrity tends to prevail (134). The obvious question becomes, why pursue science as a vocation? This provides Weber with the occasion to reflect on the inward call to science, and in doing so to discuss the nature of Modern science. Weber places science within the process of intellectual rationalization, and in fact calls it the most important fraction of that process (138-9). This process, of which Modern science is the apogee, has a very significant meaning for Weber.

...[I]t means that principally there are no mysterious incalculable forces that come into play, but rather that one can, in principle, master all things by calculation. This means that the world is *disenchanted*. One need no longer have recourse to magical means in order to master or implore the spirits, as did the savage, for whom such mysterious powers existed. Technical means and calculations perform the service (139). [italics added]

Understood in this way, science and progress and disenchantment are inextricably bound together. We now have a new way of knowing, which is scientific. And with this restriction on knowing comes a restriction on what can be known. Science cannot provide answers to questions of ultimate meaning, and the intellectual rationalization, of which

³⁵Max Weber, “Science as a Vocation,” in From Max Weber: Essays in Sociology (New York: Oxford University Press, 1958), 129-156. Further references to “Science” in this subsection will be noted by page numbers in brackets within the body of the text.

science is a part, cannot permit other sorts of ultimate answers.³⁶ Individuals committed to science must restrict themselves to immanent facts and avoid delving into questions of value as much as possible. As Weber states, “the various value spheres of the world stand in irreconcilable conflict with each other,” and science simply cannot assist in making the choice between these spheres (147).³⁷

Here Weber becomes poetic. This new age of science has severed us from the old exclusivity of the “grandiose moral fervor of Christian ethics.” (149) We now suddenly understand ourselves as people with options regarding ultimate meanings, and simultaneously we suddenly understand ourselves as people who have no ultimate criteria by which we can choose between these options. Weber refers to this situation as a “struggle that the gods of the various orders and values are engaged in.” (148) Per Weber:

³⁶Weber’s argument only makes sense if one interprets him to mean that science, as the dominant way of knowing, prohibits other claims to ultimate unassailable knowledge. That position is reserved for science in the Modern world. The problem is that science, as the dominant discourse, is by its very nature incapable of resolving questions of ultimate value. As one commentator on Weber writes: “Disenchantment in this respect diminishes the autonomy of intellect by withdrawing the imprimatur of scientific legitimacy from intellect’s prime ambition: to show ‘the way to true being’ by discovering the meaning of the world and guiding conduct in accordance with this meaning.” Rogers Brubaker, The Limits of Rationality: An Essay on the Social and Moral Thought of Max Weber (London: George Allen and Unwin, 1984), 80.

³⁷This contestation between spheres is particularly acute in the case of salvation religions and “the world.” See Max Weber, “Religious Rejections of the World and Their Directions,” in From Max Weber, op. cit., 328: “For the rationalization and the conscious sublimation of man’s relations to the various spheres of value, external and internal, as well as religious and secular, have then pressed towards making conscious the *internal and lawful autonomy* of the individual spheres; thereby letting them drift into those tensions which remain hidden to the originally naive relation with the external world.”

We live as did the Ancients when their world was not yet disenchanted of its gods and demons, only we live in a different sense. As Hellenic man at times sacrificed to Aphrodite and at other times to Apollo, and, above all, as everybody sacrificed to the gods of his city, so do we still nowadays, only the bearing of man has been disenchanted and denuded of its mystical but inwardly genuine plasticity. Fate, and certainly not 'science,' holds sway over these gods and their struggles. One can only understand what the godhead is for the one order or for the other, or better, what godhead is in the one or in the other order (148).

Again, for Weber it is of crucial importance that while science has subverted any claim to exclusive normativity in questions of ultimate value, e.g., Christianity, it cannot itself provide answers to these questions. Science is only fitted to enhance humankind's control of external objects by calculation, to provide methods of thinking, and to help individuals attain clarity regarding their own conduct in the scientific sphere (152). The "struggle of the gods" cannot be resolved so long as we stay anchored in the immanent (152-3).³⁸ We each must simply choose our gods or demons, looking inward to discover our "calling." With regard to Christianity, Weber is explicit. We have two options: we can return to the Church and sacrifice our intellects to gain the comforts of a re-enchanted value-sphere; or we can pursue intellectual integrity, which in effect means meeting the scientific demands of the day in commitment to a god/demon, fully aware of the complete

³⁸Löwith's comment is germane: "...*we here today* live in a world that has become reified through scientific technology while, at the same time, the objectivist rationality of science has liberated us from an adherence to universally binding moral and religious norms. Since the progress of science is unstoppable, it must be seen as a force which destroys the authority of tradition. The value-judgments we ultimately make can therefore neither find support in tradition, nor claim scientific foundations; they are, whether we like it or not, a matter of personal decision." Karl Löwith, "Max Weber's Position on Science," Erica Carter and Christopher Turner, transl., in Max Weber's 'Science as a Vocation', Peter Lassman and Irving Velody, eds. (London: Unwin Hyman, 1989), 138-156 at 145.

absence of rationale for this commitment in anything external to us.³⁹ As Weber concludes, “each finds and obeys the demon who holds the fibers of his very life.” (156) This is the meaning of “vocation”--to bring some semblance of meaning, grounded in personal, inward commitment--into a disenchanted and objectively meaningless world.

In conclusion, we may state the problem of disenchantment succinctly. While disenchantment leads us to the belief that reality is calculable and controllable, it also leads us away from the belief that reality has a discoverable meaning. Thus the individual, driven to seek for the meaning of his or her life, is unable to derive this meaning from any secure meaning of the whole. The individual must look to his or her own resources and generate the meaning of his or her own life.⁴⁰ This is the crisis of Modernity.

B. Whither Disenchantment? Secularization and Law

Whereas the previous subsection discussed the “whence” of disenchantment, the

³⁹Weber’s ambivalence toward a radical commitment to Christianity contra “the World” is apparent in his conclusion to his lecture. He clearly takes the Sermon on the Mount, interpreted in simple and perhaps even simplistic fashion, as the essence of the Christian ethic, and sees this in radical opposition to the way of science, of progress. This comes out most clearly in a “open letter” Weber wrote to the editor of Die Frau in February 1916. “The position of the Gospels is absolutely unambiguous on the decisive points. They are in opposition not just to war, of which they make no specific mention, but ultimately to each and every law of the social world, if this seeks to be *a place of worldly ‘culture’*, one devoted to the beauty, dignity, honour and greatness of man as a creature of this earth. Anyone unwilling to go this far...should know that he is bound by the laws of this earthly world, and that these include, for the foreseeable future, the possibility and inevitability of wars fought for power, and that he can only fulfil the ‘demand of the day’, whatever it may be, *within* the limits of these laws.” Max Weber, “Between Two Laws,” in Weber: Political Writings, Peter Lassman and Ronald Speirs, eds. (Cambridge: Cambridge University Press, 1994), 75-79 at 78.

⁴⁰See Rogers Brubaker, *op. cit.*, 103.

present subsection tackles the consequences of rationalization, and particularly secularization, as it plays out in law. It will be helpful at this point to further explain the relationship between secularization and disenchantment. Disenchantment is the term Weber uses to describe the loss of a belief in transcendent reality. Secularization is the flip side of disenchantment. It is best understood, in Weberian terms, as the disintegration of social phenomena which originate in religious conceptions. Typically, for Weber, there is a kind of “translation” of ideas and institutions from a religious expression to a non-religious expression, and so the phenomenon in question continues in the society, but in a form alienated from its religious origin.⁴¹ For instance, in Weber’s “Science as a Vocation” lecture, the Puritan idea of “calling” is translated into the non-religious idea of “vocation.” It is fair to say that the process of secularization leads to the end state of disenchantment.

Recall the discussion of Natural Law with which we started this thesis. We have already noted that the Enlightenment ethos, with its exultation of reason, challenged religious, transcendent explanations and meanings, and that Weber understood this process in terms of rationalization. We have further seen Weber’s identification of the crisis to which rationalization leads--captured in the word “disenchantment” and in the image of the inevitable and unresolvable struggle between the “gods.” Bringing this all together, we must now ask, if the religious basis for law is unavailable to us, on what basis can secularized laws be legitimate laws?

⁴¹The characteristic process of secularization, as a type, is worked out at great detail in The Protestant Ethic and the Spirit of Capitalism, *op. cit.*

The question of the legitimacy of laws is one which is crucial to Weber. The reasons why are put forth in his “politics as a vocation” lecture. For Weber, the state is understood thusly: “...the state is a relation of men dominating men, a relation supported by means of legitimate (i.e. considered to be legitimate) violence. If the state is to exist, the dominated must obey the authority claimed by the powers that be.”⁴² Understood in this fashion, the very existence of the laws of the state give rise to the crucial questions, “When and why do men obey? Upon what justifications and upon what external means does this domination rest?”⁴³

Weber’s answer is that the sole Modern ground of legitimacy is “legality,” by which he means “a belief in the validity of legal statute and functional ‘competence’ based on rationally created *rules*.”⁴⁴ This corresponds to his use of the term “rationality,” particularly as it is applied to law in Weber’s tome, Economy and Society. There, Weber defines “rationality” in the legal context as “a belief in the legality of enacted rules and the rights of those elevated to authority under such rules to issue commands (legal

⁴²Max Weber, “Politics as a Vocation,” in From Max Weber, *op. cit.*, 77-128 at 78.

⁴³*Ibid.*

⁴⁴*Ibid.*, 79. Under Weber’s system, there are two other possible sources of legitimation: tradition and revelation from a “charismatic leader.” These are also listed in Max Weber, Economy and Society, vol. 1, Guenther Roth and Claus Wittich, eds., Ephraim Fischhoff et al, transl. (New York: Bedminster Press, 1968), 215. Weber believed that disenchantment has rendered the first impossible and the second highly doubtful. See Mark E. Warren, “Nietzsche and Weber: When does Reason become Power?” in The Barbarism of Reason: Max Weber and the Twilight of the Enlightenment, Asher Horowitz and Terry Maley, eds. (Toronto: University of Toronto, 1994), 68-96 at 89.

authority).”⁴⁵ What rationality means in relation to law is spelled out in greater detail later in the book. There are two marks of “rationalized” law for Weber.⁴⁶ First, there must be the formation of general, abstract propositions, along with an identification of “relevant” features of individual cases. Second, there must be a systematization of these propositions into an internally coherent and gapless matrix of rules. The rationalization of law is understood in terms of historical development. Weber envisioned law in an original state of “substantive rationality,” in which the central concern of law was to attain a “just” solution in every particular situation.⁴⁷ This contrasts sharply, in Weberian typology, with law in its final state of “formal rationality.”

A very important consequence of the rationalization of law is that all considerations outside the parameters of its strictly defined sphere of “legal logic” are excluded. This exclusion notably applies to ethical imperatives, ideals of social justice and utilitarian considerations. Here, above all, the effects of disenchantment are felt in law.

These very exclusions, necessitated by the rationalization of law, lead to what Weber viewed as the Modern problem of legitimacy. Simply put, the problem is that the

⁴⁵Max Weber, Economy and Society, vol. 1, *op. cit.*, 215.

⁴⁶*Ibid.*, vol. 2, 655-7.

⁴⁷See *ibid.*, vol. 2, 882., in which Weber describes the “theoretical” stages of development of law : “first, charismatic legal revelation through “law prophets”; second, empirical creation and finding of law by legal honoraries, i.e., law creation cautulary jurisprudence and adherence to precedent; third, imposition of law by secular or theocratic powers; fourth and finally, systematic elaboration of law and professionalized administration of justice by persons who have received their legal training in a learned and formally logical manner.”

expectations of parties under the law are oriented toward those notions which are formally excluded by a rationalized legal system. Thus the legal system is unable to fulfill those expectations, and thus belief in the legitimacy of the legal system is shaken. Weber comments on this problem....

New demands for a “social law” to be based upon such emotionally colored ethical postulates such as “justice” or “human dignity,” and directed against the very dominance of a mere business morality, have arisen with the emergence of the Modern class problem. . . . By these demands legal formalism itself has been challenged. Such concepts as economic duress, or the attempt to treat as immoral, and thus as invalid, a contract because of a gross disproportion between promise and consideration, are derived from norms which, from the legal standpoint, are entirely amorphous and which are neither juristic nor conventional nor traditional in character but ethical and which claim as their legitimation substantive justice rather than formal legality.⁴⁸

Weber viewed these developments as “a flight into the irrational and as such a consequence of the increasing rationalization of legal technique.”⁴⁹

With the only basis for legitimate laws in the Modern disenchanted ethos being legality, understood as a formal rationalization of the legal system, laws are ill-equipped to lead to anything approximating a just society. According to Weber, what such a legal system leads to is the “iron cage” of bureaucratic domination over the individual. Weber asks three questions regarding the future of politics at the conclusion of Economy and Society which wonderfully illuminate the “whence” of disenchantment with regard to law. First, “how can one possibly save *any remnants* of ‘individualist’ freedom in any sense? After all, it is a gross self-deception to believe that without the achievements of the age of

⁴⁸*Ibid.*, 886.

⁴⁹*Ibid.*, 889.

the Rights of Man any one of us, including the most conservative, can go on living his life.”⁵⁰

Weber’s second question regarding the future of political organization: “In view of the growing indispensability of the state bureaucracy and its corresponding increase in power, how can there be any guarantee that any powers will remain which can check and effectively control the tremendous influence of this stratum? How will democracy even in this limited sense be *at all possible*?”⁵¹

Weber’s final question, and in his view the most important, is how can political leaders exist in a bureaucratic state? Weber writes: “If a man in a leading position is an ‘official’ in the spirit of his performance, no matter how qualified--a man, that is, who works dutifully and honourably according to rules and instruction--then he is as useless at the helm of a private enterprise as of a government.”⁵² In Weber’s view, politics requires leaders who are ultimately responsible, who are not submissive. Weber’s comments on the character of a political leader in “Politics as a Vocation” are germane:

...it is immensely moving when a *mature* man...is aware of a responsibility of the consequences of his conduct and really feels such responsibility with heart and soul. He then acts by following an ethic of responsibility and somewhere he reaches the point where he says: “Here I stand; I can do no

⁵⁰*Ibid.*, vol. 3, 1403.

⁵¹*Ibid.* On this concern, the comments of David Owen are illuminating. “[T]he disenchantment of the world signals both the demise of this ideal interest and the impossibility of constituting an alternative transcendent ideal interest to check the immanent expansionary tendencies of bureaucracy.” David Owen, Maturity and Modernity: Nietzsche, Weber, Foucault and the Ambivalence of Reason (New York: Routledge Books, 1994), 120.

⁵²Max Weber, Economy and Society, vol. 3, *op. cit.*, 1404.

other.” That is something genuinely human and moving.⁵³

Put plainly, the third problem facing society in the Modern condition is that we still require a “politician” to lead us, due to the inherent limitations of bureaucracy.⁵⁴ But just this bureaucracy stifles and restricts politicians from being politicians in the heroic, autonomous sense. In this light, Weber’s concluding remarks in his “Politics” lecture are truly sombre:

No summer bloom lies ahead of us, but rather a polar night of icy darkness and hardness, no matter which group may triumph externally now. Where there is nothing, not only the Kaiser but also the proletarian has lost his rights. . . . Politics is a strong and slow boring of hard boards. It takes both passion and perspective. Certainly all historical experience confirms the truth--that man would not have attained the possible unless time and again he had reached out for the impossible. But to do that a man must be a leader, and not only a leader but a hero as well, in a very sober sense of the word. And even those who are neither leaders nor heroes must arm themselves with that steadfastness of heart which can brave even the crumbling of all hopes. . . . Only he has the calling for politics who is sure that he shall not crumble when the world from his point of view is too stupid or too base for what he wants to offer. Only he who in the face of all this can say “In spite of it all!” has the calling for politics.⁵⁵

Given the rootlessness of society in the wake of disenchantment and the inadequacy of formal rationality as a legitimizing principle, given the absence of criteria to answer questions of ultimate meaning and the consequent “battle of the gods” between

⁵³Max Weber, “Politics as a Vocation,” *op. cit.*, 127.

⁵⁴Weber asserted the need for strong leaders, even under democracy. Consider Weber’s response to the question, “What is your idea of democracy, then?” He said: “In a democracy the people choose a leader whom they trust. Then the chosen man says, ‘Now shut your mouths and obey me.’ The people and the parties are no longer free to interfere in the leader’s business. . . . Later the people can sit in judgment. If the leader has made mistakes--to the gallows with him!” Marianne Weber, *op. cit.*, 653.

⁵⁵Max Weber, “Politics as a Vocation,” *op. cit.*, 128.

value-spheres, and given the irreconcilable tensions between the individual and bureaucracy, what can be said about human rights? We shall turn to this question now.

3. Gods, Demons and Power: A Weberian understanding of human rights discourse

...[A]ll that Modern man is able to do is to call up the several gods by their abstract names: communism, emancipation, equality, freedom, socialism; these are now the powers which within the heart of the individual come into unresolvable conflict in the social and political arena.... Here we reach the point at which Weber's sociology breaks off. The questions still confronting us are what image of the world today produces itself in the interplay of ideas and interests of intelligence and power and through what sociological interplay? What is the characteristic individuality of our Modern civilization?⁵⁶

This subsection concerns itself with answering the above questions. Our proposal is that in the sociological interplay of human rights discourse we see the image of our world producing itself.

A good starting-point for our discussion is Weber's conclusions regarding Natural Law in Economy and Society.

In consequence of both juridical rationalism and Modern intellectual skepticism in general, the axioms of natural law have lost all capacity to provide the fundamental basis of a legal system. . . . The disappearance of the old natural law conceptions has destroyed all possibility of providing the law with a metaphysical dignity by virtue of its immanent qualities. In the great majority of its most important provisions, it has been unmasked all too visibly, indeed, as the product or the technical means of a compromise between conflicting interests.⁵⁷

There are two crucial statements made by Weber which are applicable to human

⁵⁶Tenbruck, *op. cit.*, 258.

⁵⁷Max Weber, Economy and Society, vol. 2, *op. cit.*, 874-5.

rights in this quotation. The first is that with an entirely immanent, disenchanted view of law, we cannot entertain any notion of a transcendent rationale for human rights. That is simply not open to us as a feasible option, unless we take flight from the world as it is.

The second crucial statement which applies to rights is that when we pull off the mask of Natural Law conceptions, what we find in rights discourse is “the technical means to a compromise between conflicting interests.” Put in the terminology of the “Science” lecture, an immanent view of human rights conceives of rights discourse as the arena in which “the battle of the gods” occurs. In the absence of an absolute (i.e., transcendent) principle to determine competing value claims, the only recourse is to contestation and compromise, ultimately decided by a combination of political expediency, consistency with past decisions, utilitarianism, popular opinion, philosophical liberalism and the vestiges of religiously derived morality.

What we are proposing is that human rights discourse is the locus where our society is presently wrestling with its values. A human rights claim is in its essence a value claim which is contested. The contest may be between two types of rights, e.g., civil and political rights on one hand, and social and economic rights on the other. Or the contest may be between a right and some other value-sphere, such as the contest between universal rights and national sovereignty. But the nature of the discourse is necessarily contestatory, for the very reason which Weber pointed to almost a century ago--we no longer have an ultimate authority to resolve questions of value.

This reading of rights-talk draws heavily from Weber’s “Science” lecture. Alternately, but to the same end, we can understand human rights discourse in light of

Weber's three questions regarding the fate of politics in Modernity which we discussed in the preceding section. Again, those three questions are, in light of the disenchanting effects of the rationalization of state law and administration: 1. how can we maintain individual freedom? 2. how can we limit the power of state bureaucracy so as to make democracy possible? 3. how can responsible political leaders arise? These issues were formerly answered by the "metaphysical dignity" of the Natural Law, which (ideally) endowed all humans with dignity, bracketed state power with the fear of God, and fostered the notion of divine calling. In the spiritual vacuum left in the wake of secularization that Weber called disenchantment, to what can we turn to restrict the power of the iron cage of rationality?

The only solution Western society has produced which comes to grips with these issues is human rights. In other words, all human rights discourse can be understood as the attempt to resolve one or more of Weber's three questions.

What Christianity formerly did for us in making room for individual freedom, in providing some limits for state power and in allowing for the possibility of powerful, non-submissive leadership, human rights now do for us. But where Christianity provided a more or less monolithic solution to these threats in our history, human rights discourse is anything but monolithic. Rather, it comes to us as a dialogue, in many cases a contestation. In this contestation, this battle of the gods which is human rights discourse, we place our trust. This is our salvation from rationalization unleashed from the moderating power of Christianity.

To tie the "Science" lecture and Economy and Society together, we can

understand Weber's three questions as defining the three-ring circus in which the central tension of Modern politics--the central "battle of the gods" for our age--takes place. It is an attempt to resolve the problems given us in disenchantment. These are problems of value, and there are three of them: Weber's three questions can be generalized in the following way: 1. What is the meaning of the individual--the "I?" 2. What is the meaning of the collective--the "we?" 3. How can the "I" live in the "we?" Science, the only absolute framework we have in Modernity, cannot answer these questions. The vast array of other belief structures do offer answers to these questions, but we have no way of choosing one over the other without privileging one of them. Accordingly, the only thing left to do is to do what we have done. We must allow the various accounts of the good to co-exist, and sometimes to conflict with each other in our society, and in this coexistence and conflict to hopefully arrive at some sort of societal consensus on the strongest "gods and demons" which will allow us to live together and have our science too. Where do we see this conflict between competing value spheres taking place? Our answer is: human rights discourse.

Bringing this conceptual understanding of rights to bear on human rights discourse as it is played out in the West brings at least three new meanings to our reading of that phenomenon. First, it explains the very existence and persistence of human rights in an era where the traditional metaphysical justification for human rights is lost. We have secularized human rights, unhitched from the religious cart and harnessed to the political cart. They now have an entirely new function for us--they are a political technique. Specifically, they function at the level of power in society, operating to challenge power

structures and to demand inclusion into these power structures.

The second meaning that this framework brings to our understanding of present human rights discourse is that it provides a way to understand the expansion of human rights claims over time. This constant expansion is a product of their steady secularization, as they are increasingly used as a technical means to engage in politics, which in Weberian terms is struggle for domination. The expansion of human rights into new areas, such as economic rights, is “natural,” in the sense that if human rights are a technical means of pursuing politics, then there is every reason to invoke the technique in any realm where political struggle is occurring. We can thus expect more and more claims for economic rights, and further expansion of human rights into every arena of political struggle.

The third meaning which a Weberian disenchantment reading of human rights discourse brings us is that human rights disputes are in a fundamental sense unresolvable. There are no ultimate criteria left, in the disenchanted era, by which we might resolve contests between value spheres. This suggests that human rights discourse will be a permanent feature of our political and legal landscape.⁵⁸

All of the above strongly suggests that what we have in human rights discourse is an attempt to find meaning for ourselves, on a grand, even global scale, in a disenchanted ethos. In response to the question with which we started this subsection, we submit that the Modern human rights movement provides the clearest opening into “the characteristic

⁵⁸That is, unless our present rationalized, bureaucratically dominant era is transcended by a “charismatic leader.” As we have seen, this appears to be Weber’s only hope, but he is doubtful of the power of charisma in the face of bureaucratic power.

individuality of Modern civilization.” It is precisely in contemporary human rights discourse that we grapple with and seek to resolve the central problematic of the Modern age which pervades virtually every facet of our existence in the West--living without absolutes. Modernity denies us moral absolutes, but human society cannot function without these absolutes. Our response to this dilemma, since the great awakening of the World Wars that marked the first half of the last century, has been the oxymoronic procedure of trying to manufacture absolutes via human rights declarations. The rise of the many national and international declarations of human rights since the debacle of the Second World War are therefore of supreme importance for any attempt to think critically on a large scale about contemporary society.

We are thus justified in turning to the recent history of human rights discourse and asking, how does this Weberian disenchantment reading of human rights fit the empirical picture? We can take the debates surrounding the “right to development” as our example.⁵⁹

The history of the “right to development” started in 1972 when it was first brought before the U.N. Commission on Human Rights.⁶⁰ The push behind this movement from its

⁵⁹“Development” is defined as “a comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom.” From the Preamble to The Declaration on the Right to Development, United Nations General Assembly Resolution 41/128 (1986).

⁶⁰This paragraph is a summary of Philip Alston, “Revitalising United Nations Work on Human Rights and Development,” in International Human Rights in Context, Henry J. Steiner and Philip Alston, eds. (Oxford: Clarendon Press, 1996), 1112-3.

inception was from developing countries who, in the wake of de-colonialization, were (and are) giving top priority to their own economic development. As Philip Alston comments,

Given the level of resentment over the negative consequences of the colonial experience and the reticence of the former colonial powers to recognize continuing obligations toward the peoples concerned, the assumption that reparations were payable was never far below the surface. In terms of the U.N.'s human rights debate, these concerns translated into demands that greater attention be paid to economic and social rights..., that colonialism and neo-colonialism be recognized as gross violations of international law and that some forms of development co-operation should be seen as entitlements rather than as acts of welfare or charity.⁶¹

The movement to recognize a right to development was applauded by the Eastern Europeans, but primarily because they felt that a move toward seeking guaranteed economic rights favoured centrally-planned socialism, and because the colonizers, who were at risk of liability, were in fact the capitalist West. For Eastern Europe, supporting a right to development represented a way to continue their struggle against capitalism. The West was far more ambivalent about the proposal for this “new” right, and tended to tie a particular version of economic development--market economics--to civil and political rights.

By 1975 the movement produced a cluster of policy proposals by the U.N., entitled the New International Economic Order (NIEO). These proposals focussed primarily on the development of Less Developed Countries and North-South economic relations. Georges Abi-Saab comments:

...this bundle of policy measures is the platform that has been officially,

⁶¹Philip Alston, *ibid.*, 1113.

consistently and staunchly put forward by the countries of the Third World, and which is gradually (though only partially and in a piecemeal fashion) commanding a widening acceptance on the part of the Western industrialized countries. . . In other words, the NIEO reflects the long maturing and increasingly shared conception of a large majority of the international community of what constitutes the necessary and sufficient means of achieving equitable global development. Thus, if we envisage the question from the perspective of law-formation, i.e., of the prospects of a legal right to development, it is this generally shared concept--whatever one's own evaluation of the NIEO--which constitutes the emerging social value within the body-politic of the international community....⁶²

But the claim to a right to development has its detractors. Jack Donnelly is representative of them when he writes:

If human rights derive from the inherent dignity of the human person, collective human rights are logically possible only if we see social membership as an inherent part of human personality, *and* if we argue that as part of a nation or people, persons hold human rights substantively different from, and in no way reducible to, individual human rights. This last proposition is extremely controversial. . . The very concept of human rights, as it has heretofore been understood, rests on a view of the individual person as separate from, and endowed with inalienable rights held primarily in relation to society, and especially the state. Furthermore, within the area defined by these rights, the individual is superior to society.... The idea of collective *human* rights represent a major, and at best confusing, conceptual deviation.⁶³

What we see in the debate regarding the right to development accords nicely with a Weberian disenchantment reading of human rights. We perceive this on many points. First of all, we see what amounts to a replacement of the religious ideal of charity with the claim for a right. Furthermore, there is a clear identification of the right to development

⁶²Georges Abi-Saab, "The Legal Formulation of a Right to Development," in International Human Rights in Context, *op. cit.*, 1115-6.

⁶³Jack Donnelly, "In Search of the Unicorn: The Jurisprudence and Politics of the Right to Development," in International Human Rights in Context, *op. cit.*, 1123.

with the values of global society. There is the power struggle surrounding the assertion of the right. There is the assertion of the right without regard to the traditional ontological anchoring of rights in human nature. There is the expanding nature of human rights. Moreover, we can perceive in this right debate an attempt to grapple with the second of Weber's questions regarding what controls can be placed on the rationalized forces of Modern society to permit democratic involvement. The answer inherent in a claim to a right to development is that the great rationalized market forces, which are operating to impoverish four-fifths of the world's peoples while enriching the last fifth, need to be controlled by a new kind of collective economically-oriented right, simply because individual rights are not adequate to control the forces of rationalized capitalism in the disenchanted ethos of Modernity. We can go further and speculate that a claim to a right to development is in fact a value statement about the meaning of human society--the "we"--which finds that meaning in economic progress. As such, we can find a strong degree of concord between this right-claim and the dominant discourse of Modern science in the West, which bodes well for the future of the right.

4. Conclusion

What we have done in this chapter is explicate Weber's notion of disenchantment as the end of rationalization and through it proposed a fresh reading of late twentieth-century and early twenty-first century human rights discourse. As we touched on earlier in the chapter, the purpose of Weber's analysis was not to propose an empirical explanation in the style of the natural sciences, but rather to provide a theoretical tool in which

idealized social processes are defined and then used to study reality, both in its conformities to the type and in its deviations from it. As we have seen, one of the benefits of Weber's notion of disenchantment is that it helps make sense of the persistence of human rights in the absence of the transcendent notions which formerly gave such claims meaning. However, one of the primary empirical deviations from disenchantment as the end of an idealized process of rationalization and secularization is the persistence of Christianity in the twentieth century. This "deviation" gives rise to a number of interesting questions. We will now turn our attention to one of these questions. Is there any compatibility possible between the disenchanted civilization that is revealed in the human rights movement and Christianity?

Chapter 2. Ernst Troeltsch, Christianity and Disenchantment

In our last chapter we explored the Modern crisis of meaning through the lens of Weber's conception of disenchantment, and we presented an interpretation of the Modern human rights movement as a manifestation of and a response to that crisis. We concluded at the end of that section that there seems to be a radical incompatibility between the culture that is expressed in the Modern human rights movement--understood as a product of disenchantment--and Christianity. The Modern human rights culture is completely immanentist, which on first blush necessarily excludes all religious claims of transcendence of any kind. Furthermore, human rights discourse seems to function in society as a replacement for Christianity, making room within the "iron cage" of rationalized society for individual freedom, democracy and purposive action. The purpose of the present section is to lay the groundwork necessary to explore the possibility of a synthesis between Christianity and human rights culture.

To give some shape to our inquiry, we will approach it through the work of Ernst Troeltsch. We will first seek to position Troeltsch on the intellectual map by charting his relationship to the sociologist Max Weber, on the one hand, and the theologian Friedrich Schleiermacher on the other. We will then proceed to give a summary of the basic contours of his thought and the issues with which he grappled. Once this foundation is laid, we will turn to Troeltsch's responses to the problem of the incompatibility between the Christian world and a world disenchanted, focussing on Troeltsch's treatment of "the rights of man" over the span of his career.

1. Who was Ernst Troeltsch?

At a conference in 1896, after an eminent academician had just delivered a learned paper on the meaning of the doctrine of the Logos, Ernst Troeltsch sprang to the rostrum in the ensuing discussion, opening dramatically with the words, "Gentlemen, everything is tottering!" and proceeded to corroborate his views. Finding his listeners unresponsive, Troeltsch stormed out of the gathering and slammed the door behind him. As Walther Kohler remarks in relating this anecdote, the older scholars were horrified at the incident, "but we younger ones pricked up our ears."¹

Ernst Troeltsch (1865-1923), professor of theology and philosophy at Bonn, Heidelberg and Berlin, is now recognized as a "pivotal representative of the early twentieth-century 'crisis in consciousness.'"² This is in large part due to the two passions which gripped him--a deeply religious temperament, which found expression in Lutheranism, and a sensitivity to the realities of the historical and natural world.³ His commitment to both science and Christianity never wavered throughout his career, and from all accounts the uneasy relationship between the two caused him significant personal anguish.⁴

¹Reported in Robert J. Rubanowice, Crisis in Consciousness: The Thought of Ernst Troeltsch (Tallahassee: Florida State University, 1982), 9.

²James Luther Adams, "Foreword," in *ibid.*, x.

³Robert J. Rubanowice, *op. cit.*, 11.

⁴ For instance, in July 1913, upon his wife's recovery from a prolonged illness and the unexpected birth of their only child, Troeltsch wrote to his friend, "It is impossible to express how deep are the thanks I owe to God for this happiness. We have indeed to take all things from His hand, even the heaviest, and can demand nothing, not even what may be most essential to our life. But when, after trouble, the free gift of God reaches the soul and tarries within it, it is easier to resign oneself thus fully into His hand." Reported in *ibid.*, 13. What is truly remarkable is that he was able to maintain this sort of personal piety while maintaining such a rigorous, non-theological analytical stance toward the historical development of Christianity.

A. Weber, Schleiermacher and their respective influences on Troeltsch

I. Troeltsch and Weber

It is an established fact that Ernst Troeltsch and Max Weber were close friends.

Marianne Weber, in her biography of her husband, recollects her first impressions of Troeltsch when the Webers had just taken up residency in Heidelberg.

New and distinguished friends joined their circle: Georg Jellinek, Paul Hensel, Karl Neumann, and, above all, the theologian Ernst Troeltsch, who was the same age as Weber and became a close friend of the couple. Troeltsch's freedom and breadth of spirit, buoyant vitality, clear and graphic thinking, wide-ranging sense of humor, and directness and warmth made him a companion with whom there was an enjoyable and fruitful scholarly and spiritual exchange.⁵

The relationship between Weber and Troeltsch was mutually enriching. Upon Weber's death, Troeltsch was asked to compose an obituary in his honour. In it he wrote: "Concerning myself, I will only take note of the fact that for years I experienced the infinitely stimulating power of this man in daily conversation and that I am conscious of owing to him a large part of my knowledge and skill."⁶ It is certain that positive influences ran both ways. This is obvious from the many references to Troeltsch in Weber's work, and likewise the many references to Weber in Troeltsch's work. In neither case was the reception of the other's thought straightforward.⁷ Nevertheless, the

⁵See Marianne Weber, *op. cit.*, 227-228.

⁶Ernst Troeltsch, "Max Weber," in Religion in History, James Luther Adams and Walter F. Bense, transl. (Edinburgh: T. & T. Clark, 1991), 362.

⁷On the specific reference of each author to the other in their major works, see Friedrich Wilhelm Graf, "Friendship between Experts: Notes on Weber and Troeltsch," D. R. McLintock, transl., in Max Weber and his Contemporaries, Wolfgang J. Mommsen and Jürgen Osterhammel, eds. (London: Allen and Unwin, 1987), 220-224. Graf

themes shared between them indicate that Troeltsch was acutely aware of the challenge of disenchantment described by Weber. Foremost among these shared themes was the loss of transcendence that occurs as part of historicization of all thought.⁸ The crux of this theme, which was aired by Weber in his “Science” lecture, was the impossibility of resolving value conflicts in an age where Modern science is the only accepted form of knowledge. This same refrain is taken up, with different terminology, by Troeltsch. One example among many reads, “cognitive triumphs are attained by historicizing, psychologizing, and relativizing everything actual. Yet, this very process cuts off our access to all that is normative and objective....”⁹

Ultimately, Troeltsch broke with Weber in his assessment of the fate of religion in the process of secularization.¹⁰ We will defer discussion of Troeltsch’s ideas on this front until later in our chapter, but it is important to note that Troeltsch joined Weber in

discovers a foundational connection between the two scholars in their “common interest in preventing a positive delimitation of freedom.” *Ibid.*, 228. It should be kept in mind, however, that the notion of freedom seized upon by the two scholars differed. For Weber, the essence of human freedom was purposive action. Only the illusionless, objective, disciplined and responsible hero is free. Conversely, Troeltsch found freedom in an escape from rationality. See Martin Green, The Von Richthofen Sisters: The Triumphant and the Tragic Modes of Love (New York: Basic Books, 1974), 149-150.

⁸By this we are referring to the historical perspective adopted by both Weber and Troeltsch, a perspective which sought to derive meaning from the process of historical development. See Hans-George Dresche, “Ernst Troeltsch’s Intellectual Development,” in Ernst Troeltsch and the Future of Theology, John Powell Clayton, ed. (Cambridge: Cambridge University Press, 1976), 8

⁹Ernst Troeltsch, “On the Question of the Religious *A Priori*,” in Religion in History, James Luther Adams and Walter F. Bense, transl. (Edinburgh: T. and T. Clark, 1991), 33-34.

¹⁰For example, *ibid.*, 226f.

addressing the problem of the “iron cage” of Modernity, particularly the aspects touching on religion.

ii. Schleiermacher

If Troeltsch shared Weber’s vision of the problematic nature of Modernity, it is likewise true that he shared a set of presuppositions inherited from the German theology of the nineteenth century. The most notable figure in nineteenth century theology was Friedrich Schleiermacher. Schleiermacher had proposed, at the close of the eighteenth century, a new starting-point for theological reflection. Setting aside the “Scripture Principle” of the Reformation, which Schleiermacher felt led to a lifeless and irrelevant form of Christianity, he proposed that the primary source for theological reflection was “religious feeling,” the subjective experience of the believer.¹¹ Scripture and historical creeds were valuable because they revealed the experiences of the past. In this light, they were demoted from Absolute Authority in the life of the church to ontological witness to the divine in history, to which present believers can have recourse as they strive to live lives dependent upon God. Schleiermacher hoped that this approach to the Christian faith would make it more appealing to the Romantic set of “cultured despisers of Christianity”

¹¹See the introduction to Friedrich Schleiermacher, The Christian Faith, Hugh Ross Mackintosh, transl. (Edinburgh: T. and T. Clark, 1956) and Friedrich Schleiermacher, On Religion: Lectures to its Cultured Despisers (New York: Harper, 1958). For the reader unversed in Reformation theology, the “Scripture Principle,” sometimes referred to as “Sola Scriptura,” captures the Reformer’s protest against the absolute authority of the Pope and Church traditions in matters of faith. They argued that only Scripture, aided by reason, was the supreme authority for church doctrine, and not the decrees of an all-too-human Pope.

then in vogue in German society.

Troeltsch seized upon this immanent starting-point for theology as a way to find a path which would allow him to “save” religion while still holding onto Modern science, particularly historicism. In his first major work in 1901, Troeltsch wrote:

If Kant’s words show us what the eighteenth century perceived above all else, namely, the multiplicity and conditionality of everything historical in antithesis to the demand for unconditioned truths, Schleiermacher exhibits the attempt of German idealism to overcome this historical relativity by way other than that of ahistorical rationalism, namely, by ontological speculation concerning history--speculation that, through reflection on the very multiplicity of history, leads us to knowledge of the unitary grounds of all life. It is by way of this path, I believe, that our work must ultimately proceed....¹²

Troeltsch called this inherent religiosity displayed in human history and in human nature the “religious *a priori*.”¹³ Put simply, the idea was that religion is absolutely necessary for human culture, and that human history contains an ethical orientation.¹⁴ Troeltsch contended that this religious tendency was intrinsic to human nature. Social thought had

¹²Ernst Troeltsch, The Absoluteness of Christianity and the History of Religions, David Reid, transl. (Richmond: John Knox Press, 1971), 40.

¹³The dependence on Kant is obvious in the name. Troeltsch explains that he is extending Kant’s original concept of the *a priori*--theoretical reason which apprehends experiences--and applying it to the religious consciousness. See Ernst Troeltsch, “On the Question of the Religious *A Priori*,” *op. cit.*, 35-6.

¹⁴See Benjamin A. Reist, Toward a Theology of Involvement: The Thought of Ernst Troeltsch (Philadelphia: Westminster Press, 1966), 170f. Reist notes that Troeltsch’s use of the religious *a priori* decreases over his career. This may have been due to a change in focus. In his early years, Troeltsch was concerned with interpreting history from the point of view of religion. He gradually became more interested in exploring the other side of that relationship; i.e., understanding religion from the point of view of history, and that the empirical facts which historical inquiry uncovered made the interpretive tool of the religious *a priori* less attractive.

to acknowledge the depth of religious consciousness.¹⁵ By making the anthropological turn in his approach to the study of Christianity, Troeltsch attempted to lay a basis for a coming-together of science and religion.¹⁶

B. Troeltsch as Sociologist and Theologian--Basic Lines of Thought

In light of the foregoing, we see in Troeltsch a scholar who embraced Modernity with one arm along with the new scientific way of knowing, and Christianity with the other. Our brief discussion of Schleiermacher indicated that Troeltsch was eager to find a way to resolve the crisis of consciousness in which he lived and which he in fact embodied. Reflecting back on his life as an academic, Troeltsch was able to say, "for me the practical quest for the justification of religious commitment in the face of a naturalism that was carrying all before it always remained central."¹⁷ If there is a key to understanding Troeltsch, this quest is it.

¹⁵See Max L. Stackhouse, "A Premature Postmodern," First Things 106, Oct. 2000, 19-22 at 20.

¹⁶This anthropological turn is a substantial break from the classical orthodox approach to theology, which starts with divine revelation, not with human experience of the divine. On the suitability of this anthropological starting-point for Troeltsch, A. O. Dyson writes: "It offers a basis for Christian piety in and through the relativities of history. It provides a basis for the sympathetic and constructive handling of the religious past, inasmuch as there the infinite individualizes itself in the individual totality to be grasped by the religious historian and brought forward into the present. It yields a basis for treating cultural history as an arena of genuine religious and cultural creativity." A. O. Dyson, "The Possibility of a Systematic Theology," in Ernst Troeltsch and the Future of Theology, John Powell Clayton, ed. (Cambridge: Cambridge University Press, 1976), 93.

¹⁷Ernst Troeltsch, "My Books," in Religion in History, *op. cit.*, 367. The following paragraph is also drawn from this autobiographical essay.

This question was constant throughout Troeltsch's academic career, but it was continually recast as he delved deeper into the complex array of issues surrounding it. Initially, as a young man, the way he sought to attain this end was via the construction of a history of the universal development of the religious spirit, a history which showed the special place of Christianity within that development. In laying the groundwork for this colossal undertaking Troeltsch encountered "the struggle of the essentially traditional religious forces with the new spiritual forces that found expression above all in philosophy."¹⁸ In terms of methodology, Troeltsch's approach was that "religion, as an experience of consciousness, had first to be studied from a psychological point of view.... The various components and manifestations of religion must be analysed. Only then is it possible to discuss the truth-content and the relative value of the various concrete, historical religions."¹⁹ This style of inquiry led Troeltsch to ultimately question the legitimacy of Christianity's claim toward absoluteness.²⁰ After coming under the sway of Weber, Troeltsch revised this problem in sociological terms: "To what extent are the appearance, the development, the modification, and the Modern impasse of Christianity sociologically conditioned, and to what extent is Christianity itself an actively formative sociological principle?"²¹ The attempt to answer this question was Troeltsch's The Social

¹⁸*Ibid.*, 368.

¹⁹*Ibid.*, 369.

²⁰This he explored in 1902 in The Absoluteness of Christianity and the History of Religions, *op. cit.*

²¹"My Books," *op. cit.*, 372.

Teaching of the Christian Churches, published in 1911. After the war, the inquiry was generalized, and Troeltsch found himself asking “how the way to valid cultural values is to be found when one starts with the historically relative.”²²

These were Troeltsch’s questions. We need now to address the kind of answers Troeltsch derived. Again, as we did with Weber, we will refrain from attempting a literature review of Troeltsch and instead focus on his conclusion to The Social Teaching of the Christian Churches as a window into his thought.²³

The Social Teachings was Troeltsch’s 1000-page analysis of the sociological structures of church formations in their historical development. His ultimate purpose was to inquire into the social and ethical possibilities of Christianity today, so he paid close attention to the social ethics which the respective church formations adopted in various epochs.²⁴ Troeltsch identified three distinct sociological types of Christianity--Church, sect, and mysticism (993).²⁵ Troeltsch’s definitions of these types are not germane; it is sufficient for our purposes to recognize that each of these types led to a distinctive social

²²*Ibid.*, 374.

²³Ernst Troeltsch, The Social Teachings of the Christian Churches, vol. 1-2, Olive Wyon, transl. (New York: Harper Torchbooks, 1960). Subsequent references to this book in this subsection will be noted by parenthetical page number in the body of the text. Our decision to focus on this particular book is justified by the belief that it marks the start of Troeltsch’s attempt to come to grips with Weber.

²⁴Troeltsch’s methodology was criticized strongly in some circles. A discussion of his methodology and the critical responses to it is beyond the ambit of this paper. For a helpful overview of these issues see Benjamin A. Reist, *op. cit.*, 25-30.

²⁵There is a great degree of similarity between Weber and Troeltsch in their respective analyses of the sociology of religion. The large number of references to each other’s works is evidence of the mutual influence each had on the other in this regard.

ethic. Troeltsch concluded that “the results of this survey throw light upon the dependence of the whole Christian world of thought and dogma on the fundamental sociological conditions, on the idea of fellowship which was dominant at any given time.”²⁶ (994) This is not to say that Christianity is entirely reducible to sociological explanation. Troeltsch admits to an energizing principle that was active in the original cultus, and which radiates out even now (995). But as far as development in history goes, it is the sociological factors, far more than philosophical considerations or pure dogmatics, which provides an adequate framework of understanding.²⁷

Given Troeltsch’s express concern for the social and ethical possibilities of Christianity in the Modern world, Troeltsch sets aside sect and mysticism. Both are precluded by their very nature from having a direct effect on society, sect because of its insularity, and mysticism because of its interior and individualistic bent (1000-1).²⁸ It is only the Church type which holds any promise for serious contributions to Modern society.

²⁶By “the idea of fellowship” Troeltsch is referring to the Church/sect/mysticism typology.

²⁷For example, the notion of fellowship in the sects is based on the wilful “separation from the world” and the corresponding “practical holiness” of their members. In the Churches, the notion of fellowship was based on the institutionalized reception of divine grace via sacrament or sermon. These different understandings of the identity of the group produced distinctive sociological marks, including predictable orientations toward those outside the group. While these bases of fellowship were justified via recourse to dogmatic and biblical considerations, it is the sociological form itself which proves to be most determinative in Troeltsch’s opinion.

²⁸This is not to say that sect and mysticism did not have powerful indirect influences on society. Troeltsch’s concern in his conclusion is the intentional effects that church might have on society.

For Troeltsch, there was a fundamental tension in Christian social ethics.

Christianity demands detachment from the world and self-giving love for God and humanity. The full expression of this ideal requires a new world--the kingdom of God which Jesus proclaimed. In this world, the ideal cannot be realized apart from compromise.²⁹ Troeltsch concludes that "the history of the Christian ethos becomes the story of a constantly renewed search for this compromise, and of fresh opposition to this spirit of compromise." (999) The great historical compromise in the West was the augmentation of Christianity with Stoicism, which produced the doctrine of Natural Law. This doctrine allowed for the existence of law, tyranny, war, private property and the accumulation of riches within the framework of Christian ethics (1000). However, for Troeltsch, the Modern scene presents us with entirely new problems, to which the church must respond afresh.

To-day, therefore, the main problem of the Christian Ethos is still the problem of supernaturalism, and of its unavoidable result, asceticism.... On the other hand, its second main problem is how to supplement this religious one-sidedness with an ethic of civilization which can be combined with it. The Church effected this supplement by drawing on the philosophy of late antiquity, and incorporating into its own ethic the idea of the moral Law of Nature. . . . Today, however, in an entirely new state of civilization these earlier supplementary movements have become impossible. A new supplementary process, therefore, is necessary. In a permanent world the Christian Ethos cannot live and be entirely self-sufficing. The question is simply this: How can this supplement be shaped to-day? The answer to this question constitutes an imperative demand for a new Christian ethic (1001-2).

Troeltsch concludes that the Christian Church needs new thoughts to correspond

²⁹The idea of compromise is central to understanding Troeltsch. We will deal with the nature of compromise in greater detail later in this chapter.

to the new situation, out of the

inner impulse of Christian thought, and out of its vital expression at the present time, and not exclusively out of the New Testament, in precisely the same way as both those great main types of Christian -Social philosophy were evolved out of the Christian thought of their own day, and not solely from the New Testament. And when they have been created and expressed, they will meet the fate which always awaits every fresh creation of religious and ethical thought: they will render indispensable services and they will develop profound energies, but they will never fully realize their actual ideal intention within the sphere of our earthly struggle and conflict (1012-3).

In other words, it is the church's task to join "the world" in order to steer it in a direction toward the ideals found in the New Testament. This is attempted with the full knowledge that its successes will always be partial and temporary. In that sense, Troeltsch calls the Christian Church to seek to "control" the socio-political sphere. He concludes on a note reminiscent of Weber's "Science" lecture, invoking the images of the ongoing battle which is a necessary aspect of the Modern condition:

Nowhere does there exist an absolute Christian ethic, which only awaits discovery; all that we can do is to learn to control the world-situation in its successive phases just as the earlier Christian ethic did in its own way. There is also no absolute ethical transformation of material nature or of human nature; all that does exist is a constant wrestling with the problems which they raise. . . . Faith is the source of energy in the struggle of life; but life still remains a battle which is continually renewed upon ever new fronts (1013).

But to this he adds the significant final words: "the Kingdom of God is within us. But we must let our light shine before men in confident and untiring labour that they may see our good works and praise our Father in Heaven. The final ends of all humanity are hidden within His Hands." (1013)

To recap thus far: Troeltsch, like Weber, recognized that the former harmony

between nature and supernature (i.e., divine revelation) that had existed up to the late medieval period, and which found its apogee in Thomism, was tottering. The scientific way of knowing which in large part defined the Modern mood did not need faith, and in fact reduced faith to the status of phenomena and made it one of the objects of its inquiry.³⁰ In the Modern ethos, Troeltsch argued that present Christianity's social thought had exhausted itself. A new Christian ethic is needed, one that engaged the Modern, post-Christian setting in which it found itself. This clearly involved the concept of compromise, which is essential to Troeltsch's approach to the relationship between Christianity and "the world."³¹

We might well ask at this point, what was Troeltsch's proposal for this new Christian ethic? As Bryce Gayhart notes, Troeltsch's purpose in The Social Teachings was not to attempt a new ethic, but rather a kind of prolegomenon to such an ethic.³² All the same, the question could not be fully avoided. With the privatization of religion in the face of the Modern condition, Troeltsch could see only the death of human culture. Although Troeltsch does not attempt a full answer to this question in The Social Teachings, he gives us a weighty clue. He writes that in contrast to the theology of

³⁰See Benjamin A. Reist, *op. cit.*, 20-25.

³¹Reist comments that for Troeltsch, the term "compromise" was free of negative connotations. Rather, it suggested a state of reciprocity or mutual benefit, so that whenever Christianity has a real influence on its worldly context, it also incorporates into itself a part of that context. *Ibid.*, 157.

³²Bryce A. Gayhart, The Ethics of Ernst Troeltsch: A Commitment to Relevancy, Toronto Studies in Theology vol. 53 (Lewiston, NY: The Edwin Mellen Press, 1990), 205-6.

Catholicism, which is fixed, and of Protestantism, which oscillates between a “system of ideas which are valid in themselves” and a group of dogmatic assertions which are supported by history and miracle which are presently being undermined by science,

“Spiritual Religion” alone conceives Christian piety as a living creative moment of the present day, and as a factor in the universal movement of religious consciousness in general. Hence it alone has produced a truly scientific theology, a real religious philosophy, based upon universals, and with a hope of real development before it (996-7).

Troeltsch reflects earlier in the book about the nature of “Spiritual Religion.”

All that is ecclesiastical, historic, dogmatic, objective, and authoritative is changed into a mere means of stimulation, into that which arouses that personal experience which alone is valuable, and on which alone the hope of salvation is founded. This is a theology of the subjective consciousness of salvation, and no longer one which confines itself to the objective facts of redemption. This Spirit, or the present living consciousness of salvation, and the facts of history and of the cultus, have been placed in a new relation. All that concerns the Church, doctrine, and dogma seems to be simply a precipitation of a personal religious life of that kind, and can only be understood in its true sense by the gracious inward influence of the Spirit, the movement of God within the soul. The spirit of God can only recognize His own Presence in the Scriptures and in the Church, and only thus can strength and nourishment be drawn from them; left to themselves both the Bible and the Church are merely a dead letter or an empty ceremonial. This is mystical “spiritual religion” in the service of a direct and personal religious life, preserving that which is alone worthy, a life in the spirit which rises above and conquers the world (739).

Of course, Troeltsch is not advocating a simplistic turn toward a radically individualized form of Christianity. Rather, he is pointing a way for the Church type to go, co-opting the essence of “Spiritual Religion” within itself as it seeks to compromise with the Modern world.³³ The difficulties inherent in this direction, however, are

³³Gayhart captures Troeltsch’s thought well when he comments, “It is the task of the Church to strive continually to reconcile the [inner-worldly and outer-worldly ethic] in such a way that the voice of Christianity never loses its contemporary relevancy. It is,

daunting. We might say that Troeltsch is caught on the horns of a dilemma. On the one hand, neither sect nor mysticism can generate any real or lasting influence on society. As was mentioned earlier, their very nature is separatist (sect) or radically individualistic (mysticism). Only church structures are able to speak to culture as a whole, and to pursue the compromise with that culture which is the church's vocation. But on the other hand, the churches have presently exhausted the potentialities of the old compromise with Natural Law, and the only foreseeable compromise Troeltsch could identify was between the Modern way and the mystical expression of Christianity. He hints at a future possibility of the churches returning to their mystical roots for fresh inspiration as they seek a new compromise. But this, for Troeltsch, was only a hope.³⁴

This concludes our introduction to Troeltsch. The eighty-plus years which have intervened between him and us have given scholars ample opportunity to critique Troeltsch, and the fact is that very few of his conclusions remain standing today. The liberal Christianity he is identified with, which attempts to reinterpret the New Testament

additionally, the task of the believer to seek to maintain the sociological significance of Christianity by refusing to relegate its authority only to the private, personal sphere. Although a compromise was not foreseeable in Troeltsch's case, it was no doubt a genuine act of faith on his part to believe that such a way eventually would be found. If the voice of the Christian communities in the Modern world would avoid becoming 'the last echo of a disintegrating Christian piety,' then it must neither be assimilated to society or separated from society." Bryce Gayhart, *op. cit.*, 232.

³⁴Troeltsch's mixture of hope and despair regarding the affinities between mysticism and Modernity is overt in his conclusion to "On the Possibility of a Liberal Christianity," in Religion in History, *op. cit.*, 355f.

from Modern presuppositions, is on the wane in the West.³⁵ His notion of the three church-types is too facile. He has been judged harshly for his Eurocentricism and his inadequate attention to the Eastern religions. What relevance does Troeltsch hold for us today? Troeltsch gives us two things. First, he gives us his questions. As one commentator writes,

He saw much more clearly than his contemporaries the challenge to traditional theology and ethics which came from the historical studies in which he and his contemporaries were engaged. He raised most of the right questions and sought answers consistent with the demands of human reason and the data of human history. Even if we may wish to argue that his conclusions are finally unsatisfying, his work richly repays careful study, for the depth of his learning and the unfailingly trenchant questions which he forces us to confront.³⁶

Like Weber, Troeltsch perceived the fundamental challenge to Christianity which Modernity represented. His questions regarding the complex relationship between the historical development of Modernity and Christianity, and his further questions regarding the relevance of Christianity in the Modern world touch the very centre of the crisis which we are facing at the end of Modernity.³⁷

The other contribution that Troeltsch makes to us is with regard to the latter

³⁵Troeltsch is considered one of the fathers of liberal Christianity because of his introduction of social-historical considerations into the study of Christianity. This is somewhat ironic, because the optimism regarding the human condition that marks so much of liberal Christianity in North America is missing in Troeltsch.

³⁶Richard Sherlock, "Ernst Troeltsch and the Problem of Natural Right: The Dilemma of a Neo-Kantian Political Theorist," in Studies in the Theological Ethics of Ernst Troeltsch, Max A. Myers and Michael R. LaChat, eds., Toronto Studies in Theology vol. 49 (Lewiston, NY: The Edwin Mellen Press, 1991), 220.

³⁷We will discuss the nature of this crisis further in chapter 3.

question--the relevance of Christianity in the Modern world. He consistently refused to provide us with a recipe to resolve this question, but instead offered us an angle, a line of inquiry. That angle is found in his idea of compromise, understood as an integral part of the religion given to us in the New Testament. Troeltsch invites us to transcend the obvious reactions of Christianity to Modernity--either to withdraw from the world, or else to capitulate to the world--and to creatively explore the ways in which religion and society might deliberately interpenetrate each other in the present context. His insistence that compromise is inherent in the religion of the New Testament validates the search for a compromise.

We have set forth in this subsection Ernst Troeltsch's essential concerns and the way he went about addressing them. The task we will turn to now is an analysis of Troeltsch's attempt to find the compromise between the Christian religion and the Modern way, with special attention to the implications for human rights discourse.

2. Troeltsch and "the Rights of Man"

At the outset it would be helpful to consider Troeltsch's response to Weber's "Science" lecture. Troeltsch agrees with what Weber says about science *qua* science, but adds that he disagrees with Weber's conclusions. In particular, he says that he finds Weber's "scepticism and his heroic, forcible affirmation of values" impossible to accept. Rather, Troeltsch makes the case for a compromising Christianity which does not "simply push aside the practical conditions of life with disgust and scorn, but must take account of them and adjust to whatever is an inevitable part of the economic, social and political life

forms of the times.”³⁸

What, then, is “an inevitable part of the economic, social and political life forms of the times” in the present context? Our answer would surely include the idea of human rights. As we saw in the previous chapter, this idea confronts us with a challenge to Christianity. Thus the idea of compromise, in its application to human rights discourse, forms the centre of gravity for this section. To explore Troeltsch’s synthesis, we will consider the evolution of his treatment of human rights and democracy as an associated political development. We will proceed in chronological order.

A. “Political Ethics and Christianity” (1904)³⁹

The first essay at hand is “Political Ethics and Christianity.” Troeltsch commenced this paper with a realistic assessment of politics in Germany, concluding that “for us, the state is above all a product of power, which assumes varying forms amid the conflict of various human interests....” (173) Troeltsch felt that amidst the struggle of political life in Bismark’s Germany, the questions of value and meaning do not disappear, but reassert themselves forcefully. In light of this situation, Troeltsch sought to address two problems in this paper. The first was the appropriate source of ethical ideals available to Modern European civilization. The secondary problem was the significance of Christianity for

³⁸Ernst Troeltsch, “The Revolution in Science,” in Max Weber’s “Science as a Vocation”, *op. cit.*, 64.

³⁹Ernst Troeltsch, “Political Ethics and Christianity,” in Religion in History, James Luther Adams and Walter Bense, transl. (Edinburgh: T. and T. Clark, 1991), 173-209. All further references to this essay within this subsection will be noted by parenthetical page number within the body of the text.

politics.

Regarding the first problem, Troeltsch lists four types of ethical ideals available to Germany: 1. the ethic of the constitutional state (*rechtsstaat*) exclusively serving a free culture; 2. the purely nationalistic ethic of patriotism; 3. the ethic of democracy; and 4. the ethic of conservatism (176). Dispatching with the first two options quickly, Troeltsch concludes that “only democracy and conservatism represent principles of political ethics which have penetrated into the inner structure of the institutions of the state and show how to assess and shape that structure according to both political and ethical ideals.”⁴⁰

(179) We will focus our attention on Troeltsch’s discussion of democracy and rights.

Regarding democracy, Troeltsch writes:

The idea of democracy is an ethical one, the great idea of human rights. Human rights signify the moral right of the person to independent value, or, as Kant formulated it, the right never to be considered merely as a means but rather always as an end. . . . Despite their humble condition, [even the children of the obscure masses] are endowed with the priceless potential of personhood. This recognition arouses every ethical feeling of self-respect in the individual, and evokes every ethical feeling of justice and sympathy in the community. The declaration of human rights in the American and French constitutions is therefore a fact not only of the greatest importance for Modern history, but also of the greatest significance for ethics (181).

He concludes that “everything Modern in state and society--insofar as it is subject to ethical judgment--may be said to have its roots in this ethical principle.” (181)

And what of the relationship between Christianity and politics, Troeltsch’s other concern in this paper? On the one hand, Troeltsch concludes that “the close connection of

⁴⁰For Troeltsch, democracy and conservatism are opposites. Democracy is the rule of the people by the people, whereas conservatism is the rule of the people by an aristocracy.

democratic ideals with Christianity springs from this common ethical concern [of the value of the individual],” and later on the same page, “the Christian feeling that the poor and humble must be supported in their aspirations is generally the strongest ally of contemporary democracy.” (184) On the other hand, Troeltsch finds that conservatism, with its emphasis on authority, also identifies very closely with Christianity, in that only Christianity provides a way to derive a morality from an acceptance of human inequalities, understood as an order established by God (188-9).

This brings Troeltsch to one of his most enduring conclusions, one which is highly significant for our paper. Troeltsch proposes that there is no political ethic that is derived directly from Christian ideas; in fact, “the very meaning and nature of Christianity prevent its having a direct political ethic.” (190) The moral injunctions of Scripture apply only to the sphere of private morality. To construct a state on the basis of Christianity necessarily involves a rationalization and secularization of Christian ideas. He writes:

Christian ethicists, to be sure, are accustomed to derive democracy from [the concept of free Christian persons and their community], in the sense of a demand for love of the neighbor and compassion for the masses, the humble, and the oppressed. . . . Yet this approach is not really correct. Political democracy does not aim at love and sacrifice but rather at law (*recht*) and a secure order.... Democracy can utilize only that part of the Christian idea of the person which can pass over into the legal order or be claimed as a self-evident right; it cannot utilize the purely inward and personal element of genuine religious feeling and the idea of love... (190-1).

In the end, Christianity can be indirectly influential on our political sensibilities as its principles are gradually translated into secularized political ideas. Troeltsch suggested that the inwardly-oriented Christian ideals of freedom and of the person have been

translated into democracy/rights in the Modern era, and likewise that the inwardly-oriented Christian ideals of authority and order have been translated into conservatism (192-3). These two different applications of Christian ideas are anchored in a duality within the Christian tradition. Troeltsch notes that in both cases, something extra had to be added to the Christian ideals to accomplish the political application. In democracy, the Stoic concept of natural law was added, with its equality of humanity based in nature. In conservatism, an “apotheosis of traditional power relationships” was added. Troeltsch ultimately concludes that while Christianity can never form a political ethic on its own, it contributes moral ideas which supplement the political ethic. Specifically, it contributes the two distinct and sometimes contradictory ideas of the unconditional appreciation of the person and a respectful modesty toward authority (202-3).

Troeltsch at this time maintained what could be considered a classically liberal idea of rights.⁴¹ Furthermore, he regarded these rights, and the democracy which he identified so closely with rights, as a secularized version of the Christian moral idea of personhood. Thus the answer to Troeltsch’s second question--what is the relationship between Christianity and politics?--is that Christianity provides the initial moral impulses which are eventually secularized and incorporated into the legal/political system. Troeltsch seems to view this process of secularization positively--it is the way in which Christianity indirectly influences society. What is telling is that Troeltsch does not here address the present relationship between Christianity and politics in Modernity. He seems unaware of any

⁴¹That is, the Lockian notion of rights that is represented by the American Bill of Rights.

newness in the tensions between faith and political life, or at the least does not seem able to fully come to terms with this tension. At this early stage in his writing, Troeltsch has not yet grasped the depth of the incompatibility between Modernity and Christianity.

B. Stoic-Christian Natural Law and Modern Secular Natural Law (1911)⁴²

At the early stages of his thought, Troeltsch identified rights with democracy, as we saw in the previous article. Seven years later, in the same year he published The Social Teachings, Troeltsch's analysis of rights shows marked change.⁴³ In "Stoic-Christian Natural Law and Modern Secular Natural Law" Troeltsch explored the way in which the church-type sociological expression of Christianity sought to come to terms with non-Christian social life as well as with life's natural necessities by adopting the Stoic notion of natural law.⁴⁴ The relevant section of this paper for our purposes is near the end, where

⁴²Ernst Troeltsch, "Stoic-Christian Natural Law and Modern Secular Natural Law," in Religion in History, *op. cit.*

⁴³As we noted earlier, Troeltsch credits Max Weber with leading him into the sociological approach to religion, the result of which was The Social Teachings. From this point onward, we can discern clear Weberian influences in Troeltsch.

⁴⁴It is important to bear in mind that Troeltsch maintains an interpretation of Jesus' teachings that is highly transcendent and impossible to fulfil in the world as it is. An example will make this clearer. In Troeltsch's ideal Christianity, "...all ordinary human conflict, rivalry, selfishness, and egoism are extinguished and transformed into mutual relations of love for the sake of God. . . . This love should make all law, power, and force superfluous.... In particular, it should free people from the desire for pleasure and possessions, and direct them toward contentment, humility, and unconditional willingness to help one another." *Ibid.*, 323. This portrait of Jesus' teachings is genuinely inspirational, but it could be reasonably argued that there is far more room in the gospels for "being human" than Troeltsch recognizes. It appears that Troeltsch is following Weber (and Nietzsche!) in taking the Sermon on the Mount, understood idealistically, as the defining Jesus-moment (and not the crucifixion).

Troeltsch looks into the ways in which the third, mystical type of Christianity has interacted with natural law ideals. In its mystic expression, "Christianity is the working of Christ in us, of the divine principle contained in Christ. Hence it is everywhere the same principle that is at work in all the various forms of historical Christianity, with only relative, outward differences." (339) This is sometimes extended to the "pious heathens" who possess an inner light which is Christ, though they themselves do not know the name. Troeltsch perceives that out of this comes the idea of freedom of conscience "as a requirement of essential human nature, and as the right of all relative religious truth to subsist and express itself for the sake of the kernel of truth contained in it." (339) This makes sense, for if one accepts the central assertion of mysticism--that religion is the husk enclosing the precious seed of individual union with God within--it follows that a policy of liberty toward external religious expressions should be maintained. The important thing is the seed, not the husk, but the seed cannot exist without the husk. Thus, out of respect for the seed, all manner of husks must be tolerated. Troeltsch sees this as the explicit historical source-spring of Modern human rights.

From this insight, Troeltsch immediately springs to what he calls "Modern classical natural law of the eighteenth century." He sees a radical departure from the old notion of natural law in favour of one rooted in the voluntary association of individuals. "The intent was to follow rational considerations of how the community should serve the individual, and to make this idea the basis of juridical theory." (340) At the same time, there are many similarities between secular natural law and the Stoic-Christian natural law. "The difference lies only in its optimism and this-worldliness, in the replacement of all

supernatural revelation by the capacities of a logically articulated reason and universal moral predisposition; that is, in the consistency and radicalism with which a single idea is allowed to dominate the whole construction.” (340)

We can gather from this treatment of the topic that for Troeltsch the defining development for secular natural law--the source-spring of Modern human rights--was the rationalization and secularization of the idea of individuality that came out of Christian mysticism. Again, that idea is that external religious practice is the relative container of the essence of Christianity, the individual's interior union with the divine. Respect for this essence required a policy of liberty toward religious practice. The exaltation of the individual implicit in this approach to religion formed the historical condition for the development of Modern human rights.

C. Protestantism and Progress (1912)⁴⁵

One year later Troeltsch continued to assert that human rights were the fundamental idea of Modern political life, but that these rights were not necessarily connected to democracy. Rather, they were only circumstantially tied to democracy in their genesis in the early Puritan struggles in the United States for constitutionally enshrined religious freedom for the individual (117f). This demand for individual religious freedom, whose absoluteness was due to its religious nature; i.e., God required that individuals be completely free to accept or reject the Christian gospel, was eventually

⁴⁵Ernst Troeltsch, Protestantism and Progress, W. Montgomery, transl. (Beacon Hill: Beacon Hill Press, 1912), 117f. Troeltsch gives credit to Jellinek for this account of the development of Modern human rights.

secularized as its enshrinement in the constitution required a legal theoretical exposition.

Comparing this 1912 treatment of rights to Troeltsch's earliest one in 1904, we can discern an entirely new spirit in Troeltsch. This new spirit is due to an increased appreciation of the present tension between the secularized and rationalized principles which marked Modern society and the Christianity from which they evolved.⁴⁶ For Troeltsch, the essential character of Modern civilization (in contrast with the former church-dominated compromise with the worldly ethic mediated by the doctrine of natural law) is to break with church authority and to replace its ideals with ideals grounded in new authority, ideals which "depend on their inherent and immediate capacity to produce conviction," i.e., science. (18) This has resulted in the "limitation of the interests of life to the present world," and amounts to an implicit denial of the duality between this world and the divine as well as a denial of the category of original sin (20). As a consequence of these developments, "all the factors of the present life acquire an enhanced value and a higher impressiveness, and the ends of life fall more and more within the realm of the present world and its ideal transformation." (23)

Where does Christianity stand at present in relation to Modern society? Troeltsch raises this question in his conclusion, only to demur on furnishing an answer. The goal of Protestantism and Progress was to chart the historical and sociological causal connections between Protestantism and Modern society, not to judge the present relationship (204).

⁴⁶Consider Troeltsch's vivid choice of words when he describes the process of secularization of rights from the Christian mystical notion of the radical freedom of personhood to legal rights, which are, he writes, "overgrown by the rationalistic, sceptical, and utilitarian idea of toleration." *Ibid.*, 125.

Ultimately he does offer a kind of general answer, which is that the essence of the Modern world is “an extraordinary extension and intensification of the thought of freedom and personality.” (205) Christianity originally provided the metaphysical foundation for this development. As for the present task of Christianity, it is to “jealously preserve that principle of freedom which draws its strength from a religious metaphysic; otherwise the cause of freedom and personality may well be lost in the very moment when we are boasting most loudly of our allegiance to it, and of our progress in this direction.” (207) Applied to human rights, this means that the appropriate relationship of Christianity to rights is to continue to foster the idea of individuality which gave rise to rights, so as to guard this idea against erosion. Of all the assumptions rolled into this position, two are notable. The first one is that Troeltsch regards this intensification and extension of the idea of human freedom and personality as a good thing, worthy of protection. The second assumption is that despite the divergence of Modernity from Christianity, Christianity is still sufficiently robust in Western society to provide an adequate support for this idea. This captures, for Troeltsch, his thinking regarding the relationship between Christianity and Western culture at the mid-point of his career.

D. The Social Philosophy of Christianity (1922)⁴⁷

Concordant with his earliest piece on the topic of 1904, Troeltsch continued to assert in 1922 that no social theory springs directly from Christianity--no “theory of its

⁴⁷Ernst Troeltsch, “The Social Philosophy of Christianity,” in Religion in History, *op. cit.*

own regarding the essence and objectives of social life as a whole and regarding the relation of the Christian social order to the secular orders.” (214) Rather, Christian thinkers borrowed from late antiquity their social-political ideas that appealed to the church, forming a kind of *modus vivendi* with the secular sphere, toward the end that the natural reason, which comes from God, is “shaping the social orders of reason into potential bases and complements of the church’s orders and of its highest ideal.” (215) This Christian natural law formed the foundation upon which our social philosophy was constructed. The rise of secular natural law with Rousseau, Hobbes *et al* in the eighteenth century represents a “sundering of the Christian and Stoic constituent elements, and the reanimation of the latter in new practical and metaphysical relationships.” (216)

Turning to the idea of Christianity, Troeltsch remarks that the very idea of “Christianity” as “the universally-human or the common religious element in all Christian groups” is completely new; a product of the Enlightenment (216). Prior to this there were Christian churches and Christian sects, and one could speak of “Christendom,” but these terms all designated historically-anchored phenomena. In contrast, “Christianity” denotes an abstraction--the essence or spirit of what was found in the historical existence of the churches and sects. Troeltsch comments that this universal, general “Jesus-religion” which existed apart from church dogmas, “may have been and may still be a necessity for Modern spiritual life.” (217) Troeltsch continues:

But it is a considerable hindrance to the understanding of the historical and very concrete Christian social philosophy, as well as to any practical treatment of contemporary social problems to the extent that they are bound up with or touch upon religious problems. For, when considered as the generic concept and quintessence of the historical forms of life of the

Christian churches, this new, universal "Christianity," existing apart from church and dogma, is a purely private or individual religion. It is the Modern personal, individualistic religiosity, which corresponds on the whole to Modern individualism. It approaches social problems with merely private charity or with very general humanitarian ideals of pacifism, philanthropy, justice, progress, and the dignity and rights of man. As a result, understanding is lost not only for the old Christian social philosophy but also, especially, for the concrete social significance and productive power of religion as such. . . . [T]he problem of a Christian social philosophy is altogether different according to whether one is thinking in this connection of the powerful and efficacious historic social philosophies of the historic churches, or of one of the social theories deriving from the Modern Christian mentality for the solution of contemporary problems (217).

Troeltsch goes on to state that the "Modern Christian mentality" is bereft of anything like the social philosophy possessed by the churches; it lacks the power to deeply engage and shape the socio-political realm, terminating instead in individualistic casuistry. Thus he can still speak of Christian natural law as "the" social philosophy of the Christian churches (218).

Sects and churches take natural law in different directions; from the sects come the application toward democracy and the rights of man (222). The mystic element that runs through all of Christendom tends to withdraw from external concerns altogether. "The mystical community of souls is a vital spiritual power; but in all social matters it is helpless and indifferent, if not hostile and antagonistic." (224) He continues:

Since this type of Christianity has grown ever stronger in the age of books and since it alone has proved to be somewhat compatible with Modern knowledge, the social-constructive will of contemporary Christianity has become extremely weak among the educated. In fact, it has almost disappeared. . . . [I]t accompanies [the world and society] as no more than a pervasive melody filling the inner life. In this way one can account for the social indifference and unproductiveness of Modern Christianity, which run deep in both churchly and sectarian circles; hence the disjunction of the

inner and the outer worlds. Meanwhile the old social philosophy of the churches has been forgotten to the point that it can no longer be understood (224-5).

In all this, Troeltsch perceives a general tendency in the relation of church to secular state. The form of Christianity which dominates in an epoch is determined by the compatibility to general tendencies and actual needs of the time. Troeltsch's central point is that only in the middle ages was there a "real" social philosophy of Christianity, and this arose because society needed it (227f).

The present conditions, according to Troeltsch, poses an almost complete antithesis to "that peace, quiet, compactness, stability, and independence of personality that are the prerequisites for the nurture of Christian virtues--apart from any question of the practical realization of these virtues--and for the possibility of Christian brotherly love." (230) He notes, "Thus it is quite natural that religion has taken refuge in mysticism and sentimentalism. For religion does not know what to do with such a society." (230)

Troeltsch finally recommends that the solution for the problems of Modernity is to be sought in the sphere of pragmatic politics, in "a completely new orientation of consciousness to the situation, a scientific sociological understanding of the world and its peoples, practical co-operation among the businessmen of the world, and the creation of a public opinion cognizant of the danger and its remedies."

And what of Christianity? Troeltsch writes,

Not much is to be expected directly from a Christian social philosophy. Nor, for that matter, is much to be expected from a Christian social theology or social ethic, even if one could and would progress, with a

generally and publicly effective program, beyond the doctrines adopted from antiquity to an independent development of the social consequences of the Christian ideal. . . . [Supra-denominational Christianity] stands in deep, inner antagonism to the psychological import, assumptions, and effects of an enormously burgeoning social, economic-technical, and political life. No healing power is to be expected from the residue of social teaching of a new religion weakened in this way (231-2).

In short, the answer to today's maladies lies in a scientific and practical-political approach, not a religious approach.

Reflecting on the old natural-law synthesis, Troeltsch notes that the "really significant contribution...was the relatively unified correlation of a system of life and thought, which entered the imagination and standards of the masses and created a common psychological atmosphere." Thus his conclusion: while the social ills are to be cured by a purely secular and scientific political effort, religion is to address itself to generating a new common psychological atmosphere which is conducive to human society....

It remains true, of course, that such immense problems are not to be solved without moral renewal and deepening, without kindness and justice, without a sense of solidarity and a readiness for sacrifice, without a basically believing outlook on life and the world. In fact, this is the second great demand of the critical, historic hour in which Europe finds itself. . . . Self-restraint, consideration for others, a feeling for the solidarity of nations, and respect for human rights, must be inculcated in people's minds; and the spirit of obligation to a more-than-human truth and justice must be aroused. That is task enough in itself, without any need for religion to embroil itself in dilettante social philosophy or amateur social ethics. The spirit it can thus awaken will then on its own redound to the benefit of social and political reconstruction, which in turn will have more and more occasion to call for such a spirit. Then, perhaps, unanticipated new syntheses will be possible (233-4).

This final quotation suggests that Troeltsch remained a Liberal to the end. He adopts the notion of Rights uncritically, and his brief mention of the topic here accords well with his

comments in the article, “The Ideas of Natural Law and Humanity,” written in the same year.

The theory of the Rights of Man--rights which are not the gift of the State, but the ideal postulates of the State, and indeed of Society itself, in all its forms--is a theory which contains so much of the truth, and satisfies so many of the requirements of a true European attitude, that we cannot afford to neglect it.⁴⁸

E. Politics, Patriotism, Religion (1923)⁴⁹

After his full realization of the gulf that separates the Christian ethos from Modern society, and the social-philosophical poverty of the individualized, quasi-mystical “Christianity” that is dominant in Western society, Troeltsch set aside all thought of an immediate compromise between Christian thought and Modernity. The present essay on “Politics, Patriotism and Religion” does not deal with human rights specifically, but there is a great deal that is highly applicable to our question at hand nonetheless. Troeltsch’s goal in the paper is to explore the tensions that exist between Modern politics and Modern religion. He takes his start with pagan forms of religion and politics. They experience no tension between the moral and the religious life.

A defeat is a defeat of the gods, and the worshippers transfer their allegiance to the deities [which are] proved stronger. . . . It is primarily a

⁴⁸Ernst Troeltsch, “The Ideas of Natural Law and Humanity,” appendix in Otto Gierke, Natural Law and the Theory of Society: 1500 to 1800, Ernest Barker, transl. (Cambridge: Cambridge University Press, 1958), 220.

⁴⁹Troeltsch, “Politics, Patriotism, Religion,” in Christian Thought (London: University of London Press, 1923) This speech was intended to be delivered to the London Society for the Study of Religion in March 1923. Troeltsch died before being able to deliver it, and it was published posthumously. It was his last academic writing.

morality of warriors and heroes, according to the character of the gods worshipped in such religions. . . . Only the morality of heroic valour lends, to the ancient Indians and to the great figures of Homeric legend, a certain supernatural greatness (135-6).

This comes very close to describing Weber's account of Modern life in his "Science" lecture; the pagan plethora of gods is certainly the same metaphor Weber was using.

Troeltsch the Christian perceives political paganism as the other option for Europe.

He contrasts this with the relationship between politics and religion under the "universal, ethical religions." The basis of unity under these religions shifts from naturalism to spirit. The heroic virtues decline and are replaced by devotion to the Divine (136). Thus arises the problem. Politics remains tied to the heroic, to power, to a warrior morality, and to a morality circumscribed by the community. But the universal, ethical religions pull toward a transcendent, universal ethic. A tension between politics and religion ensues. For Troeltsch, Machiavelli represents the victory of politics over religion in Europe, manifesting in World War I. A mature Troeltsch now asks, "how is deliverance possible?" (150)

Troeltsch cites four options: 1. renounce idealism and especially universal religion and embrace a Machiavellian naturalism and warrior ethic; 2. pursue an exclusively spiritual solution, consisting of true believers living out the virtues of the Kingdom of God in a suffering and hopeful context in anticipation of the end of this dispensation (e.g., Augustine's City of God); 3. forming a united world-government (e.g., the Roman Empire); and 4. forming a voluntary mutual understanding (e.g., the League of Nations) supported by treaties and goodwill (151-8). Troeltsch thinks that the first two options are

simply unworkable in practice. The third option is fraught with administrative and practical difficulties. Regarding the fourth option, Troeltsch's opinion is that it might become "an additional diplomatic contrivance in the struggle for supremacy" and that it will be simply over-ridden by political concerns of states, as changing power balances and economic redistribution makes goodwill unlikely (157).⁵⁰

Troeltsch's suggestion is a "practical compromise." He admits that politics will always be a power struggle, springing from "the natural constitution and the natural requirements of man." (159) But we must also recognize that humankind does not live on this plane alone, even in our political activities. We are also spiritual. He writes:

I cannot deal with the question in more detail. It is enough that no general rules can be laid down. The important thing to recognize is that, above the sphere of politics and the natural man's gamble for power, there rises a realm of the spirit, of religion, which unites individuals belonging to different nations by forces and motives of an entirely different order. In this way there arises a unity and interconnection among men that operates in continual opposition to the demands of mere political expediency, which, for all its veneer of intellectual refinement, remains at bottom so crude. . . . Indeed, politics have a meaning only as conditioning and bringing into being a material environment in which the life of the spirit can flourish. Nevertheless, for this very reason the latter realm cannot fail in its turn to react upon the former, and, after all the catastrophes brought about by naturalism, it sets to work again to make the realm of nature serve its ends (160-1).

Troeltsch is describing power politics at a macro-level. He was (or was planning to be, before his untimely death) a German in England in 1923, trying above all else to come to grips with the war. But we can apply this analysis just as easily to the power-politics inherent in the Modern human rights movement. Troeltsch admits to "the material

⁵⁰Troeltsch anticipates the same sort of conclusions that we did in our analysis of human rights discourse from a Weberian perspective of disenchantment.

man's gamble for power" which dominates all political action, which would include human rights discourse. It represents the Paganism that is necessary, that life demands if we are to live in society. This Weber saw acutely and described for us in his "Science" lecture. But to the pagan hermeneutic of the struggle of the gods and demons, Troeltsch asserts another level--the spiritual level. The notion of the religious *a priori*, which we mentioned at the outset, emerges. Positing the spiritual nature of human beings as a working assumption, Troeltsch is able to reinterpret the battle of the gods and demons as struggle, but struggle for a purpose. That purpose is to create an environment in which the life of the spirit can flourish. It is a struggle for the necessary tools to attain meaning. It is not a struggle for Absolute Truth, but for relationship with the Divine. In the end, for Troeltsch, the battle of the gods will certainly lead back to transcendence, to new forms of human spirituality. His hope is that Christianity will be there--particularly the Jesus-cultus within the Christian church, reinvigorated by spiritual-mystical Christianity, and from this seedbed a new synthesis of Christianity and political life can grow.

Troeltsch remarks that "Many of us in Germany regard 'compromise' as the lowest and most despicable means to which a thinker can have resort. We are asked to recognize a radical disjunction here, and to choose either *for* or *against*." One is again reminded of Weber's conclusion to the "Science" lecture. Contrary to this conclusion, Troeltsch sees the struggle and the need to compromise as integral to life itself. For Troeltsch, it must be borne in mind that "compromise" does not mean resorting to the momentarily expedient. Nor does it mean fundamentally abandoning the ideal. He means something far richer....

In the last resort life itself, both purely animal existence and our human life, a dualism of body and spirit, consists in a constant, persistently precarious compromise between its respective constituent elements. And it is from out of this dual human life and out of its compromise that the highest heights of religious personality and of religious interdependence arise and grow. And in this their growth and struggle they point to a Beyond where they will at last be wholly free from earthly obstacles. This is the lot of humanity: human life is a struggle not only for physical existence or for the recognition of men's social and political rights. It is primarily a struggle between the life of nature and the life of the spirit that rises above nature and yet remains bound to nature, even whilst it turns against it. And if the whole course of history is thus characterized by compromise, it is not likely that the thinker can escape it (165-6).

F. Reflections on Troeltsch and "The Rights of Man"

We have set forth above the many strands of Troeltsch's thought which apply to our question of the relationship between human rights discourse and Christianity. In summing up Troeltsch's treatment of the topic, it is helpful to think of an early Troeltsch, a middle Troeltsch, and a late Troeltsch. The early Troeltsch, represented in his 1904 article, held that Christianity was the source of democratic ethical ideals, which for Troeltsch included the "rights of man." The essence of the "rights of man" was the independent value of the individual, a concept which finds its historical roots in the Christian idea of personhood. However, Troeltsch also held that these ethical ideals were not purely Christian, but were commingled with Stoic ideas of equality.

In Troeltsch's middle period (1911-12) he identified the specific historical source of human rights in the freedom of conscience demanded by Christian mysticism through the sects. Human rights are the secularized and amplified children of this original claim to individual liberty, which go far beyond Christianity. At this time Troeltsch regarded

human rights and Christianity as basically compatible, Christianity's central task being to guard the original impulse toward human freedom.

Troeltsch's late period (1922-3) evidences an appreciation of the gap between the culture given to us in Modernity and Christianity. He located the likely solution to society's problems not in Modern Christianity but in secular means, including "the rights of man." The Christian religion in its present form is unable to contribute much, due to the inhospitableness of Modernity toward it and its corresponding retreat into individualism. Troeltsch still held onto a hope that there would arise a new compromise between the realm of politics and the realm of the spirit in the future.

What can we conclude from Troeltsch's treatment of "the Rights of Man?" First of all, we perceive Troeltsch's consistent approval of these rights as promoting human freedom, which he, along with Weber, believed to be at risk in the Modern era. As for a prescription on the present relationship between these rights and the Christianity from which they came, Troeltsch is clear on one point: Christianity itself has no comprehensive inherent social theory, and so by its very nature is open to compromises with worldly political theories.⁵¹ Beyond this, Troeltsch is suggestive but ultimately ambiguous. The root of this ambiguity is Troeltsch's complex attitude toward the individual, mystical type of Christianity. The best ground for compatibility between rights and Christianity is found

⁵¹Troeltsch's position could easily be softened to admit to a thin social theory implied in the New Testament, which needs always to be mixed with a "worldly" social theory such as Stoicism in practice. Such an argument is made by Robert W. Lovin in "God has no Favorites: The Emergence of a Christian Theory of Natural Law," in Studies in the Theological Ethics of Ernst Troeltsch, *op. cit.* Lovin argues that the Christian idea of a universal, trans-ethical church community implies a thin social theory to which congenial pagan theories can be annexed.

in a mystical expression of Christianity. But the individual nature of this mystical expression prevents Christianity from having a direct influence on political and social life. We must therefore understand Troeltsch as being forced into his 1922 conclusion that the social problems of Modernity are to be solved by entirely secular means, with religion functioning only to make the general ethos of society more amenable to the secular solutions; in short, to stimulate sympathy toward others. Thus, we have not so much a compromise between secular solutions to the problems of Modernity (which is, as we argued in chapter 1, centered around human rights discourse as the dominant discourse of universality) and Christian thought, as a kind of co-existence. Christianity, itself coloured by Modernity, restricts itself to the private, interior realm of motivation and individual acts of charity. Human rights discourse concerns itself with political and legal action. They rarely conflict because they rarely come into contact with each other.

But this is not Troeltsch's last word. His 1923 lecture leads us to believe that he saw within the struggle inherent in politics a higher purpose. The motivations behind these struggles were manifold, but ultimately there is a kind of spirituality which drives humans toward seeking meaning. This led Troeltsch to express hope that in the end, when politics runs its course in the Modern world, there will come fresh syntheses of religion and culture; a new compromise between the life of the flesh and the life of the spirit. Or, in Weberian terms, we might say a re-enchantment of the world.

At this point we would do well to recall our thesis question: Are Christianity and human rights discourse competing ways of living in society? Or is there some potential compatibility between Christianity and human rights discourse? In light of this question,

we must now ask, to what extent does Troeltsch help us to resolve this question?

What we have done in the previous chapter is suggest an understanding of the human rights movement as a kind of political struggle in an era in which our technological advances have created a desperate need for morality while at the same time the way of knowing which is part-and-parcel of our scientific advances precludes absolute moral knowledge. Troeltsch's response to this situation was to call for a creative compromise between Christianity and the paganism of politics.⁵² Rooted in Troeltsch's concept of Christianity was a dualism which made necessary a dialogue between Church and world, a dialogue which bore fruit in compromise.

By the end of his career, Troeltsch believed that at present, Christian thought had retreated into a mystical form which prevented serious social impact. But the energizing impulse of Christianity is maintained in just such individual mysticism, and because of this Troeltsch maintained a hope that a true compromise between Christian thought and Modern culture could be achieved in the future. He felt that purely political struggles will always lead to the search for more than worldly power -that they will ultimately turn to the transcendent. In Der Historismus, Troeltsch's last and uncompleted book (which unfortunately was never translated into English) he began to trace out the requirements for

⁵²Troeltsch simply could not follow Weber down the path of heroic decisionism in the face of the loss of a coherent moral universe. For Troeltsch, it is essential that the world make sense morally, as much for politics as for religion. As Robert Lovin writes regarding Troeltsch's motivation, "when people begin to doubt [that the world makes sense morally], they lose their energy for societal tasks that take them beyond protecting their own interests." Robert W. Lovin, *op. cit.*, 20.

a new synthesis between Christianity and contemporary culture.⁵³ He predicts a return to Christian monotheism as a cohesive element in European society.⁵⁴ The religious component is one among many that make up the society. However, some religious, monotheistic aspect is necessary in Troeltsch's mind to achieve the universal horizon needed to provide a context for human ethical conduct. As for the specific content of Troeltsch's new synthesis, Troeltsch sought to take the Christian notion of personality, which he felt to be "the one and only thread which guides us into the realm of standards beyond the reach of time or history," and wed it with the ethics of cultural values.⁵⁵ It is significant that Troeltsch regarded this synthesis not as inevitable, but as a deliberate and constructive attempt to forge the future.⁵⁶ Troeltsch's words on this synthesis are germane: "The task of damming and shaping [the historical stream of life] is therefore

⁵³See Wendell S. Dietrich, "Troeltsch's Treatment of the Thomist Synthesis in the Social Teachings as a Signal of his View of a New Cultural Synthesis," The Thomist 57 (1993) 381-401 at 397-401.

⁵⁴Troeltsch felt that it was impossible to attain any sort of "universal history" in the most general sense. He contented himself with a universal history of Europeanism. Writes Troeltsch: "A unity of meaning of continuous development can be constructed only from the standpoint of the observer, that is to say, only for the sphere of a cultural circle which comprises the observer and is composed of an actual sequence of events and their effects. In our case, therefore, only such a construction of the process of the Occidental cultural circle is possible." From Toshimasa Yasukata, Ernst Troeltsch: Systematic Theologian of Radical Historicity (Atlanta: Scholars' Press, 1986), 134-5.

⁵⁵*Ibid.*, 139. The notable implication in this statement is that the Christian idea of the dignity of the individual forms a unique and sufficient basis for universal moral standards. This is certainly the same intuition that fuels the human rights movement. One wonders what happened to the other strand of political implications that flows out of Christianity which Troeltsch identified in 1904--namely the drive toward submission to authority embedded in the doctrine of the sovereignty of God?

⁵⁶*Ibid.*, 140.

essentially incapable of completion and essentially unending; and yet it is always soluble and practicable in each new case. A radical and absolute solution does not exist; there are only working, partial, synthetically uniting solutions.”⁵⁷

All of this suggests two conclusions with regard to our investigation. First, at present there is a more-or-less peaceful co-existence between the present popular form of Protestant Christianity and human rights discourse. This is not a compromise, but rather represents a truncated form of Christianity which has withdrawn from the public and political sphere. For while Troeltsch was clear that Christianity alone has no political theory, he was also clear that Christianity did have political implications, particularly those arising out of the Christian ideas of personality and freedom, and to a lesser degree those arising out of the Christian doctrine of sovereignty and its application to the balance of worldly power.⁵⁸ At present these political implications are being ignored in most expressions of Protestantism in the West. This state of affairs was, for Troeltsch, occasion for mourning. No dialogue and no compromise is possible between what is given in Christianity and what is given in Modernity, simply because they do not interact. Modernity has proven to be inhospitable to Christianity, and Christianity has responded by retreating from the social sphere into individualism.

The second conclusion we can glean from Troeltsch’s corpus is that there is reason

⁵⁷*Ibid.*, 141.

⁵⁸We are referring to the New Testament idea that worldly powers are set in place by God and so should be submitted to out of reverence for God’s ultimate control. See, for example, the apostle Paul’s statement in Romans 13:1: “Everyone must submit himself to the governing authorities, for there is no authority except that which God has established.”

to maintain hope for a deep synthesis between Christianity and human rights discourse, based on the Christian notion of personality and its political-social implications. But this would not simply be a synthesis between Christianity and human rights discourse, but a far greater synthesis including all of the powerful forces within our society, including other religions. Troeltsch felt that there would be a new openness for this sort of optimistically relativized spirituality in the future, but that such a compromise would have to be deliberately pursued. Furthermore, he felt that no ultimate synthesis was possible, but that all we could hope for was an ongoing dialogue between all of the major forces shaping society.

3. Conclusion

The various value-spheres in the Modern world are in conflict. This is hardly a new discovery--Plato wrestled with it in The Republic. What is new is the realization given to us in our science that the hierarchical ordering of value-spheres in a society is a human construction, and we cannot rely on a supra-historical principle to help us resolve the conflicts.⁵⁹ This both Weber and later Troeltsch understood fully. They differ in that while Weber sought to handle the unresolvable conflict by heroic decisionism, Troeltsch desired to handle the unresolvable conflict by compromise and ongoing dialogue between the value spheres, and particularly between Christianity (as Europe's most important

⁵⁹See Bradley E. Starr, "'The World's Most Perverse Habit': Ernst Troeltsch on Religion in the Conflict of Values," in Anxiety, Guilt and Freedom: Religious Studies Perspectives, Benjamin J. Hubbard and Bradley E. Starr, eds. (Langham, MD: University Press of America, 1990).

historical expression of the universal divine source of life) and political expediency.

Like Weber, Troeltsch never addressed the phenomenon of Human Rights discourse directly. It had not yet come to fruition as it has in our own day. But his treatment of the “rights of man” suggested that if there was to be a future new compromise between Christianity and politics, rights would be at its centre. It is now our task to ask Troeltsch’s question, whether there are “working, partial, synthetically uniting systems” possible between our Human Rights discourse and Christianity. We must turn now to the present day, armed with Weber’s problem and Troeltsch’s sharpening of that problem and proposed angle on a solution. We will examine the working, partial synthesis between Christianity and Human Rights discourse proposed by a current Troeltschian, Max Stackhouse, and the challenge posed to his synthesis by another Rights scholar and activist, Louis Henkin.

Chapter 3. Human Rights and Christianity--Potential for Compromise

Introduction

The controlling question of this thesis is the present potential for a positive relationship between Christianity and human rights. Up to this point in our exploration, we have taken two steps toward a resolution of this question. First, we have proposed an interpretation of current human rights discourse, from the perspective of Max Weber's analysis of disenchantment, which anchors the human rights movement in the moral crisis which attends Modernity. This allowed us to raise the question of the relationship between human rights discourse and Christianity sharply; the immanence of human rights discourse and its functional replacement of Christianity in resisting the rationalizing forces of society suggests that Christianity and human rights discourse are in competition.

The second step we have taken is to lay the groundwork for exploring the potential of a harmonization of human rights discourse and Christianity. We did this via a thematic reading of Ernst Troeltsch's treatment of "the Rights of Man," with special attention to his idea of compromise. The essence of that idea was that Christianity, by its very nature, does not contain a political theory. Rather, it needs to synthesize with a free-standing socio-political theory if it is to influence society. The classical intermingling of Stoicism and Christianity in the Natural Law theory of the late Medieval period was a paradigmatic example of this type of compromise. Troeltsch maintained that the old synthesis is no longer relevant to the socio-political challenges of Modernity, and a new synthesis is needed if Christianity is to continue to be of relevance to society. Although Troeltsch hinted at the shape of the new compromise, he did not attempt to formulate one.

However, his treatment of the “rights of man” suggested that if there is a *locus* in Modern society for a compromise with Christianity, human rights are it. Troeltsch remained optimistic regarding rights even in his later period, in which he fully acknowledged the deep rift between Modern life and a retreating Christianity.

We are now poised to further our quest and attempt an answer to the central question of this thesis: to what degree are Christianity and human rights culture compatible? Before embarking on this investigation, a word should be said defending the theoretical nature of our investigation. Wouldn't it be more useful to discuss the potentials of compromise between a particular Christian group and a particular aspect of the human rights movement? The justification for our approach is that a general theoretical inquiry is a necessary precondition to any concrete synthesis. This is due to the nature of religious communities. Religious communities regard themselves as fideistic communities, bound together by common beliefs (or ideologies). They are knit together by a shared commitment to abstract ideas, as well as by other sociological and psychological forces. If abstract questions of religion and human rights are not plumbed, there is no hope of any lasting practical cooperation between human rights advocates and religionists. Religious discourse is explicitly *non*-pragmatic in its basic orientation; any coming-together of religion and human rights requires a general theoretical validation, at least from the side of the religious.

Turning to the question at hand, is a compromise between human rights and Christianity possible? To adequately address this question we will review the proposal of

Max Stackhouse for a synthesis between Christianity and human rights.¹ To both position his proposal in current academic debate and also to assist us in assessing its merits, we will also consider the relevant work of Stackhouse's primary interlocutor, Louis Henkin. These scholars have had two significant exchanges which have been published, one in 1998, the other in 1999. We will use these exchanges as our primary texts for this chapter, regarding them from the perspective we have developed in the previous two chapters.

Specifically, we will look to Henkin to provide us with the current mainstream reading of human rights discourse and its ideal relationship to religions. After critically reviewing this line of thinking on rights and their relationship to religion, we will look at Stackhouse's proposal as a solution addressed to the perceived inadequacies of the mainstream approach to rights. Does Stackhouse's approach to rights and religion satisfy the Troeltschian requirements for a compromise?

We will take our start with an earlier work by Henkin. It is the epilogue to his 1990 book, The Age of Rights, entitled "Human Rights and Competing Ideas."²

¹While other potential programs for such a synthesis may be possible, Stackhouse's is presently the most developed along roughly Troeltschian lines. We are not aware of any other serious theoretical proposals of rapprochement between Christianity and human rights.

²Louis Henkin, The Age of Rights (New York: Columbia University Press, 1990).

1. Louis Henkin and the Dominant Interpretation of Human Rights Discourse

Henkin is generally regarded as a paradigmatic human rights advocate.³ He is representative of the mainstream of human rights discourse. His views of rights, therefore, are to be taken seriously. Henkin perceives in Modern human rights, particularly since the 1949 Universal Declaration of Human Rights, a new phenomenon in the Modern world. Throughout his writing he calls human rights “*the* idea of our age.” These contemporary human rights are very different than their ancestors as articulated in the various theories of “Natural Law.” Henkin summarizes his understanding of current human rights discourse when he writes:

The idea of rights here distilled from contemporary international instruments responds, I believe, to common moral intuitions and accepted political principles. Those intuitions and principles have not been authoritatively articulated. Developed during the decades following the second World War, international human rights are not the work of philosophers, but of politicians and citizens, and philosophers have only begun to try to build conceptual justifications for them. The international expressions of rights themselves claim no philosophical foundation, nor do they reflect any clear philosophical assumptions; they articulate no particular moral principles or any single, comprehensive theory of the relation of the individual to society. That there are “fundamental human rights” was a declared article of faith, “reaffirmed” by “the peoples of the United Nations” in the United Nations Charter. The Universal Declaration of Human Rights, striving for a pronouncement that would appeal to diverse political systems governing diverse peoples, built on that faith and shunned philosophical exploration. Because of that faith--and of political and ideological forces--governments accepted the concept of human rights, agreed that they were properly matters for international concern, cooperated to define them, assumed international obligations to respect them, and submitted to some international scrutiny as to their compliance

³Louis Henkin, University Professor Emeritus, Board Chair of the Center for the Study of Human Rights, and Special Service Professor at Columbia University, was President of the American Society of International Law from 1992 to 1994 and was a recipient of the annual award from the Lawyers Committee on Human Rights.

with these obligations.⁴

But if human rights lay claim to “self-evident truth” in a convincing way, as Henkin says they do, and if the whole world is in fact generally convinced, and Henkin says it is, then the issue of other claims to truth and their relation to human rights must be addressed. Henkin acknowledges the significance of this question and devotes an epilogue in his book to address what he calls “the competitors to human rights.”⁵ He identifies the main competitors as those identifiable groups who in fact object to and resist human rights. Foremost among the categories of these groups are religions.⁶

Moving from the fact of historical religious resistance to human rights, Henkin suggests that there is now evidence of a new openness of religions to rights, based on the shared values between human rights and religious ideology. This gives him courage to call on religions to adapt their respective ideologies to the idea of human rights. Per Henkin:

Human rights are not a complete, alternative ideology, but rights are a *floor*, necessary to make other values—including religion—flourish. Human rights not only protect religion, but have come to serve religious ethics in respects and contexts where religion itself has sometimes proved

⁴*Ibid.*, 6. We should not take Henkin’s statement regarding the moral neutrality of human rights too seriously, for in the preface to the same book he informs us that the idea of rights is anchored in “a sensed common moral intuition” and that they constitute “a small core of common values” which apply universally. *Ibid.*, x.

⁵*Ibid.*, 181-193.

⁶Henkin’s explanations as to why religions are competitors to human rights are manifold. He cites individualism, and the consequent societal empowerment of the individual over the group and particular over those in group authority, as the central tension. In addition he mentions the venerability of religions, which orient them toward distrusting innovations; the tilt toward duties over rights typical in most religions; the “political” nature of rights; and the simple fact of the secular nature of rights, which perhaps implies the inadequacy of religion in the Modern world. See *ibid.*, 181-6.

insufficient. Human rights are, at least, a supplemental "theology" for pluralistic, urban, secular societies. There, religion can accept if not adopt the human rights idea as an affirmation of its own values, and can devote itself to the larger, deeper areas beyond the common denominator of human rights. Religion can provide, as the human rights idea does not adequately, for the tensions between rights and responsibilities, between individual and community, between the material and the spirit.⁷

Henkin concludes that the competition between human rights and religion is only perceived, not real. The human rights idea, for Henkin, is at its core simply the legal-political pursuit of human dignity. Human dignity is a value that every religion can embrace as it seeks to pursue its particular vision of the good life.⁸

Eight years later, Henkin again wrote on the same subject, developing and sharpening these same thoughts. In an article entitled "Religion, Religions and Human Rights," Henkin takes his point of departure not from abstract "religion," but from "religions," those concrete communities of faith who too often perpetuate patterns of discrimination and oppression.⁹ His question is not whether religion and human rights are compatible as abstract notions, but whether there is the possibility of "conciliation between real communities with long-standing reasons for mutual suspicion."¹⁰ Again, Henkin

⁷*Ibid.*, 186-7.

⁸With regard to religion, Henkin characterizes the function of religion as primarily explaining and comforting. Because human rights make no pretense of doing either of these functions, he sees no actual conflict. See *ibid.*, 193.

⁹Louis Henkin, "Religion, Religions and Human Rights," Journal of Religious Ethics 26 (Fall 1998) 229-239.

¹⁰*Ibid.*, 230. These two are surely intertwined more than Henkin wants to admit. As we discussed in the introduction to this chapter, from the perspective of religious communities, the question of theoretical compatibility between themselves and the human rights movement is foundational to any practical progress in conciliation. Henkin's

locates the root of human rights in the Modern commitment to human dignity. Despite all the differences in sources of authority and the individuality-community tensions between human rights discourse and religions, there is shared ground on the idea of human dignity, although religion often takes this notion in different directions than does human rights ¹¹

After surveying the tensions between human rights and religion, Henkin makes two assertions, which together form the essence of his position. His first assertion is that human rights can never rest on religious foundations. He furnishes three reasons why. A religious foundation for human rights is simply unacceptable for those who cannot share theistic assumptions, it violates the notion of the separation of church and state which is highly significant in the US context, and it runs the risk of reducing religions to a generic “religion” devoid of varietal content.¹²

Henkin’s second assertion is that the interests of most religions could be advanced by the human rights idea, and that religions should commit themselves to embracing human rights as a way to express their concern for the person, while at the same time allowing human rights to help the religions to “modernize”--to sort out the oppressive

pragmatic approach to the problem of human rights and religions, not unlike his pragmatic approach to human rights in general, suffers from an inability to grasp the profundity of the practical. That is, it is precisely in the practical business of political-social interaction that we obtain windows to gaze into the depths of our collective identity. If we cannot muster the sensitivity or the courage to do so, we cannot adequately understand the practical realm, and we will stumble from mismanagement to debacle, all the while congratulating ourselves for our practicality and no-nonsense approach to life.

¹¹For example, religiously ordained hierarchical social structures.

¹²*Ibid.*, 233.

inheritances from long-gone societies from the true religious content.¹³

Again, Henkin represents the dominant perspective among the human rights community. His opinions outline for us the actual context for any possible compromise between human rights discourse and Christianity in today's world.

In attempting to understand this perspective on human rights, two general traits are immediately apparent. First, human rights discourse is viewed as a pragmatic solution to practical problems of human suffering. It denies having a philosophy.¹⁴ It is oriented toward the practical, not the reflective, and perhaps there has been a hesitance about probing too deeply the underbelly of human rights in fear that a boon to society might be lost.

Following from this practical orientation, we note a second characteristic. The dominant reading of human rights is entirely uncritical of the idea of human rights. There is a broadly shared commitment to the idea of human rights that prohibits critical reflection on the idea. To be sure, there is critical thinking at the logistical level--now might we better enforce rights, etc. But the idea of rights is generally regarded as unassailable. Furthermore, the way that rights are functioning in society is also generally off-limits for critical inquiry.

To be fair to Henkin, he is clearly trying to make room for religion in the human

¹³*Ibid.*, 237-8.

¹⁴This, of course, is impossible. Every socio-political claim bears with it an implicit philosophical orientation. Human rights is no exception. The fact that this philosophical orientation is ignored, perhaps because there are multiple philosophies undergirding human rights discourse, depending on who the parties to the discourse are, does not mean that there is no philosophy of human rights.

rights loop, which is all the more admirable because he does not identify himself as a religious person. But it should be clear that his proposals regarding the relationship between human rights and religion are insufficient from the perspective of those committed to a religious framework.

To explain why this is so we must first ask, what is the relationship between the dominant reading of human rights discourse, as related to us by Henkin, and the interpretation of human rights discourse from the perspective of disenchantment which was set forth in our first chapter?¹⁵ The central contrast between Henkin's reading of rights and a disenchanted reading is that Henkin assumes that there are a set of fixed moral values clustered around the notion of human dignity, and that these moral values find an adequate articulation in the various international human rights instruments.¹⁶ The disenchanted reading of rights starts with the position that in Modernity, and just because of the fact-value distinction, we have no idea what "human dignity" consists of or leads to, and furthermore, we have no way of resolving this problem. Our dominant understanding of the world comes through science, and science will not permit other ways of

¹⁵Admittedly, Henkin's framing of moral issues in terms of "values" is a substantial tip of the hat to Weber and the sociologist's fact-value distinction to which Weber gave birth. However, Henkin, in the American tradition, works with "values" in a very different spirit than Weber. For Weber, as we saw, this distinction was highly problematic and gave rise to tremendous anxiety regarding the possibility of moral knowledge. We see in Henkin an almost blissful ignorance of any problem whatsoever regarding the nature of moral knowledge.

¹⁶Henkin justifies this assumption on the basis of the near-universal empirical consensus on the central UN rights documents. That there are other interpretations regarding this "consensus," ones that make more sense in light of the tremendous abuses of human rights that have occurred subsequent to the formation of this consensus, is not seriously explored by Henkin.

understanding to have pride of place. With no ultimately authoritative superstructure except science, we must query science for our moral knowledge. But science is by its nature incapable of providing this. Our “moral intuitions,” which Henkin refers to as the legitimization of human rights, must be either abandoned as unscientific and thus highly doubtful, or else clutched to our breasts in neo-pagan religious fervour and asserted against all other claims to value. This is the crisis of Modernity--that precisely the moral intuitions to which Henkin refers are now stripped of their former religious garb and hang naked in their subjectivity and irrationality on the cross of science. These moral intuitions used to provide what was perceived to be an adequate moral compass when dressed in religious and traditional garb. Stripped of this clothing, they are simply inadequate to get us from values to moral knowledge.¹⁷ Accordingly, from the perspective of Weberian disenchantment, human rights discourse is regarded as the battle-ground in which the various claims to value wage war in our society, and the rights presently enshrined in the international legal instruments are the contemporary victors of these battles--victors who must constantly defend themselves against a never-ending stream of aggressors to whom they might eventually succumb. Or, to put it more gently, the present set of human rights

¹⁷This is the very essence of “crisis”--our previously trustworthy ways of making sense of the world no longer work for us, due to fundamental changes to our environment.

See Tom Darby, “On Spiritual Crisis, Globalization, and Planetary Rule”, in Faith, Reason and Political Life Today, Peter A. Lawler and Dale McConkey, eds. (Lanham, MD: Lexington Books, 2001), 35: “A crisis occurs when the categories for making sense of our experience no longer work for us and our experience is rendered meaningless.” It is interesting that the Modern human rights movement found its genesis in the period immediately after World War Two. Do the Nazi horrors, with their scientific rationalism and moral bankruptcy, mark the point when we first became widely aware of the crisis Weber pointed to at the turn of the century? If so, we may interpret human rights discourse as the attempted resolution to that crisis.

is merely the interim, temporary resolution in an ongoing and ultimately unresolvable debate regarding values, and specifically regarding what it means to be human in society.

Henkin's view of rights is far simpler and cheerier. He does not perceive the involvement of rights discourse in the social, political and moral problems of Modernity, and so the deep tensions between human rights and religions, particularly the ways in which human rights attempts to fulfil the role formerly held by Christianity in the West, elude Henkin. Thus his solution for the happy coexistence and cooperation of rights and religion ring hollow.

In fact, from a religious perspective, the mainstream interpretation of human rights tends toward hegemony. This is explicit among thinkers like Henkin (although different words are used) and is done unapologetically. With regard to the tensions between rights and religion, Henkin's solution is that religions learn to submit to human rights. There is no proposal of any real dialogue, which would by its very nature require that both parties approach the table with an openness to being convinced of the other's position, or at least arriving at a mutually compromising solution. Henkin's insistence that human rights is not a complete moral-political system does not change the fact that human rights discourse, in its mainstream articulation, only permits that which accords with it. It is anti-dialogue. It is a hawk, not a dove. As the present victors in the battle of the gods, our human rights demand the allegiance of all other pretenders to the throne. This is all the more insidious because it is done under the guise of the pursuit of human dignity and with the force of law.

2. Max Stackhouse and Public Theology--Toward a New Compromise?

Max Stackhouse, presently the Stephen Colwell Professor of Christian Ethics at Princeton Theological Seminary, can fairly be characterized as one who is seeking to pursue the Troeltschian project of pursuing a deep compromise between Christianity and Modern society.¹⁸ As part of the same colloquium in which Henkin presented his "Religion" lecture, Stackhouse positioned himself explicitly in opposition to Henkin's proposals regarding the relationship between human rights and religions. In his paper, entitled "The Intellectual Crisis of a Good Idea," Stackhouse offers a very different vision of rights-religions interaction than the one set forth by the mainstream reading.¹⁹

Specifically, Stackhouse cavils at Henkin's claim that "human rights do not have and do not require any religious grounding." Such an approach makes it impossible to define the full scope of human rights or, on the flip side, to place meaningful limits on human rights arguments.²⁰ He suggests that the idea of human rights is bound to fade

¹⁸What is Troeltsch to Stackhouse? He never tells us, and so we are left to speculate. Apart from the fact that his work over the last 30 years revolves around the same concern adopted by Troeltsch--"the justification of religious commitment in the face of a naturalism that was carrying all before it"--it is significant that Stackhouse's very first scholarly publication was on Troeltsch. He made his academic debut in 1962 with "Troeltsch's Categories of Historical Analysis," *Journal for the Scientific Study of Religion* 1 (1962) 223-225. This essay was part of a "biographical focus" on Troeltsch, which included other essays by luminaries such as Paul Tillich and James Luther Adams. That Troeltsch continues to be an influence on Stackhouse is apparent from his 2000 article, "A Premature Postmodern," *First Things* 106, Oct. 2000, 19-22, in which he discusses Troeltsch's contemporary relevance.

¹⁹Max L. Stackhouse, "The Intellectual Crisis of a Good Idea," *Journal of Religious Ethics* 26 (Fall 1998) 263-268.

²⁰*Ibid.*, 263.

away unless they are embedded in “a wider view of ethics, a deeper view of social history, and a higher view of meaning. . . . Without this, rights claims spin out of control and become the Rorschach of every ideological agenda.”²¹

Stackhouse’s solution to the rights-religions problem is found in what he calls “public theology.” He draws a distinction between religions and theology: “...religion is the human acknowledgement that we live under a power and morality that we did not construct and may not ignore, and particular religions are sets of ultimate convictions and hypotheses about the nature, character, demands, and implications of that reality.”²² Theology, on the other hand, is understood by Stackhouse as the proper discipline to evaluate and make sense of religious, ethical and quasi-religious (read human rights) claims, “to determine whether they are in accord with what humans can reasonably know about God, God’s justice, and God’s relationship to the world.”²³ He continues,

It is at this point that reason converges with some religious orientations to form theology in such a way that it can judge bad faith from within and provide the moral architecture of civilization without. Theology, thus understood, issues in jurisprudence and the up-building of those key institutions of civil society, especially communities of faith, that in turn generated the complex societies that the secularist sees as the sociological source and grounding of human rights. That the jurisprudence and the society at large do not acknowledge these sources (and, indeed, may

²¹*Ibid.*, 267. The affinities between Stackhouse’s interpretation of rights without foundations and the disenchanted reading of rights are apparent. The difference is that the disenchantment reading discovers meaning in this apparent limitlessness whereas Stackhouse suggests meaninglessness and ultimate destruction.

²²*Ibid.*, 265.

²³*Ibid.*

actually deny them) does not alter what is actually the case.²⁴

What Stackhouse seems to be advocating is sustained reflection on the ways in which religiously oriented thinking influenced society and precipitated human rights in the West, and sustained reflection on the present religious meanings and implications of human rights.²⁵ The relationship between human rights and Christianity which Stackhouse desires is that the religious discipline of theology be applied to human rights to define and limit them in an ongoing dialogue regarding their ultimate meaning.

The statements regarding theology and its import for human rights are provocative but unclear in this essay. Less than a year later, Stackhouse issued forth another essay, entitled "Human Rights and Public Theology: The Basic Validation of Human Rights."²⁶ He begins by raising the problems of cultural pluralism and the universality of human rights--if rights are rooted in the structural changes that have taken place in the society of the West, why should we take them as our governing principles when our context has been so radically altered by globalization?²⁷ He writes:

²⁴*Ibid.*, 265-6.

²⁵Remember that by "religious" Stackhouse means that which points to a power and morality that we did not construct, but is part of the reality in which we live. Under this definition, to claim that something is universal or inherent--and human rights receive both adjectives-- must be understood as a religious or quasi-religious claim. The underlying assumption is a Troeltschian one--that there is a religious *a priori* woven into humanity which orients us toward a religious outlook, or in Modern parlance, toward spirituality.

²⁶Max L. Stackhouse, "Human Rights and Public Theology: The Basic Validation of Human Rights," in Religion and Human Rights: Competing Claims?, Carrie Gustafson and Peter Juliver, eds. (Armonk, NY: M. E. Sharpe, 1999), 12-30.

²⁷*Ibid.*, 13.

If no other possible source for normative principles is imagined than the changing socio-historical conditions that emerge in a particular cultural context, and if each ethical or juristic principle is simply a cultural adaptation to those changing conditions, then the 'values' of the Declaration of Independence are ripe for challenge.²⁸

That is, unless the human rights idea finds a broader context of strong ideas in which to embed itself, it will pass away. This Stackhouse depicts as tragic.

To avert this tragedy, he argues that "certain theological principles are indispensable to the sustaining of the idea of human rights."²⁹ Again, Stackhouse presents an understanding of theology which is rather unique. He defines it here as "a discipline by which we analyse the comparative worth of various religious claims according to their capacity to offer a viable comprehending view of life and meaning for all."³⁰ With regard to the secularist account of human rights maintained by thinkers such as Henkin, Stackhouse comments:

It lacks the rationally defensible understanding that we all stand under a universal moral law, and that each person is constituted by a divinely endowed core that is the ultimate basis for the "right to have rights" before the law. . . . Such ideas are theological in nature, not merely religious in the sense that there are many religions, and that each one will have its own dogmas and cultic practices that are not shared by outsiders. Theological ideas may be fed and supported, or resisted and contradicted in various degrees by particular religious traditions.³¹

If we are to make sense of the rhetoric surrounding human rights, Stackhouse

²⁸*Ibid.*, 13-4.

²⁹*Ibid.*, 15.

³⁰*Ibid.*

³¹*Ibid.*, 16.

argues, we must take seriously the religious nature of these claims. The way to do this is what he here calls "public theology."³² This is quite different than analysis from the perspective of a particular religion. Stackhouse explains:

The term "public" is used to stress the point that "theology," while possibly related to intensely personal commitments or to particular communities of worship, is at its most profound levels neither merely private nor a matter of distinctive communal identity. Rather, it is an ongoing discipline that seeks to discern the way things are and ought to be, one that is decisive for public discourse and necessary to the guidance of individual souls, societies, and indeed the community of nations. It responds to the problems that human experiences do not interpret for themselves, but require various modes of public discourse to discern their meanings. Therefore we turn to several "publics" to establish the relative validity of any serious claim about meaning.³³

These various "publics" Stackhouse identifies as the religious public, the political public, the academic public, the economic public and the legal public. In all these publics, which in large part make up civil society and are decisive for human rights, theological discussion and debate must take place.

Stackhouse's central assumption, when he posits theology as the necessary methodology for sorting through the meaning of human rights, is that Modernity does not understand itself, and that the Enlightenment has never been completely honest about its own theological presuppositions. Public theology seeks to bring forth the essentially theistic understanding of reality which lurks in the closets of Modernity.

³²The term "public theology" was first used in reference to the thought of Reinhold Niebuhr. It was meant to designate Niebuhr's style, which was rooted in "the close interaction of religious insight, philosophical reflection, and social analysis." See Max L. Stackhouse, "Public Theology and Ethical Judgment," *Theology Today* 54 (1997-8) 165-179 at 165.

³³*Ibid.*, 19-20.

Stackhouse's contention is that just such theistic understandings are what binds humanity together and indeed what forms the basis for claiming universal human rights.

[Theistic understandings of reality provide] the only truly universal moral reference for understanding our common humanity, despite differences among and within the various groups in their interpretations of the reality to which they all point. They may differ because they interpret the reality of God in ways that link their views to particular aspects of society or experience, but they tend to hold, in common, a sense of the human person as a moral entity with a soul and a relationship to a universal, just God who is the source and guarantor of moral law. To be sure, the differences shape the ways in which civil society is generated and organized under their influence, so that only some enhance human rights in all areas of life, but the potential for universality is scripted into the ultimate convictions of them all.³⁴

He thus calls for a dialogue between the world's religions on the topic of a common social ethic. In our global context this is absolutely necessary.³⁵

³⁴*Ibid.*, 24. The practicalities of pursuing this sort of theological reflection are set forth in an earlier work by Stackhouse: "What we are to do in the first instance is to quest for the truth about what is universally valid, a task we can undertake only if we believe that there is a reference point for all truth, and that things are not merely a matter of perspective. We recover the past and study other cultures to understand the present and to focus our designs for the future. In recovery of the past we begin to see how decisions made in one specific context have long-range consequences for subsequent generations and civilizations, often far beyond the intentions of the moment. We begin to see that particular decisions about bonding into this or that group, in attempts to discern or actualize a truth that transcends us, about making creedal commitments *under* that truth and forming support systems to keep our testimony to that truth alive in history, are of world-historical importance. . . . Each decision we make in this regard is freighted with implications for subsequent understandings of what is human and for what rights are to be protected or abridged. In becoming aware of the 'deep trajectories' that have shaped Modernity, and in becoming alert to the systemic cross-sectional implications of specific social bonding, we find that we are driven to ultimate questions of a metaphysical-moral order which give us a critical base from which to make judgments." Max L. Stackhouse, *Creeks, Society, and Human Rights* (Grand Rapids: Eerdmans Publishing Co., 1984), 279.

³⁵...[T]he public to which Western theology has spoken is still much too narrow and shallow. Today, if anything like a public theology is to be developed further, it must include a much enlarged conversation. . . . This theology holds that it is not true that there

Finally, we might ask, what is the result of a theological analysis of human rights? Public theology discerns in the claims of human rights publicly recognizable and universal truths. These are: (1) that each person has a dignity conferred by God, (2) that all live under a divine, universal moral law, (3) that no state, even an international federation of states, is competent to control all matters since some aspects of human activity are sacred beyond political agreement or social expediency, and that therefore a social pluralism is required, (4) that persons have to come to non-coerced conviction about matters at this level, so that freedom of religion is demanded, and (5) that there are valid continuities between the great and classical insights of sacred history and the present, and between present understandings and those emerging from new encounters and conversations with the world's great religions and philosophies. All these are theological points that sooner or later are best acknowledged as such, and as the grounds for human rights.³⁶

All of this raised the ire of Louis Henkin, who wrote a response to Stackhouse's article entitled "Human Rights: Religious or Enlightened?"³⁷ He presents what amounts to two distinct rejoinders to Stackhouse. His first line of argument is that by dividing between actual religions and "theology," Stackhouse dodges the real tensions that in fact exist between religions and human rights and which are manifested in gender inequality, the denial of religious freedom to other religions, etc. "His articulation invites religions, all religions, to 'clean up' their *particular* theologies so as to eliminate elements that are

is nothing like a universal humanity. It rejects the cynical belief that there are no moral laws under which the whole of humanity stands. Some things simply ought not to be done to people, and people ought not to do some things. If this became most clear in the context of a very particular biblical insight at a particular time or space, it is nonetheless valid for all and defensible on grounds recognizable in other contexts." *Ibid.*, 25-6.

³⁶*Ibid.*, 26-7.

³⁷Louis Henkin, "Human Rights, Religious or Enlightened?" in Religion and Human Rights: Competing Claims?, *op. cit.*, 31-5.

inconsistent with his 'public theology,' with his 'theological points.'"³⁸ While Henkin is in full agreement with the five points Stackhouse cites, he doubts that all religions would recognize their particular theologies in these points.

Henkin's second line of argument is to assert that the nature of religion is always divisive, and so it cannot be the source of a universal claim such as human rights presents. The references to God are "unnecessary, exclusionary and divisive."³⁹ The only universal base that is open to us is a common moral intuition of human dignity.⁴⁰

Henkin's criticisms are helpful, in that they point out some ambiguities in Stackhouse's position regarding what he means by "theology." First of all, is Henkin correct in characterizing Stackhouse's theology as inviting particular religious articulations to "clean up" their confessions to bring them in line with "public theology," which consists of the bits of theology that are shared? This is a possible interpretation of Stackhouse; a more generous reading of Stackhouse's public theology would suggest that what Stackhouse is proposing is not so much a grocery-list of theological assertions to which all particular religions must submit, but rather a process of ongoing dialogue regarding what in fact religions do share in common. Under this more gracious reading, the list of theological points at the end is understood as a hopeful attempt at summarizing what could be the consequences of such a dialogue, and not a bar to which all religions must

³⁸*Ibid.*, 33.

³⁹*Ibid.*, 34.

⁴⁰*Ibid.*, 35.

measure up.⁴¹

Henkin's second objection is that any talk of religion is always divisive, and so it is an unpromising road to follow in seeking a strong basis for universal rights. One discerns Henkin's pragmatic bent in this objection. Regardless of what Stackhouse means by "public theology," Henkin suspects that as soon as religious issues are introduced as a universal source of rights, mayhem will ensue. This practical objection is certainly valid, but as even Henkin seems to acknowledge in his closing words, it admits to a solution via education on what "public theology" could be. Henkin's objection also gives occasion to remind ourselves of the wideness of Stackhouse's conceptualization of the subject-matter of theology--it would certainly include Henkin's "moral intuition of human dignity." In the end, Stackhouse might say, Henkin is himself religious by virtue of his stalwart belief in human dignity and doesn't know it yet.

Let us summarize Stackhouse's proposal. He approves of human rights. He fears that they will not last unless they are incorporated into some coherent system of thought, some metaphysical validation. He thus proposes a validation procedure for universal human rights, in which the common elements of all religions, as well as the secularist Enlightenment perspectives, are distilled by dialogue and presented as the bed of human rights. He is confident that such a procedure will in fact validate human rights, in large part due to the religious heritage of rights in the West.

⁴¹This dialogical interpretation is supported by Stackhouse's understanding of dialogue as implying the freedom to change one's mind (convert) for everyone involved. See "Human Rights and Public Theology," *op. cit.*, 25. We will revisit the issue of the "liberalness" of Stackhouse's proposal--not regarding its content, but its implicit statements about the nature of authority--later in this chapter.

3. Human Rights and Public Theology--An Assessment

Does Stackhouse's public theology provide us with an adequate conceptualization of a compromise between human rights and Christianity? Before we apply ourselves to this question we must answer a prior question--what criteria do we consider when assessing the success of any such synthesis? At this point we must arm ourselves with the wisdom of Weber and Troeltsch before proceeding to the resolution of this question.

A. Criteria for Assessment

In general terms, Troeltsch has given us the fundamental requirement for a compromise between Christianity and human rights discourse--the synthesis must remain responsive to both "the life of the spirit" and "the life of nature" in their present expression in our Modern, pluralistic society. In Troeltsch's last prepared lecture, published posthumously in 1923, he wrote:

This is the lot of humanity: human life is a struggle not only for physical existence or for the recognition of men's social and political rights. It is primarily a struggle between the life of nature and the life of the spirit that rises above nature and yet remains bound to nature, even whilst it turns against it.⁴²

What Troeltsch meant by these two terms, "life of nature" and "life of the spirit" is revealed in another quotation from the same lecture.

The important thing to recognize is that, above the sphere of politics and the natural man's gamble for power, there rises a realm of the spirit, of religion, which unites individuals belonging to different nations by forces and motives of an entirely different order. In this way there arises a unity and interconnection among men that operates in continual opposition to the

⁴²Ernst Troeltsch, "Politics, Patriotism, Religion," *op. cit.*, 166.

demands of mere political expediency, which, for all its veneer of intellectual refinement, remains at bottom so crude.⁴³

Troeltsch uses the term “nature” to refer to the necessities and exigencies forced upon us by the ethos in which we live. All that pertains to power in society, to competing and conflicting interests is considered by Troeltsch as “the life of nature.” To these necessary, worldly considerations Troeltsch contrasts the “life of the spirit.” This realm includes within it all that which seeks to rise above the “crude” compulsory aspects of societal existence by way of lofty religious ideas, sentiments and practices. These two realms are locked in perpetual struggle with each other. The real task, for Troeltsch, is to find a way to appease the demands of both realms.

In other words, the goal of Troeltsch’s compromise is to arrive at a common way of being a good citizen in our socio-political context that is at the same time a way of being a good Christian. In the following subsections we will break these categories down into more usable criteria for our present context at the end of Modernity.

I. The Life of the Spirit

Just as Christianity must shape itself for the compromise, so must the compromise shape itself for Christianity and in general the religious life. Troeltsch cited as his ultimate category this one feature--that ultimately, the pursuit of political goals must function as a “conditioning and bringing into being a material environment in which the life of the spirit

⁴³*Ibid.*, 160.

can flourish.”⁴⁴ Without this, politics has no meaning.

Under this category, which concerns itself with any compromise’s responsiveness to Christianity in the Modern era, Troeltsch has provided us with three points of reference which we may easily identify as criteria for compromise. The synthesis must derive from the Christian principles of human freedom and personality; it must emphasize the unifying aspects of “the life of the spirit,” and it must allow Christianity to foster a common psychological atmosphere of human sympathy in society.

a. The Christian Principles of Human Freedom and Personality

Troeltsch predicted that if there was to be a new synthesis of contemporary political culture and Christianity, it was to be organized around the Christian notion of personality, individuality and freedom.⁴⁵ Troeltsch thought that this was the fertile bed of much that was truly emancipatory in the trajectory of Modernity, particularly “the Rights

⁴⁴*Ibid.*, 160.

⁴⁵The concept of personhood in Christianity cannot be separated from the call to offer--and receive--selfless love. Personality comes alive when the individual awakens to God’s love and is then enabled to love God and others. For our purposes, the crucial connection between love and human personality is the insistence on human choice. The concept of love which comes to us in Christianity requires free choice. This is implicit in the crucifixion story, where the gospel writers record Jesus’ “moment of decision” in Gethsemane. The theme of human decision is amplified in the Pauline corpus, where it forms an elaborate pattern of tension and collaboration with the prior theme of God’s decision. This pattern of tension and collaboration is inherent in the orthodox interpretation of Jesus; specifically, that Jesus revealed at an ontological level the true nature of God while at the same time being *the* paradigmatic human. In general, the assertion that to be fully human requires freedom from compulsion--i.e.; the capacity to receive and give selfless love--is the most promising basis for a compromise between Christianity and the politics of human rights.

of Man.” Not only is there a high degree of conceptual affinity between the ancestor and its progeny, but Troeltsch maintained that religion served to guard the claims of rights against the rationalizing forces marshalled against them.

b. The Unifying “Realm of the Spirit”

Troeltsch understood Christianity not as an “absolute” religion, but rather as the Western expression of the universal religious *a priori*.⁴⁶ This enabled him to posit religion as a powerful source of unification, not conflict. However, such an approach toward religion must be deliberately pursued, lest religion drift in the opposite direction toward fundamentalism. This is not to say that any compromise must generate a syncretistic mash of all religions, but rather that it must actively seek to define the shared content of a spiritual perspective; a perspective which engages ultimate meaning. Christians must still be Christological, but in their interaction with the world they must seek peace, which necessarily involves, at a minimum, acknowledging the social and ethical value of other religions, if not their ultimate salvific power. At the same time Christianity must insist on this acknowledgement from other religions if a compromise between Christianity and human rights is to be pursued in a pluralistic setting.

⁴⁶Whether or not this is true is obviously contentious. However, from the perspective of practical religious involvement in a religiously pluralistic society, it would seem axiomatic that religions must speak with one voice in order to be heard in a non-oppressive fashion, and to speak with one voice requires finding some more-or-less common ground. Beyond practicalities, the very notion of compromise, which Troeltsch convincingly argues is inherent in Christianity, should also include within its ambit compromise with other religions. The New Testament records the beginning of a trajectory toward such an approach in the apostle Paul’s speech at Athens (cf Acts 17:16f).

c. Sympathy and Separation

Troeltsch insisted that one of the central tasks of religion in society was to promote what might be called human sympathy.⁴⁷ This operates independently of any attempted compromise, but it is nonetheless a valid criteria, in that any compromise must allow Christianity to function in society in this way, and that this fostering of sympathy indirectly influences the ongoing development of the compromise. It follows that there must remain some critical distance between politics and Christianity. A synthesis can never be complete; but only partial, as Christianity must always point to a higher and ideal moral level which is unattainable in political reality.

ii. The Life of Nature

What are the criteria for a synthesis regarding “the life of nature?” For Troeltsch, “nature” is defined in terms of the socio-political necessities forced upon us by the age in which we live. To contend for one’s own interests against all others, to exercise power, to resist power--these are instances of “the life of nature” for Troeltsch. Any synthesis between Christianity and human rights must appease these necessities as well as the lofty aspirations of the life of the spirit. What, then, are the marks of a synthesis on the side of

⁴⁷“Self-restraint, consideration for others, a feeling for the solidarity of nations, and respect for human rights, must be inculcated in people’s minds; and the spirit of obligation to a more-than-human truth and justice must be aroused. . . . The spirit it can thus awaken will then on its own redound to the benefit of social and political reconstruction, which in turn will have more and more occasion to call for such a spirit.” Ernst Troeltsch, “The Social Philosophy of Christianity” *op. cit.*, 233-4.

nature? We have looked to Max Weber to show us the essential character of our present age. What are the socio-political demands forced upon us at the end of Modernity? Our analysis of human rights from the perspective of disenchantment provides us with three criteria for a synthesis. It must maintain an immanent orientation; it must maintain an endlessly contestatory stance toward the problems of value, and it must function to restrict the power of rationalized forces in society from eroding individual freedom, democratic rule and responsible leadership. That is, it must continue to seek to define the meaning of the “I”, the “We,” and how the “I” is to live in the “We.”

a. Immanent Orientation

As Moderns, Weber was correct in demanding of us that we fully acknowledge the radical immanence which our science leads us to, and to seek to act responsibly in this vacuum of moral guidance. This means that we must forego appeal to moral facts and in the absence of moral absolutes, restrict our discussion to values, the empirical statements of our internalized commitments. Any synthesis between Christianity and human rights must fully acknowledge that Christianity cannot be what it once was. It cannot be asserted as absolute, even if its adherents believe it to be. Empirical evidence of religious consensus is all that is allowed by the immanent nature of our way of knowing. We can no longer say, “thus sayeth the Lord,” but we can say, “thus agree-eth the Community.” Religious or spiritual factors can only be considered to the extent that they appear in our experience.

b. Endless Contestation

Because of the absence of absolutes, Weber pointed to the necessity of adversarial approaches to societal value-formation. These contests are ongoing and endless.

Individuals commit to values, and fight for these values in the public sphere, notably through human rights discourse. The fusion of Christianity with this political situation will not hinder the conflictual nature of human rights discourse. The battles over what is justice and what is human dignity will have to be fought, regardless of whether Christianity is present or not.

c. Restricting Rationalization

Recall Weber's tri-fold concern at the conclusion of Economy and Society: In the absence of a common moral absolute, how can our society resist the forces of rationalization so that individual freedom, democracy and responsible leadership can be preserved? This concern forms the final criteria for any new synthesis--it must function as a bulwark against the manifold forces of rationalization in society. Specifically, it must address the political problems which accompany the condensations of power in immense bureaucratic, rule-governed systems. The need for function is all the more acute due to the rise of new forms of rationalization made possible by globalization.⁴⁸

ii. Summary of the Criteria

Troeltsch has given us the impossible task of attempting to bring together

⁴⁸We will deal with this issue further in our assessment of Stackhouse, *infra*.

irreconcilable forces; the life of the spirit, understood in terms of lofty religious aspirations regarding the potentials for humankind, and the life of nature, understood in terms of the socio-political necessities forced upon us by our circumstances and by the ethos in which we live. We discovered, with the help of Troeltsch and Weber, three criteria under each heading. Under the life of the spirit, we identified the demands for human freedom and personality, for unity and for sympathy. Under the life of nature, we identified the demands for an immanent orientation, for contestation and for a restriction of rationalization. These are the minimum standards for a synthesis in our day. They are culture-dependent, and might easily change in the future, but they are ours, now. The task now is to bring these together into a coherent, if not peaceful, whole before proceeding to analyse Stackhouse's proposal via these criteria.

Troeltsch stressed that the form which the life of nature takes in Modernity is so contrary to the life of the spirit that there is no hope for an easy compromise between the two in the present ethos. The above six criteria provide us with the essential conditions for a compromise between Christianity and Modernity. Any proposed compromise must address all of these forces. However, it is important to keep in mind that these forces are malleable. A compromise can and should shape these forces even as it appeases them. Troeltsch never anticipated a compromise that stands still.

Let us then start with the epistemological demands of our criteria. They are both from the "nature" side--the demands for immanence and contestation. Both of these criteria, at a minimum, answer the question, how do we know? We can know only by reference to immanent content accessible to science. If we are forced to deal with issues

beyond the purview of science, then we must settle these issues by contestation. But Troeltsch maintained that the life of nature (as he understood it) would eventually and inexorably give rise to the life of the spirit, which would in turn struggle with life of nature eternally. This would suggest that the epistemological processes of Modernity will eventually lead to considerations regarding the life of the spirit. How this happens is unclear; perhaps because of the spiritual nature of humanity; perhaps because the life of the spirit is necessary for the long-term survival of any society. Troeltsch predicted that the most amenable spiritual considerations to Modernity were those pertaining to human freedom and personality, unity and sympathy, and that there would be a turning toward such Christian notions despite the deep incompatibility between these notions and the life of nature from which they arose. But these spiritual notions are then enlisted in the service of the life of nature, being used to restrict the rationalizing forces which form the potentially oppressive power structures in Modern society. This function, in turn, creates an environment in which the life of the spirit can flourish. Ultimately, the life of the spirit, if it is allowed to flourish, in turn poses a challenge to the domination of epistemological questions by the life of nature. And so the compromise evolves.

The need of the day is not for an ultimate compromise between these six criteria, but rather for a beginning compromise that will move beyond the present impasse between spirit and nature, an impasse illustrated by Henkin's discussion of human rights and religions. Does Stackhouse's "public theology" provide us with this beginning compromise?

B. Assessment of Stackhouse

We have reviewed the criteria for a compromise with which Troeltsch and Weber provide us. Stackhouse has introduced a proposal that would make “public theology” an inherent part of human rights discourse, thus bringing together rights and religion at a foundational level. Does Stackhouse’s proposal of “public theology” in its relation to human rights satisfy these criteria? We shall look first at the life of the spirit, and then at the life of nature.

I. The Life of the Spirit

As we have already discussed, Troeltsch identified three criteria concerning “the life of the spirit” for an adequate compromise. The compromise must 1. Be responsive to the Christian ideals of personality and human freedom; 2. Emphasize the unity of the religious *a priori* over the divisiveness of particular religions’ doctrinal standards; and 3. Allow Christianity to function independently of politics as the bearer of lofty moral standards impossible to maintain in practical politics (e.g., the Sermon on the Mount).

By locating the compromise at the juncture of theology and human rights, the notion of personhood and freedom that is inherent in Christianity is allowed full expression in Stackhouse’s proposal.⁴⁹ Why? First of all, simply by building a compromise around

⁴⁹What about other religions which do not maintain a compatible idea of individual personality? For these religions, human rights is a far less hospitable location for compromise. Stackhouse assumes that there is common ground between religions on questions of anthropology. It must be admitted that this common ground may not be an adequate ground for the support of human rights in their classic liberal articulation; and that the content of the idea of human rights might undergo substantial revision should Stackhouse’s proposal be adopted.

religious notions of anthropology, the content of these doctrinal categories is emphasized. Should another category of religious belief be chosen for the theological *locus*, the notions of freedom and personhood would invariably be bracketed by other concerns. For example, it is entirely imaginable that a compromise would be pursued around the theological locus of “creation.” A serious discussion between the world’s religions on what is publicly defensible and commonly held regarding the environment would produce a very different set of assertions by which we could organize society globally. However, the themes of human freedom and personality would not receive the attention they do when we start with anthropology.

The same thing can be said for the selection of human rights as the socio-political *locus* of the compromise. In fact, one would be hard-pressed to find a socio-political *topos* that give more room for considerations of what it means to be human. This concern for the meaning of being human is apparent in both the mainstream reading of rights and our disenchantment reading.

One only has to review Stackhouse’s wish list regarding a theological analysis of human rights to see the high regard that human freedom and dignity enjoy in this conceptualized synthesis.⁵⁰ Stackhouse’s proposal certainly passes the first hurdle.

The second requirement is that the religious element in the synthesis be an active force for unity, not diversity. The crux of this requirement is that the synthesis is structured on the common elements of a generalized religious outlook in contrast to the distinctive elements of any particular religion’s orthodoxy or orthopraxy. In practice, this

⁵⁰See *supra*, 104.

would consist of the religious assertions regarding anthropology which all the major world religions can affirm as a result of actual dialogue.⁵¹ Stackhouse seems hopeful that his process of public theology would generate just such a list of affirmations (and possibly negations), and that these affirmations would be fruitfully brought into contact with the idea of human rights. Thus his public theology would form the process whereby potentially divisive religious perspectives would be transformed into unifying assertions about the nature of humanity that would reinforce human rights and allow religions to recognize their values in the human rights discourse.

Henkin's response is that he is doubtful that religions in fact would be amenable to such an approach. His objection is an empirical one--that given the track record of religions and their interactions with the larger society, it is unlikely that religions would deliberately pursue a course of compromise with other religions. This objection gives rise to another more profound question--does Stackhouse's proposal of public theology require that religionists approach the table with a liberal, Modern notion of authority? The answer is certainly yes. Under Stackhouse's proposal, religions can maintain their traditional views of authority "in-house," but as soon as they enter the broadly public venue he anticipates in public theology, the traditional understanding of authority must give way to a view of authority that is entirely liberal and Modern. Modern authority in the realm of human rights discourse is anchored in consensus, which in turn finds its ultimate base in personal autonomy. This chain is not difficult to understand. Consensus

⁵¹By moving from religious assertion to pan-religious dialogue, Stackhouse has at once transcended Troeltsch's mysticism-sect-church typology and also moved beyond the mysticism-Modernity affinity that so troubled Troeltsch.

works as a legitimator of authority due to the general intuition that all the people can't be wrong at the same time about the same thing. In other words, if we arrive at an uncoerced agreement, beginning from our various personal points of view, we are probably correct. The apprehension of certainty increases with the amount of disparity between the perspectives included in the decision-making group. Apart from the validity of this method of legitimizing authority, our point is that this form of authority is far removed from the varied understandings and legitimations of authority present in religious frameworks.

Finally, the synthesis must allow Christianity--and other religions--to exist independently of the synthesis in order to point to lofty moral and spiritual standards which are unattainable in the political sphere. This requires that the synthesis be partial, and that it not be a peaceful synthesis. That is, the synthesis must always be, as Troeltsch indicated, partial and somewhat uncomfortable as the necessities of the legal-political sphere challenge the ideals of the religious sphere and *visa versa*.

In theory, does Stackhouse's proposal allow Christianity to remain Christianity, even as it pursues a synthesis with the human-rights sphere? It is clear that Stackhouse desires Christianity to hold onto its distinctiveness, and that he desires Christianity to critique itself, first, and then other systems too. Whether it is psychologically possible to passionately pursue commonalities and hold onto distinctives at the same time is debatable. But it must be remembered that what Troeltsch anticipates in Christianity is a call to human kindness and sympathy, beyond the requirements of justice. He sees religion as the source of warmhearted otherness in society, and he is concerned that Christianity

attend to this desirable effect which it can generate in society. That is, beyond the discussion of rights, can religions still have a moral voice in society? Perhaps, but only in the private sphere of personal morality. There is nothing in Stackhouse's theory which necessitates the reduction of religions to a universal core of consensus-derived beliefs.

In sum, Stackhouse's proposal generally fits the "life of the spirit" requirements of a true compromise, with one important exception. It allows for a deep-level interpenetration of the political sphere by Christianity without compromising the very nature of Christianity. But the cost of this deep interpenetration is the relinquishment of religious understandings of authority in the public realm. We must now turn to the "life of nature" requirements and see if Stackhouse's proposal can accord with life at the end of Modernity.

ii. The Life of Nature

Again, Troeltsch insisted that a true compromise must also be responsive to the life of nature; to political necessities and realities in any given epoch. Our analysis of human rights via Weber has helped us identify the demands of our epoch. They are 1. An immanent orientation; 2. Endless contestation; and 3. Resistance to the forces of Rationalization.

How does Stackhouse's notion of a human rights regime supported by theological reflection fare by these categories? Let us begin with the third criteria first--restricting rationalization. We have already offered an interpretation of human rights discourse which regarded it as an attempt to resist rationalization. If Stackhouse's ideas are

pursued, will human rights, infused with religious ideas, be able to fulfill this function in society? In other words, will the addition of explicitly religious validation of human rights affect their ability to resist rationalization?

There is good reason to believe that just such a powerful validation is necessary at this time to allow human rights to continue to function in this regard. Tony Evans has argued convincingly that there is a new challenge to human rights in the form of a global order based on free-marked principles in pursuit of rapid economic growth.⁵² This domination of American-style business over all other cultures and practices is one of the hallmarks of globalization. There is every reason to suspect that human rights are being marginalized by this hegemonic trend, and perhaps even co-opted into becoming a force for promoting these new forms of rationalization rather than a restriction of these forces.⁵³ In order to rescue human rights from this fate, the idea of human rights needs some fresh support from outside the big-business agenda of "rights for democracy for capitalism." It is doubtful the bare fact of international consensus is sufficient to preserve the idea of human rights against this threat. The robust and enduring social power of religions may be just what is needed to preserve the functional capacity of human rights in today's society. Likewise, it is highly doubtful that religions on their own can presently restrict

⁵²Tony Evans, "Introduction: Power, Hegemony and Universalization of Human Rights," in Human Rights Fifty Years On: A Re-Appraisal, Tony Evans, ed. (Manchester: Manchester University Press, 1998), 2-23.

⁵³Human rights are increasingly regarded as a prerequisite to democracy, which is regarded as a prerequisite to free-market capitalism. Aside from the oversimplicity of these causal connections, the important thing for our purposes is that human rights in this framework are viewed simply as a means to an end--that end being an American-style economic environment.

rationalization, due to the fact of religious pluralism. A synthesis between the two is very likely to be essential if we are to see a restriction to big-business hegemony in the new global society. We can thus restate Stackhouse's plea regarding "the intellectual crisis of a good idea" as a call to re-arm human rights with the ability to resist the new forms of rationalization that are presently emerging in conjunction with globalization.

We will now turn to the other two criteria: immanence and contestation.

Immediately one notices a deep resistance from the side of Modernity toward any turn toward what is perceived as the transcendent. This is apparent in Henkin. Modernity is essentially a radical turn towards immanent categories and a rejection of transcendent categories.

Stackhouse insists that Modernity does not understand itself; that it is internally conflicted. Science has emancipated the West from slavish adherence to authority, but the motive behind this has always been quasi-transcendent, rooted in some notion of human dignity derived from Christianity. Modernity has not been entirely forthright about this motive. But if Modern science is to be consistently followed to the end, it must undermine these notions of human dignity as any other mythical, transcendent belief or superstition.

Stackhouse sees this, and so his proposal must at some level be regarded as a challenge to Modernity--a challenge to break out of a dogmatic immanence. He wants to do this indirectly; by imposing "public theology" between religions and law/politics he makes a way for transcendent notions to be introduced by actual consensus decisions derived from dialogue between concrete groups. Thus the religious assertions come to the political realm not as "God said so" statements, but rather as "these discussion groups

arrived at these interim conclusions” statements. The dialogical nature of public theology acts to filter transcendent claims into a form palatable to the Modern way, and particularly to human rights discourse.

But the fact is that if Stackhouse gets his way the sharp rejection of transcendence that has been central to Modernity is overturned. Stackhouse must be understood as calling for a modification of Modernity; a reintroduction of the transcendent into the immanent.

Because of this, the second criteria also reveals a tension between what we have in Modernity and what Stackhouse is proposing. Because transcendent elements are introduced, the absolute necessity of adversarial approaches to value formation in society is gone. Weber’s requirement of decisionism and debate was based on the absence of any criteria for values outside of the internal sense of “calling.” Thus no deep coming-together was possible; only the headlong pursuit of one’s inner demands; and perhaps the formation of a *modus vivendi* which satisfied the demands of all the gods involved in a particular situation. With the introduction of new criteria for values--specifically, the core of agreed-upon transcendent assertions determined by a dialogical process which is understood as an expression of the religious *a priori*--new potentials for deep consensus are possible. That is not to say that it will be possible or even desirable to arrive at a once-and-for-all statement of moral facts; but rather that the necessity of war-like approaches to value and meaning is transcended.

iii. A Successful Synthesis?

We must conclude that Stackhouse's proposal points to a beginning compromise by way of synthesizing Christianity and human rights, but that in doing so it subverts the immanent orientation of Modernity on the one hand, and the traditional understanding of religious authority on the other. Both of these subversions are partial. Stackhouse goes a long way toward accommodating the immanent orientation of human rights discourse by introducing transcendent concerns via a dialogical, consensual process. The demands to adopt a liberal authority paradigm apply only to the social interaction of the religion with politics; religions are still largely free to maintain their traditional understandings of authority within their own folds. For example, the preacher may still declare from the pulpit that we know murder is wrong because God declared it to be so, but when the preacher speaks to human rights, the assertion becomes, we know murder is wrong because we all agree it is wrong. The personal rationale of the preacher in making this assertion continues to be based in a traditional understanding of biblical authority, and the preacher may even be public about this rationale, but the authority is not grounded in this rationale, but rather in the empirical fact of agreement between the preacher with all others at the table. Traditional understandings of authority continue to be relevant, but they are not decisive. Only the consensus is decisive.

There can be no compromise without a cost to each side. The question is whether the apprehension of the value of the compromise is higher than the apprehension of its cost.

Conclusion: Two Hermeneutical Frameworks for Human Rights, Three Destinies

In seeking to plumb the potential for synthesis between Christianity and Modernity's human rights discourse, we have uncovered two basic hermeneutical frameworks and directions for Modern human rights, both of which go behind and beyond the rhetoric of the dominant discourse. The first interpretation is the one derived from Max Weber's theory of disenchantment. This reading understands human rights as the attempt of our society to sort out its values, and specifically to pursue the respective meanings of the individual, the collective, and the relationship of the individual to the collective. This is done in the only way possible in the absence of an absolute moral-metaphysical framework--it is done by contestation. Thus we used Weber's pagan metaphor of "the battle of the gods" as a conceptual key to unlock the nature of our current human rights discourse, finding evidence for this in the history of the right to development.

Under this reading, the relationship between human rights and Christianity is necessarily antagonistic. The radically immanent nature of human rights, and the fact that it acts as a functional replacement for Christianity in its attempts to discover or create meaning in society, automatically exclude Christianity as it is traditionally conceived, except perhaps as one of the contestants in "the battle of the gods;" that is, as a claimant for religious rights and freedoms.

The second proposed direction for human rights we probed was one which corresponded to the Troeltschian analysis of the potential for deep compromise between Church and culture. Troeltsch assisted us in comprehending the problems inherent in such

a compromise, as well as the potentials for such a compromise that are anchored in the nature of the religion that is given to us in the New Testament. We considered the current proposal by Max L. Stackhouse for a dialogical synthesis between human rights and religions -including Christianity--via the use of “public theology” to both validate and contain human rights discourse. The really contentious aspect of this proposal, as we saw in Louis Henkin’s response to Stackhouse, is the assertion that discussion of “human dignity” and other concepts of that ilk are essentially religious in nature, and as such they (and all derivative concepts like human rights) are properly the subject of public theology.

Under this approach to rights we see a very deep synthesis of Christianity (along with other religions) and human rights. Religion, via the process of ongoing dialogue, forms both a floating floor (i.e., shared religious understandings of reality form the ground and validation of rights) and a floating ceiling (i.e., these dialogically derived understandings of human dignity act as controls on both the content and form of rights) for human rights discourse.

There is a cost to this compromise. Human rights must break from the dogmatic immanence which is inherent in Modernity and admit transcendent considerations, albeit filtered through a dialogical process. Religions must in turn set aside their traditional understandings of authority when they enter into the political sphere which is operating under Modernist presuppositions. Stackhouse’s proposal amounts to what might be called a cautious re-enchantment of the world--one which would be uncomfortable to both traditional religious communities and a public sphere accustomed to secularization.

It is very likely that the first reading of human rights, from the perspective of

disenchantment, better describes the empirical reality of the human rights movement (and its bitter failures in recent times). It is also likely that this will continue to be the way human rights function in our society, until the very idea loses its rhetorical appeal. At that time, either the “battle of the gods” will find another pleasant disguise or we will embrace brutal, heroic honesty and engage in the contestation for values explicitly. In this future, religions, including Christianity, have a place only as contestants in the battle.

At the same time, another destiny presents itself to us. This is to take the rhetoric of human rights seriously and to embrace the quasi-religious nature of the ideas of dignity that transcend mere values; that point to a moral absolute. This necessarily implies a process of cautious re-enchantment; as we come to end of Modernity, the end of scientific way of knowing, and dethrone science from its privileged epistemological place. Troeltsch was quite right in asserting that this decision must be deliberate, wilful, and must eschew any thought of actually arriving at final conclusions.

Ultimately, we must either be Weberian or Troeltschian. We must either embrace the cold realities of disenchantment, or else pursue re-enchantment in the modest way set forth by Stackhouse. If we have the courage to be honest, there is no other choice open to us. We must either take the rhetoric of human dignity surrounding human rights seriously and embrace the unequivocal “spiritual” meanings inherent in this rhetoric, subverting the Modern project in the process; or else we must strip our search for values of all their quasi-religious veneer and engage in overt negotiation regarding what it means to be human in society. Both ways lead us into a process of searching for morality and meaning, with no guarantees of success and no easy solutions outside the hard work of

public discussion, negotiation and contestation.

There is always a third way open to us, which is to stay on the present path of human rights in their mainstream interpretation. This is the easy way, but also the way of cowardice, the way of deception, the way of the “Last Man.” So said Nietzsche; so also said Jesus: “Enter through the narrow gate. For wide is the gate and broad is the road that leads to destruction, and many enter through it. But small is the gate and narrow the road that leads to life, and only a few find it.” (Mat. 7:13-14, NIV)

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