

Technical Studies Series on The Rights of Man - Series 1

The Doctrine of Human Rights

A COMPREHENSIVE STUDY OF THE DOCTRINE OF THE RIGHTS OF MAN



SHANNON BARTHOLOMEW

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Executive Director
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Revised Edition

The Doctrine of Human Rights
By Shannon Bartholomew

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“You have rights antecedent to all earthly governments; rights that cannot be repealed or restrained by human laws; rights derived from the Great Legislator of the Universe”.

**John Adams,
Second President of the United States**

“Whereas the People of Trinidad and Tobago—

(a) have affirmed that the Nation of Trinidad and Tobago is founded upon principles that acknowledge the supremacy of God, faith in fundamental human rights and freedoms, the position of the family in a society of free men and free institutions, the dignity of the human person and the equal and inalienable rights with which all members of the human family are endowed by their Creator”

**The Preamble of The Constitution of
The Republic of Trinidad and Tobago
(1st August 1976), p. 10.**



Foreword

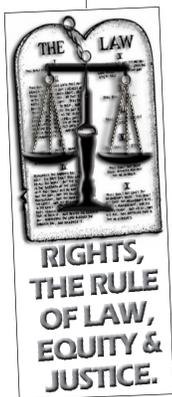
This study is the first issue of a Technical Studies Series on the Rights of Man, produced by the Thusian Institute for Religious Liberty® (TIRL). It caters for both the academic (students, teachers, lawyers, principals, professors, etc.) and non-academic communities (government officials, NGOs, corporate personnel, etc.).

It being the first in the series focuses on the systematic tenets of the doctrine of rights, its layout, and ideological source, *inter alia*. The different theories of rights that are held today are not particularly addressed in this first issue, due to the need to first develop on the internal structure of the doctrine itself with the view to bring clarification in this area, and to establish a foundation before moving on into any justifications of the positions adopted herein. Certain corrections of doctrinal mistakes that have been made in certain United Nations human rights instruments, and other declarations and constitutions of different countries, is another factor treated herein.

Series (2) will deal with the various theories of rights at great length. The treatment of the doctrine of rights in this issue was not meant to be exhaustive, but rather comprehensive. However throughout the series a variety of other related issues would be examined. Issues such as rights and international relations, international religious liberty matters, universal justice standards, rights-smart governmental and educational systems and solutions to discrimination in its varied forms, to name a few. The series studies are also not limited to any one author thus from time to time issues would contain works from different authors, critiques of different theories and works, lectures, etc. However the issues of each study will be addressed from the angle of the positions laid out in this first study.

The launch of this series is part of an initiative of our organization to increase public awareness about individual rights, and to reveal the potential of the field (field) for vast developments and disciplines, *inter alia* - to eventuate a climate of vigorous rights fulfillment, and rights-smart and rights-sensitive human relations at all levels of interaction in society in context to growing criminal activities and human rights abuses. It (the series) will facilitate more advanced practical research in the field of rights as well as rights-based solutions.

The series would address human rights issues that not only affect Trinidad and Tobago and the Caribbean but all countries of the globe as well.





Introduction

Whilst there are many human rights organizations, international agencies and human rights works in different countries and regions, and much rights talk as well, yet there is still a lot of misconceptions about rights, and deficiencies regarding a structured doctrine. The global demand for rights education and rights-based initiatives is at the highest is reflected in the level of human behavioral problems experienced the world over. The decline in civility, tolerance, integrity, and respect for persons rights speaks volumes in this regard. Not enough support have been given to research and development in this area as well. The purpose of this first study is to meet some of these initial demands by shedding light on these areas.

Many international human rights instruments, declarations and constitutional provisions of different countries also contain language that bases human rights in human dignity alone. This is a critical flaw since the origin-of-rights is too indispensable a factor of the definition of rights to be passed over, particularly in legal public instruments. The importance of an origins-statement in instruments cannot be underestimated as its absence would compromise some expected effects of the instrument. This is another issue addressed herein.

The following are a few examples of the above fact. *“The International Bill of Human Rights,”* as it is sometimes called, consists of three documents. The first of these, *The Universal Declaration of Human Rights (1948)*, speaks in the Preamble, of “the inherent dignity ... of all members of the human family” and of “the dignity and worth of the human person.” In Article I, the Declaration proclaims: “All human beings ... should act towards one another in a spirit of brotherhood.” The second and third documents are the *International Covenant on Civil and Political Rights (1976)* and the *International Covenant on Economic, Social, and Cultural Rights (1976)*. The Preamble common to both covenants echoes the Universal Declaration in speaking of “the inherent dignity ... of all members of the human family.” The Preamble then states: “These rights derive from the inherent dignity of the human person” A fourth document, *The American Declaration of the Rights and Duties of Man (1948)*, begins: “The American Peoples have acknowledged the dignity of the individual The American states have on repeated occasions recognized that the essential rights of man are not derived from the fact that he is a national of a certain state, but are based upon attributes of his human personality” The Preamble to the American Declaration proclaims: “All men ... should conduct themselves as brothers to one another.” A fifth document, *The American Convention on Human Rights (1978)*, echoes the American Declaration in stating, in the Preamble, that “the essential rights of man are not derived from one’s being a national of a certain state, but are based upon attributes of the human personality.” Similarly the *African charter on Human and Peoples’ Rights (1986)* states, in the Preamble, that “fundamental human rights stem from the attributes of human beings.”¹ Whilst much emphasis was placed on man’s inherent dignity as the basis of human rights and not the fact that a person belongs to a certain country, no reference was made at all to the fact that rights were endowed to the human family by our Creator.





This issue is addressed in detail in the early chapters of the study.

Articulations about human rights origins in national instruments are not strange or even new. The American Declaration of Independence is a perfect example for this case. Its beginning statements goes as follows. *“We hold these truths to be self-evident: that all men are created equal; that they are endowed, by their Creator, with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive to these ends, it is the right of the people to alter or to abolish it, and to institute new government ... (1776)”*.

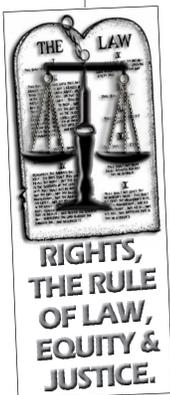
Unfortunately during the period of the drafting of the Universal Declaration of the Rights of Man decisions were taken not use the Ten Commandments as a source of inspiration because of a lack of insight and misinterpretation of it (Ten Commandments).

*“Réne Cassin of France was one of the most influential members of the Commission on Human Rights. Having been a professor of civil law at the University of Paris, Cassin was an expert in international law with an impassioned concern for human rights. For these reasons, the delegates to the Commission on Human Rights selected Cassin to compose the first full draft of the Universal Declaration. This early draft would contain most of the rights and much of the language that would later be set forth in the final document.”*² Mr Cassin made these statements about the debate on the drafting of the Declaration. *“The spirit prevailing during the preparation of the Universal Declaration was completely at variance with any intention of drawing deliberate and direct inspiration from the Ten Commandments.*

This fact leads to a number of important conclusions. First of all, if any relationship between the universal Declaration and more generally the place of the rights of man in the modern world on the one hand, and the Decalogue as the first formulation of man's basic duties on the other hand does exist, this relation is not a formal one. Nevertheless, its reality is evident and must be traced back to the earliest periods of ancient history, when man, standing erect, mastering fire, and enjoying the benefits of written language, became aware of his innate dignity.”

“But as we approach the end of a panoramic look at the history of Human Rights, of their eclipse and development since the Decalogue, it is worth making a comparison between the Decalogue, which is the point of departure, and the present Charter which is our temporary point of arrival.

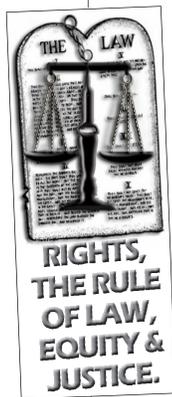
There is no doubt that the contrast is striking. The tone of the Decalogue, of religious inspiration and absolute unity, is both imperative and concise. The style of the Universal Declaration of 1948, a purely human instrument adopted by 56 States of profoundly differing ideologies is formulated in thirty rather long and complex articles. We must, however, insist on another difference which is characteristic. The Decalogue, a religious act, contains only prescriptions and prohibitions. It imposes duties





on man, positive or negative ones. *The Universal Declaration, a human instrument, proclaims first and foremost man's rights, and only at the very end articulates his duties. One might say that the difference is unimportant: rights and duties are correlative. A man against whom the commission of murder or robbery is forbidden has therefore implicitly the right to his life and his property!*"³ A lack of insight regarding the reach and applicability of the Ten Commandments (TC) was the cause of the misjudgments made on the part of the commission, and due to its (TC) negative, prohibitory format, many a time limitations are placed upon it rather than working the philosophical implications of its content and structure. However it is more likely that it was rejected due to subscription to Evolution-based models of rights.

This first study addresses the mistakes made and wrongs committed by the United Nations Commission on Human Rights during the period of the drafting of the Universal Declaration of Human Rights, regarding the connection between Human Rights and the Ten Commandments. The shortcomings of the definitions of human rights given in UN instruments and other international declarations and constitutions are also touched. It also develops in full on the doctrine of rights to engage deeper thinking on this issue, and to offer recommendations to assist in the advancement of Bills-of-Rights and constitutional reform inter alia in furtherance of the protection and greater respect for persons' rights.



Footnotes:

1. Problems and Conflicts Between Law and Morality in a Free Society edited by James Wood Jr. and Derek Davis of the JM Dawson Institute of Church-State Studies, Texas.
2. Taken from Rene Cassin Biography, National Coordinating Committee for UDHR50
3. Taken from Cassin's essay entitled From The Ten Commandments To The Rights of Man



Chapter

1

A Brief History of the Question of Human Rights?

A brief history of the question and debate about human rights is pertinent at this point to give some perspective about the matter before getting into the issues of the doctrine of rights.

Seeing that much has been written on the topic references will be made accordingly. In this case I draw largely from Maurice Cranston's book **What are Human Rights**. This book is a revised and greatly extended version of an essay originally published in London as *Human Rights Today* and in New York as *What are Human Rights?*, both in the 1960s.

“Human rights is a twentieth-century name for what has been traditionally known as natural rights or, in a more exhilarating phrase, the rights of man. Much has been said about them, and yet one may still be left wondering what they are. John Locke, the philosopher most often quoted as an authority on the subject, wrote of the rights to life, liberty, and property. The Bill of Rights enacted by the English Parliament after the ‘Glorious Revolution’ in 1689—the same year in which Locke first published his theory of government—named also the right to trial by jury, and prescribed that in all courts of law excessive bail should not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Locke’s reasoning and the example of the English Bill of Rights had a great influence throughout the civilized world. In Virginia in June 1776, a Bill of Rights was adopted by a representative convention, and its first clause proclaimed ‘that all men are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity: namely, the enjoyment of life and liberty, with the means of acquiring and possessing property and pursuing and obtaining happiness’.

Here the right to happiness is added to those Locke named. The same word recurs in the Declaration of Independence issued by the thirteen American states in July 1776: ‘We hold these truths to be self-evident: that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness.’

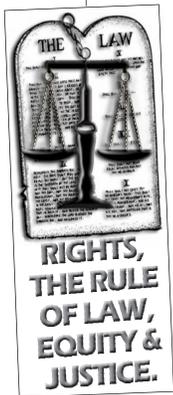
The United States Constitution of 1789, with concurrent amendments, defined these rights in greater detail. It specified freedom of speech and the press, the ‘right of the people to be secure in their persons, houses, papers, and effects against unreasonable





searches and seizures'; and the right (which Locke, incidentally, denied to Roman Catholics) to the free exercise of religion. Nineteenth-century amendments made slavery illegal and also stated that 'the right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, colour, or previous condition of servitude'.

The Declaration of the Rights of Man and the Citizen issued by the Constituent Assembly in France follows closely the English and American models. It asserts that 'men are born and remain free and equal in rights', indeed that 'the purpose of all political association is the conservation of the natural and inalienable: these rights are liberty, property, security, and resistance to oppression'. In the same French Declaration liberty is defined as 'being unrestrained in doing anything that does not interfere with the liberty of another'. Besides property, which is held to be 'an inviolable and sacred right', the French Declaration specifies the right to free speech, a free press, religious freedom, and freedom from arbitrary arrest.



Such are the classical statements of the rights of man. Yet it would be a mistake to think of this notion as the child of the Enlightenment; it is much more ancient. Citizens of certain Greek cities enjoyed such rights as isogoria, or equal freedom of speech, and insomnia, or equality before the law, which are prominent among the rights claimed in the modern world. In the Hellenistic period which followed the breakdown of the Greek city-states, the Stoic philosophers formulated the doctrine of natural rights as something which belonged to all men at all times; these rights were not the particular privileges of citizens of particular cities, but something to which every human being everywhere is entitled, in virtue of the simple fact of being human and rational.

Locke was writing as a disciple of the Stoics when he offered his theory of natural rights to seventeenth-century readers who were troubled by the collapse of the traditional political order and forced to think out anew the nature of their duties and rights. The notion of natural rights has continued to attract men's minds; and the constitutions or the legal codes of practically every state in the world today give at least formal recognition to 'the rights of man and the citizen'.

Sweden in 1809 and Holland in 1815 followed the English model of incorporating the concept of natural rights into the constitution of a monarchy; other nations copied the American model of a republic having the preservation of men's natural rights as its declared *raison d'être*. When the United Nations was created after the Second World War, one of the first and most important tasks assigned to it was what Winston Chur-



chill called 'the enthronement of human rights'.

And yet the theory of natural rights has never gone unchallenged, even in the times of its greatest popularity. Among the mandarins of English political philosophy, Hume, Burke, Bentham, Austin, most Hegelian Idealists of the nineteenth century, and positivists of the twentieth have been opposed to the doctrine. Some Idealist philosophers admitted a concept of rights, but went on to argue that rights belonged not to individuals but to societies and communities. In Germany especially the Idealist influence was strong. The Declaration of Rights proclaimed by the nationalist German liberals in 1848 was no longer individualist; whereas the American and French declarations had asserted the rights of man, the German manifesto spoke instead of 'the rights of the German people'.

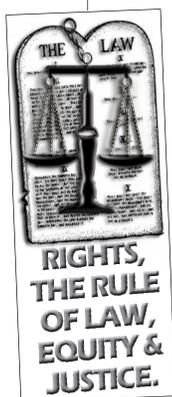
The English Idealist philosopher F. H. Bradley wrote in 1894:

'The rights of the individual are today not worth serious criticism... The welfare of the community is the end and is the ultimate standard. And over its members the rights of its moral organism is absolute. Its duty and its right is to dispose of these members as it seem best.'

In the realm of ideology both nationalism and Communism are inclined to this same conclusion. Marx regarded the notion of the rights of man as a bourgeois illusion; he was hostile to the individualism which underlies the classical doctrine or rights. Marx believed in humanity, in man as a 'species being', and he argued that this humanity would come into its own only when men cease to think of themselves in bourgeois terms as individuals with separate inalienable rights.

In spite of Marx's teaching on this subject, the Soviet Union, in its constitution of 1936 with amendments to 1965, formulated the rights of its citizens on the model of the constitutions of America and France and other 'bourgeois' countries. For example, according to Article 125 of the Soviet Constitution: 'Citizens of the U.S.S.R are guaranteed by law (a) freedom of speech; (b) freedom of the press; (c) freedom of assembly, including the holding of mass meetings; (d) freedom of street processions and demonstrations.'

Leaving aside, for the moment, the question of what these 'constitutional guarantees' are worth, it is interesting to note that even in the darkest days of Stalinism, the Soviet leaders felt it necessary to give nominal recognition to the notions of rights. The very fact that they have been written into Communist as well as other constitutions is itself an important sign, for it shows that however difficult it may be to explain the idea of human rights,

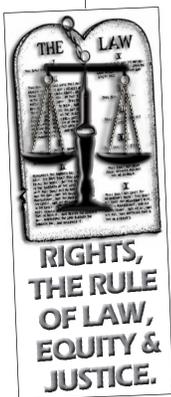




that idea has somehow acquired almost universal assent.

But we are still left with the question of explanation. What does it mean to say that all men have rights? Manifestly, the word 'right' is ambiguous. First, there is a sense in which to have a right is to have something which is conceded and enforced by the law of the realm. To say that I have a right to leave the country, a right to vote in parliamentary elections, a right to bequeath my estate to anyone I choose, is to say that I live under a government which allows me to do these things, and will come to my aid if anyone tries to stop me.

'Right' in this sense is not the same as desert. For example, nationals of some British Commonwealth countries living in England have felt aggrieved because they are not allowed to vote in parliamentary elections in the United Kingdom while citizens of the Irish Republic, which is not even a member of the Commonwealth, do have this right. It is a right enjoyed by Irish citizens even if they pay no taxes, and one denied to some Commonwealth nationals, no matter how much tax they pay to the British government, and no matter how long they have lived in the British Isles. From the point of view of deserts, and of justice, there is certainly something odd about a situation where people who both reside permanently in Great Britain and pay taxes to the British exchequer should be denied a right which is granted to Irish people who commonly repudiate any allegiance to the British throne and do not necessarily pay British taxes. Unjust this may be, but that makes no difference to the fact that this right exist. Irishmen are entitled by English law to vote in English elections. This right is a verifiable reality.



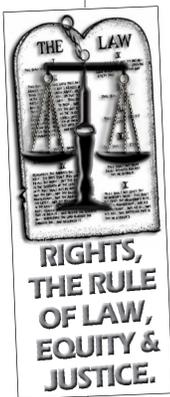
Rights of this kind I shall speak of henceforth as positive rights. What is characteristic of them is that they are recognized by positive law, the actual law of actual states. There is, however, a second sense of the word 'right' which is different from positive right, and much closer to the idea of deserts or justice. Suppose the father of a family says, 'I have a right to know what is going on in my house.' He is not saying anything about his position under positive law; he is not saying that the courts of justice will insure that he is kept informed of what happens in his house. He is not so much making a statement of fact as making a special kind of claim. He is appealing to the principle that being the head of a house gives a man a just title to expect to be told what goes on in it. The right he speaks of is a moral right.

There is a considerable difference between what is a right in the sense of a positive right and a right in the sense of a moral right. First, a positive right is necessarily enforceable; if it is not enforced, it cannot be a positive right. A moral right is not necessarily enforced. Some moral rights are enforced and some are not.



To say, for instance, that I have a moral right to receive a decent salary is not to say that I do receive one. On the contrary, it is far more probable that the man who says, 'I've a right to receive a decent salary' is the man who thinks his salary is not what it should be. Immanuel Kant once said that we are most keenly aware of a moral duty when it is at variance with what we wish, or feel inclined, to do. In the same we are most acutely conscious of a moral right when it is not being conceded.¹

Not every statement in the above quote do I agree with. However it serves well to give an idea of the issue of rights as it developed particularly in the last two centuries.



Footnotes

1. Taken from the chapter *What are Human Rights?*, which happens to be the name of the book as well, by Maurice Cranston, pp. 1-6.



Chapter

2

The Definition of Rights and Related Factors

Sub-topics of chapter: The Nature and Origin of Human Rights • What is a Right • The Doctrine of Human Rights Finds its Ideological Roots in the Ten Commandments • American Constitutionalism and the Ten Commandments • Trinidad and Tobago Constitutionalism and the Ten-Commandments-Model-of-Rights • The Issue About Legal and Moral Rights • What Rights are Not

Just what a right is, how do we come by them and what is their ideological source, are all important ingredients of the definition. To appropriately define the concept of rights, certain constituent components must be brought out to justly treat with the concept. Each component forms part of a domain of points, both direct and indirect that covers areas necessary to touch in developing the definition.

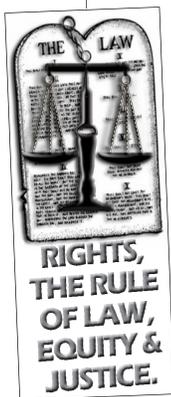
The components are divided into three divisions with sub-sections of points and are developed upon in somewhat logical order. Please read each point carefully.

The Nature and Origin of Human Rights

- **The Origin/Originator of Human Rights.** The nature of human rights renders it is impossible for them to have been products of human origin or source — social convention, social contracts, political documents, etc. They are too inextricably interwoven into our beings' design to have been post-creation endowments, or unintentionally evolved acquisitions without any predetermined purpose.

Embedded in the concept of rights is the inevitable scientific reality that they could *only* have been given to mankind via the act of human creation. Human rights just could not have become human rights through any other method than by creational endowment. It is self-evident and commonplace that all human beings have the right to life, not to death, reason be it why murder is and will always be wrong and prohibited by law. If death was a right then it naturally follows that human extinction would also be a right; which would make human existence a creational mishap, if it were true.

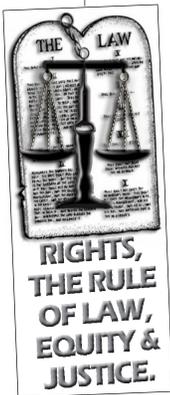
Could the right to life then be given to us any other way than by design? Therefore rights are genetically ours, and are sometimes referred to as natural rights by virtue of this fact. By no means then would it be an overstatement to say that human beings have a rights design, that our





genetic blue print is inherently rights structured; which is contrary to Marxist and Evolutionary philosophy. Creational endowment also radically limits rights-giving to be of no other source than our Creator/Designer. In other words, it is scientifically impossible for anyone else than our Creator to be the giver of human rights. With all certainty: God is the originator of human rights.

- **The significance of the Origins-of-Rights to its definition.** The idea of rights-origins is of such eminent value to the overall concept of rights that it determines the actual shape of the definition. It also carries the potential to reap greater psychological emphasis on both the validity and inviolability of rights. Reason be it why I mentioned in my introduction that it is a mistake of grave proportions for the UN Human Rights Commission to have left out an origins-statement in the Universal Declaration of Human Rights, and that its importance cannot be underestimated as its absence would definitely compromise some expected effects of the instrument.



There are those who think that references to the Creator as the author of human rights in legal instruments give them some sort of religious status or functionality, or as in the case of Jeremy Bentham who was against the notion of natural and inalienable rights termed the opening statements of the American Declaration as much “bawling upon paper”¹. Nothing could be further from the truth. The American Declaration of Independence is a perfect case for reference. For though it contain references to the Creator as the one responsible for human rights the declaration did not automatically function in some religious capacity neither did it cause the American government to function religiously, but on the contrary, the opposite consequence followed with great success.

When human rights are identified as constitutional rights it does not mean that the constitution itself originates the existence of these rights, but that certain rights are acknowledged, entrenched and protected by constitutional law. As in the case of positive rights, which are rights acknowledged and enforced by positive law, not that the law itself originate the right/s it enforces, but that it merely acknowledges the said rights.

- **Rights are Unchangeable.** The rights of man are of unchangeable character. This is due to the method by which they were endowed to the human family. By way of an example, human beings have a right to life; that *cannot* by any means be changed from being the right to life to anything else. It can be taken away or even forfeited through due process of law, but not changed into some other right. If rights are to be changed, humanity’s design must first be reengineered altogether; which is a reality if alterable is only possible by the hand of our Maker. Human rights are therefore inevitably unchangeable.

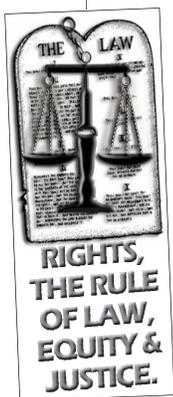
This fact raises the question as to whether the provisions that guaran-



tee our rights in legal instruments and the Bill of Rights of constitutions should be modifiable. Our rights being unchangeable makes it a human rights violation for politicians with hidden agendas to modify laws that clearly guarantee and protect persons rights. No legal procedure such as two thirds majorities being able to determine unnecessary changes to definitive Bill-of-rights provisions should be constitutionally possible. Rights-based constitutional models legally prevent such procedures from becoming a reality.

- **Rights are Exclusive not Relative.** Human rights are exclusive not dualistic or relative, according to Pantheistic² theorists. It is logically impossible to have the right to life and allegedly the right to death or no life simultaneously, or the right to private property and allegedly the right to nothing simultaneously, or the right to serve our Creator and allegedly the right to serve non-Creatorial gods (gods other than the Creator of the universe that are esteemed as such by certain persons) or the right not to serve the Creator simultaneously. Thus it is existentially and scientifically impossible to have *opposing* and *conflicting* rights, much more to even have them simultaneously, yet these be the claims of the relative rights camp. The testimony of history render these claims evidentially inoperable and unworkable. It is therefore not possible for rights to be relative (meaning that a person has a right to do whatever he/she feels to do) but exclusive. A person may choose to commit suicide by whatever means, and attempt to justify it; but as to whether suicide is or could ever be a right is scientifically impossible, not just wrong. Rights are inevitably and *indeclinably* exclusive.
- **Rights are Human Rights not species-rights.** The doctrine of species-rights if believed would undermine the distinction and value of human existence, because it alleges that the animal kingdom and the actual environment is parallel in value to humanity, an argument with philosophical origins in Pantheistic theologies (doctrines that claim that god is in everything). This argument reduces the meaning of human life to the point that human rights could be justifiably taken away in the interest of so-called animal and environment rights, which is not the case. All components of the environment conjunctively work to provide an appropriate home for human beings within the context of our purpose. The environment with all of its components *must* be viewed in the light of human rights *not* vice-versa, because its (the environment) condition affects the longevity of humanity as a whole. Widespread environmental destruction in effect hastens humanity towards extinction, since the environment is the means by which we sustain our physical existence.

This fact cannot be vice-versa. Human beings just cannot be the means by which the environment's existence is sustained. Hence it is evident that there cannot be any such thing as environment rights or even animal or insect or plant rights. The greater the reflection the more absurd the argument is seen to be. Environmental management is indeed a human rights function and the more, persons are sensitized to the sa-



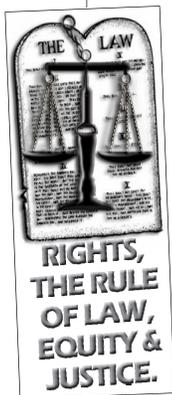


cred value of human rights the more, appropriate regard for the environment with all of its varied components would be held and reasonable environmental relations follow. Sensitivity to persons' rights therefore precede proper perspective and sensitivity to the environment's value and function.

Rights are therefore, exclusively human rights since human beings, *not* the earth or the animal kingdom was particularly created in the image and likeness of our intelligent Creator. Rights are by nature, human rights.

- **Rights are Individualistic.** Rights are individualistic, meaning that they belong to individuals, not communities or societies as Socialism or Marxism teaches (the former chapter makes mention of this fact in more detail).

The state is not and cannot be the objective of the individual but the other way around. The purpose of the government of a state is to protect and preserve the inalienable rights of its citizens as they (the citizens) pursue the fulfillment and enjoyment of these said rights in the manner they so chooses, though governments often behave as if they have been endowed with divine authority to grant and manage people's rights.



What is a Right

The linguistics of the term 'right' shows a wide range of uses. However a few dictionary references on the specific uses of the term in human rights contexts would suffice for this case.

Webster's New World Dictionary & Thesaurus:

Right (*rit*) *adj.* [Middle English < Old English *riht*, *straight*, *direct*, *right*, akin to Ger *recht* < IE base **reg-*, *straight*, *stretch out*, *put in order* > *RICH*, *RECKON*, *L regere*, *to rule*, *rex*, *king*, *regula*, *a rule*]

1 [Obs.] *not curved*; *straight*: *now only in mathematics* [a right line]

2 a) *formed by, or with reference to, a straight line or plane perpendicular to a base* [a right angle] b) *having the axis perpendicular to the base* [a right cylinder]

3 *in accordance with justice, law, morality, etc.*; *upright*; *virtuous* [right conduct]

4 a) *in accordance with fact, reason, some set standard, etc.*; *correct*; *true* [the right answer] b) *correct in thought, statement, or action* [to be right in one's answer]

5 a) *fitting*; *appropriate*; *suitable* b) *most convenient or favorable* c) *reputable*; *approved* [she associates with the right people] ...

**noun.**

- 1 what is right, or just, lawful, morally good, proper, correct, etc.
- 2 a) that which a person has a just claim to; power, privilege, etc. that belongs to a person by law, nature, or tradition..."

Point 2 (a) under noun is the relevant use for our context.

Cassell's New English Dictionary:

"Right ...just claim or title, esp. a claim enforceable at law, justification; that which one is entitled to..."

Dictionary of Philosophy, Peter A. Angeles

"Right. 1. That which one has due to him. 2. That upon which one has a just demand. 3. That to which one has a proper claim. 4. The privilege (freedom or power) given to one, sanctioned and safeguarded by what is regarded as an authoritative source such as God, a king, law, a social group, custom, tradition, conscience".

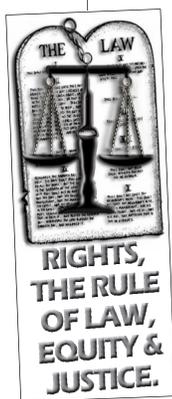
"Rights, human. Those rights (claims, needs, ideals) to be achieved by individuals and/or provided by society such as a good education, decent housing, healthcare, a secure job, an adequate standard of living, freedom from interference in the pursuit of goals, freedom from oppression, equality of opportunity".

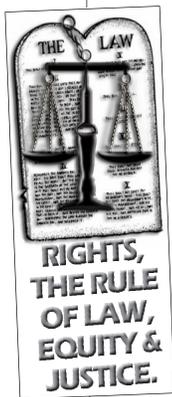
"Rights, civil. Those rights granted to citizens of a community by the power of its legal and legislative authorities".

"Rights, inalienable. Rights which are natural, innate, incapable of being denied. Their source and inviolability are considered beyond civil, political, legal, or other forms of rights, and universally possessed by all human beings. Example: the right to protect one's life or property".

The various dictionaries, though many, only give a rough idea of the concept based on their interpretation of the term's usage. In some cases conflicting ideas, and others, fragmented thoughts. Whilst dictionaries and lexicons reflect the various historical uses of terms, sometimes editors fall short in the areas of analyticity and explanatory skills which are necessary to treat justly, the denotations of certain terms. Though the language of human rights have been around since the 1940's yet researchers today still have problems in defining what a right is. In a sense the struggle is understandable, given the depth and complex nature of the concept by reason of the variety of factors involved.

The furthest the dictionaries reach is to identify the term right to mean: *that which a person has a just claim to, or that which belongs to persons by law or nature, or that which is due to persons, in other words our duty to our fellowmen, or that which all persons are legally entitled to.* These definitions do indeed contain portions of what a right really is, yet they still lack substantial, definitive treatment.





Let us look at the shortcomings in some of the above dictionary definitions.

- Though a person's just claims to certain rights may be true and appropriate, claims to rights cannot be passed off as a definition, since the actual claims do not make rights, rights. Neither are all claims to rights really rights, since claims are not always true.
- That which belongs to persons by law or nature - needs to be more definitive and more developed to reach the status of a definition, but yes it is an ingredient of the definition.
- That which is due to a person or our duty to our fellowmen - again lacks the substance of a thorough definition. However, yes we have a right to what is due to us, which amounts to nothing other than respect for our fellowmen's rights. It is evident in our basic rights what our duties are, hence rights informs duties.
- You would have recognized that Peter Angeles' Dictionary of Philosophy was not only more explicit than the other dictionaries, but he identified a difference between civil rights and inalienable rights with respect to their origins. Many of the rights that are commonly referred to as civil rights, are in truth and in fact inalienable rights. What is also seen in his definition of civil rights is the view that citizens' rights (civil) are granted unto them by the legal or legislative authorities. This concept of rights-origins is not only humanistic and evolutionary, but is 180 degrees opposite to the truth. Any government that claims or acts in a manner that indicate they hold the power to grant rights to its citizens or other nations is merely repeating the dark history of the divine right of kings and monarchs, who assumed the authority to have total control of the lives of their subjects. Government's chief role and responsibility is to support and protect the individual rights of its citizenry⁴.

These ideological and definitive conflicts in the realm of rights are what this study seeks to resolve.

Another mistake that is made from time to time is the mixing up of the object of a right with the right itself. For instance, we have the right to private property, but the right is not the actual property, thus not having certain property is not equal to not having the right to property. It simply means that some aspect of the right to property is not met or is denied for whatever reason. If the property was the actual right itself then life would also be an actual right as well, since we have a right to life. And yet life and property are not synonymous in nature. This means that each right has essentially different objects. Yet they are both be called rights? These are the kinds of definitive issues that would arise in the question of human rights.

Another factor that is responsible for ideological and definitive conflicts is the different models of rights. However, regardless of the multitudinous arguments about rights, there are basically two models of rights:

- The God-is-the-giver-&-commander-of-rights model, and
- The government-is-the-giver-&-commander-of-rights model

Of course the former is the true and the latter the false. I now venture upon a more full and accurate definition of rights.



Now it was necessary to first understand the nature and origin of rights before moving unto the definition, since, as I said before it is a domain of ideas to walk through towards the definition. Each idea contributes along the way to understanding the concept in more detail. Hence my reason for getting into 'what a right is' after covering the 'nature and origin of rights'.

There are two different aspects from which rights can be looked at:

1. The aspect of rights being creational endowments to the human family in particular; is necessary to answer the question as to who are rights-holders or possessors of rights or recipients of rights, which question arose out of the species-rights advocates claims that all species and things have rights, and
2. The aspect of rights which concerns how we *ought* to behave or to relate to each other given the fact that we have rights. This indicate that embedded in the concept of rights is a construct that commands appropriate human behaviors.

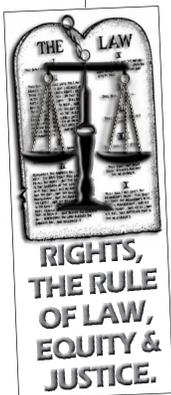
►► *Whilst rights belong to humanity by virtue of our designed uniqueness, they are best defined as behavioral codes since their prime concern is human behavior; more specifically how we ought and ought-not to relate to each other and our Maker, which determine our intelligibility, civility, equality, sustainability, comfort and happiness. They validate our humanity and contextualize our purpose. Thus since they were given to us by God (Creator) respecting them (rights) are Divinely required or imperative.*

Definition: Rights are God-endowed, Divinely-required, life-sustaining behavioral codes of equality before the law.

The Doctrine of Human Rights Finds its Ideological Roots in the Ten Commandments

Some scholars and professionals are of the view that the Ten Commandments (TC) are merely a starting point for human rights, without much value for consideration and inspiration to the process of developing human rights instruments, bills of rights, research papers, behavioral solutions, etc. Rejection of the TC seems to be more than due to pure obscurantism in some circles. Some cases of rejection are plainly as a result of subscribing to Evolutionary models of rights that are hostile to any God-endowed rights models, though substantive evidence stand on its side.

Evidentially, the rights of man does find its ideological roots in the TC, which is more than just a starting point but the actual legal foundation and source of human rights and human rights law, *inter alia*. The applicability of the TC goes far beyond defining sin and identifying the sphere of Christian duty. It is the social function and application of the TC that derives





both the doctrine of human rights and the rule of law. It also identifies the duty of human beings; which is to respect one another's rights.

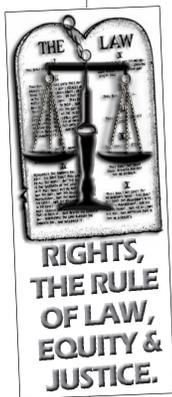
The first four articles (TC) deals with a person's service to God (Creator), hence they refer to the first right - the Right to serve God. This right due to circumstantial differences has been restructured for application within the different multi-religious nations of our globe, thus is expressed as the Right of Religion/Religious Liberty. The last six articles, which deal with from honoring one's parents to coveting your neighbor's goods identify the second and third rights; which are the Rights to Life (thou shalt not kill/murder) and to Private Property (thou shalt not steal, etc.) Exodus 20:1-17 KJV⁵. The TC therefore affirmatively enshrines and enforces the rights of man. Its legal, prohibitory format make its call for respecting peoples rights a Divine Imperative, which indeed says a lot for the advancement of human society.

American Constitutionalism and the Ten Commandments

Some evidence is necessary at this point to demonstrate the practical success that follows if a country was to draft their constitution after the Ten Commandments-model-of-rights. The nation of America indeed is a perfect case in point. I would begin with some excerpts from a very ancient writer.

"Most governments in the Christian world have preached, but never practiced, the Ten Commandments. They have enforced against their citizens laws against theft and murder. But they have not themselves abided by these ethical principles. All ancient and modern dictatorships—indeed, all tyrannical and oppressive governments—have been based upon this vicious double standard of ethics: this un-Christian principle that the citizen shall respect the life and license of the governing despots, but that the governing despots shall not be bound to respect the life and liberty of the citizen. For the citizen to cheat the government is everywhere a crime; but where, except under the American constitution, is it illegal for the government to confiscate the property of the citizen? Where except in America do we find the commandments "Thou shalt not kill" and "Thou shalt not steal" recognized and revered as a Higher Law, issuing from a Divine Lawgiver, which our human lawmakers may not tamper with or transgress? Even in England, man-made law is supreme—Parliament's power is "absolute, even against common right and reason." But under the American Constitution, man-made law may not cross the Commandments against theft and murder—no act of Congress or a State Legislature may deprive unjustly any man or group of men of life, liberty or property."

"William Harper, one of South Carolina's most distinguished sena-





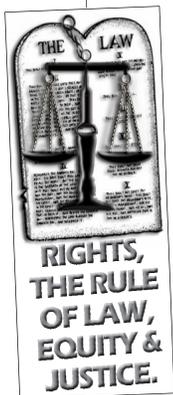
tors, said that *“The Constitution has laid down the fundamental and immutable laws of justice for our government.”* If any Act of Government violates these *“fundamental and immutable laws of justice,”* then the Constitution provides that it shall be set aside. Beveridge declared that the principle of declaring void all laws violative of *Eternal Justice*, all laws which deny or destroy *“inalienable rights”* given men by God, *“wholly and exclusively American.”* It is also wholly and exclusively Christian—an application of Christ’s teaching that men should not yield unto Caesar the things which are God’s. There is a Divine basis for the Constitutional provision denying to the government itself supremacy over the souls of men. It was on this ground that the colonists premised their struggle for a government of *“limited powers.”* In a famous decision, Judges Roane, Henry and Tyler said: *“The supposed omnipotence of parliament... is an abominable insult upon the honor and good sense of our country, as nothing is omnipotent as it relates to us, either religious or political, but the God of Heaven...”*

“... Primarily, The Constitution was intended to prevent governmental powers from violating the principles of Eternal Justice, from stealing away the God-given rights of the people...”

*“As Dr. Frederic Jesup Stimson states in his *The American Constitution as it Protects Private Rights*: “..If the President of United States interferes with your liberty unlawfully, you may resist by force, in proper cases, and always by suit in the courts; if a soldier or a magistrate arrest you without cause, or a commission seizes your property, or a board forbids your right to trade, you can disobey him or them without danger, and bring suit as if he were a private trespasser.”*

“This fundamental principle of the American Constitution that the citizen has all the rights of the policeman, the soldier, the President, or the Congress itself; this great principle that rulers, even as citizens, must do justly and respect the laws of God and the rights of their fellowmen—this great principle is one of the most important applications of the Ten Commandments and the Brotherhood of Man ever made in the history of the world.”⁶

For this reason America became such a great and mighty nation leading the world in rights-based Constitutionalism and developing the concept of Republicanism to the point of becoming the model of a true Republic. The question is how long would they retain their Republican status for, seeing that in recent years unRepublican practices have been forthcoming from them.





Trinidad and Tobago Constitutionalism and the Ten-Commandments-Model-of-Human-Rights

In certain respects our very own Constitution (Trinidad and Tobago) follows the American model though not fully. Thus we are not a full but a half-Republic with the hopes of developing to full status in the near future.

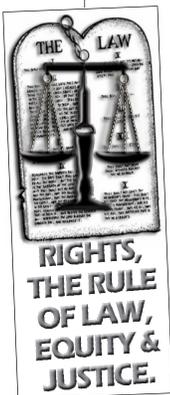
However we have an excellently drafted preamble and Bill of Rights though there is room for additional pertinent provisions in it (Bill of Rights). The framers of our Constitution did follow the Ten-Commandments-model-of-Rights, acknowledging the inalienability and inviolability of individuals' rights, guaranteeing them legal protection, including religious liberty, freedom of expression and of the press, and protection from murder and theft to name a few.

The following are excerpts from the Trinidad and Tobago Constitution, particularly the preamble and part of the Bill of Rights.

Preamble

“Whereas the People of Trinidad and Tobago—

- (a) have affirmed that the Nation of Trinidad and Tobago is founded upon principles that acknowledge the supremacy of God, faith in fundamental human rights and freedoms, the position of the family in a society of free men and free institutions, the dignity of the human person and the equal and inalienable rights with which all members of the human family are endowed by their Creator;*
- (b) respect the principles of social justice and therefore believe that the operation of the economic system should result in the material resources of the community being so distributed as to subserve the common good, that there should be adequate means of livelihood for all, that labour should not be exploited or forced by economic necessity to operate in inhumane conditions but that there should be opportunity for advancement on the basis of recognition of merit, ability and integrity;*
- (c) have asserted their belief in a democratic society in which all persons may, to the extent of their capacity, play some part in the institutions of the national life and thus develop and maintain due respect for lawfully constituted authority;*
- (d) recognize that men and institutions remain free only when freedom is founded upon respect for moral and spiritual values and the rule of law;*
- (e) desire that their Constitution should enshrine the abovementioned*



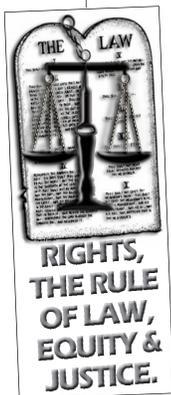


tioned principles and beliefs and make provision for insuring the protection in Trinidad and Tobago of fundamental rights and freedoms.”

***The Recognition and Protection of Fundamental
Human Rights and Freedoms
(Bill of Rights)***

4. *It is hereby recognized and declared that in Trinidad and Tobago there have existed and shall continue to exist, without discrimination by reason of race, origin, colour, religion or sex, the following fundamental human rights and freedoms, namely—*

- (a) *The right of the individual to life, liberty, security of the person and enjoyment of property and the right not to be deprived thereof except by due process of law;*
- (b) *The right of the individual to equality before the law and the protection of the law;*
- (c) *The right of the individual to respect for his private and family life;*
- (d) *The right of the individual to equality of treatment from any public authority in the exercise of any functions;*
- (e) *The right to join political parties and to express political views;*
- (f) *The right of a parent or guardian to provide a school of his own choice for the education of his child or ward;*
- (g) *Freedom of movement;*
- (h) *Freedom of conscience and religious belief and observance;*
- (i) *Freedom thought and expression;*
- (j) *Freedom of association and assembly; and*
- (k) *Freedom of the press”*



The Issue About Legal and Moral Rights

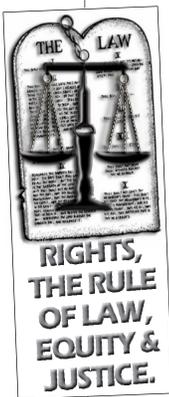
Certain schools of thought are of the view that there are moral and legal rights, which is also a central issue in certain jurisprudential circles. The so-called difficulties that exist within the scholarly and professional communities regarding distinguishing and authenticating rights, differences in the relationship between law and morality, problematic theories of law, rights and morality, legal positivism, etc. are due in some cases to positions being argued from the perspective of flawed models of rights, ideological conflicts in theories held, defective reasoning, and most often; lack of a solidly structured, coherent doctrine of rights to inform the debate and research process. No conflict would be left unresolved by these series of studies.



Claims to rights are legal, only when they can be legitimized by the evidential maxim of our three fundamental rights.⁷ Notice I did not say law, because many a time laws go against the very rights they are suppose to protect. Laws are also subject to legitimization and approval by basic rights; since the sole purpose of law, in summation, is to prevent people's rights from being transgressed, by punishing it whenever it occurs. Once laws are pro-rights they would obviously justify truthful claims to rights.

The same goes for morals. Morality is only moral if it is founded on basic rights. Hence moral standards are rights based. If someone makes a claim to a right that cannot be justified by law, then that right is not only illegal, but immoral as well. It is hardly necessary to make an issue about whether rights are moral or not. The relevance of the argument is based on the angle from which rights are being looked at. But yes, rights are moral since they demand dignified, human behavior.

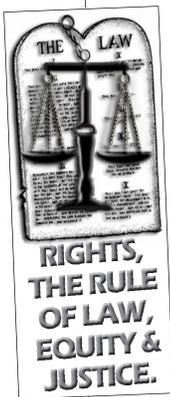
What Rights are Not



- **Rights are not privileges** that are granted unto us by the state according to Socialist thought. Privilege is too weak a concept to be used with reference to rights. Also privileges can be too easily granted and taken away by the state according to their whims and fancies, which is not the case with rights. To take away or restrict or deny a person of his/her rights is to destroy or hinder in some form that person's existence. Historically speaking, the privileges-definition of rights was merely a political ploy to keep the ordinary citizen under the control of the government. Rights are God-given not government/state-given.
- **Rights are not entitlements** as some researchers and scholars claim. On the contrary what humans are entitled to are based upon and determined by rights. For instance, we all have the right to life, as a result we cannot be entitled to the disrespect of that right which amounts to its denial and destruction; but contrariwise to the respect of that right. Meaning that our behaviors should not cross the line into acts of violation of another person's right to exist.
- **Rights are not mere claims** according to the Claim-Rights theorists. We do not possess rights simply because we lay claim to them, and making claims are hardly equivalent to proving a case by factual evidence. In other words rights are not ours because of our claims but because of the self-evident reality that they were given to us by design, from our Designer.
- **Rights are not needs.** They are much more weightier than needs. They formulate the context and structure of human needs. Thus taking away a person's rights cannot be a need, but the respecting of those rights.



- **Rights are not responsibilities.** Responsibility is not optional or relative, as in the case with Evolution—that says there is no Creator, no particular purpose, or law to obey or follow - do as you feel. Responsibility is shaped and determined by rights, to dictate justness and equity in society. However it has to do with the meeting of needs. Therefore irresponsible behavior falls within the sphere of anti-rights.



Footnotes

1. Bentham, J, 'Anarchical Fallacies' in Bowring, ed, Collected Works of Jeremy Bentham, 1843, p 494.
2. Please refer to Appendix II for a more indepth explanation of the doctrine of Pantheism.
3. The philosophy of Pantheism is further explained in Appendix II.
4. For more details on the role government read chapter 9.
5. The entire reference of the Ten Commandments can be found in Appendix I.
6. Taken from Dan Gilbert's book entitled The Biblical Basis of the Constitution pp. 13-16.
7. Please read chapter 3, entitled the Hierarchical Structure of Rights for more details on the two categories of rights to shed light herein.



Chapter

3

The Legal Limits of Persons' Rights and Freedoms

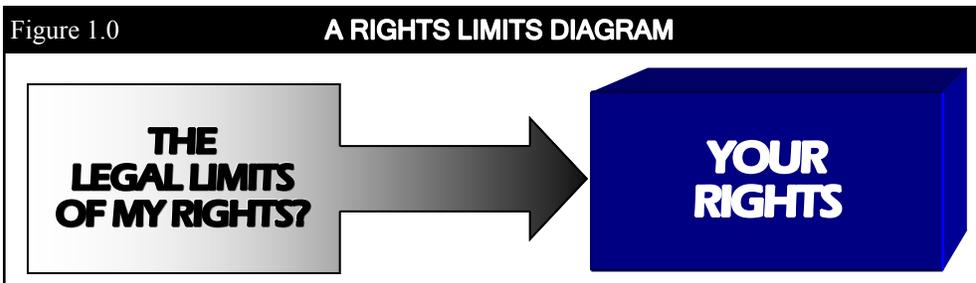
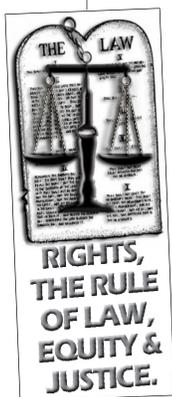
Sub-topic of chapter: Human Rights and Human Exclusiveness

Rights cannot be without boundaries. What a person has a right to, must have limits, we just cannot have a right to any/everything or to do anything. If one day I decided because I did not like someone I should take away his life. Would it be wrong? Why is it not my right to do whatever I choose to regardless if others are harmed? If that was the case then chaos would reign supreme and justice would not be the order of the day. But what determines the legal limits of one's rights and freedoms? If you said *rights*, you are correct.

Rights function as a measuring device by setting the very limits of people's rights and freedoms, drawing the line between destructive and preservative human behavior. Legal human behavior constitute those acts that remain within the borders of one's own rights. Any act that crosses the line into the realm of interfering with another person's rights is classified as a de facto act of transgression or violation of that individual's rights. All such actions are categorically anti-rights and are absolutely prohibited by the *rights* of the other person; thus the law. Therefore the legal limits of a person's rights are the rights of his/her fellowmen as is the legal limits of a person's freedoms are the freedoms of his/her fellowmen. This is called the principle of equal rights. For it is the equality of our common rights that determine the actual limits of each person's rights, categorizing the zone of respectful human relations. Every human being is entitled to equal respect of his/her rights and freedoms from his/her fellowmen, and equality of treatment with regard to the goods, services and resources of whichever nation he/she belongs to.

The principle of equal rights also embeds the concept of the brotherhood of humanity. Thus the common status of *all* human beings, i.e. equality-under-law is entrenched in the principle of equal rights. Indeed this principle of the doctrine of rights is an indispensable factor that must be an *a priori* in judicial, legislative and executive circles if the operations of government are to be friendly towards the entire citizenry.

The following is a diagram on the limits of rights.

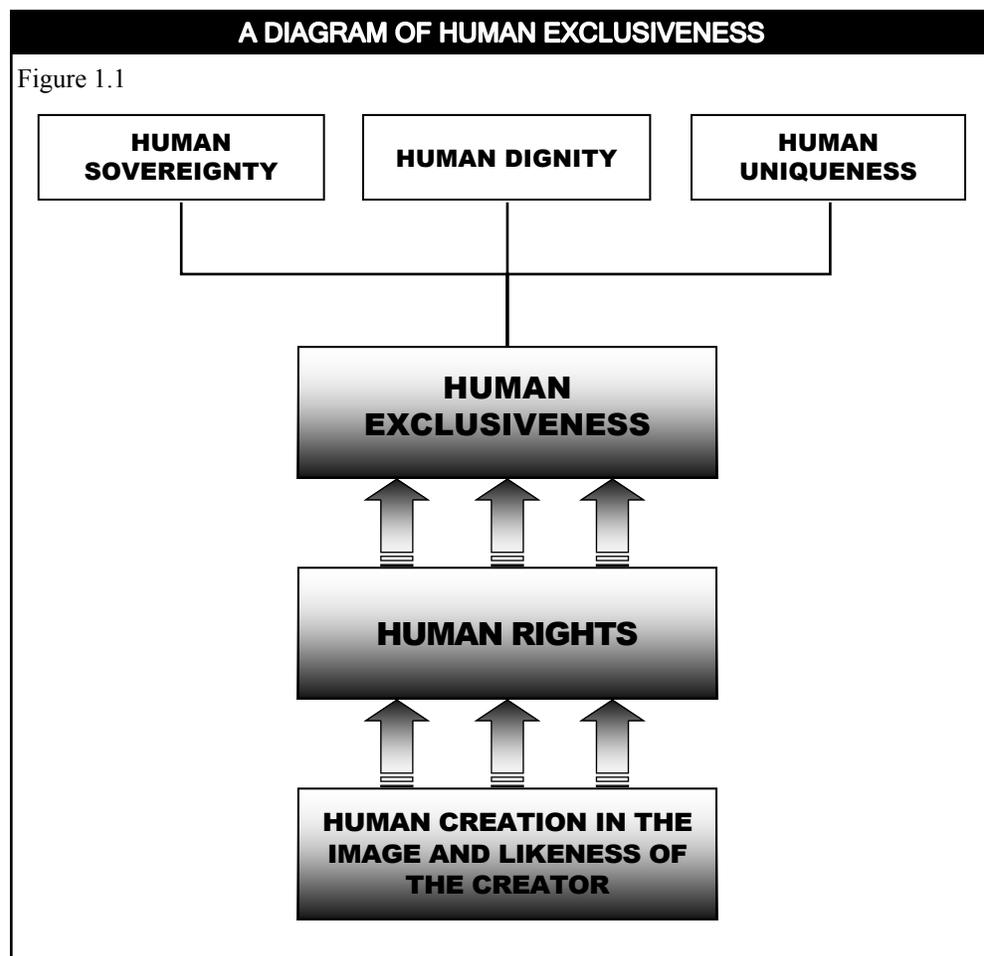
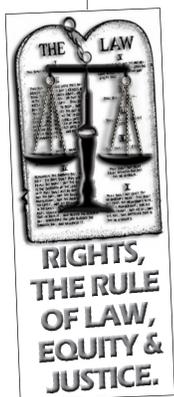




Human Rights and Human Exclusiveness and Distinction

Arguably the human species is starkly unique in contrast to all other creation. This designed difference is the reason for our complex brain, mind, personality, language, capability, etc. which is the result of being created in the image and likeness of our Designer. This difference has to do with the fact that we were created for a much higher purpose than the rest of creation or nature as it sometimes referred to. Contrary to evolutionary science, no species is evolvable beyond the border of its own kind; hence human beings will not develop beyond the genetic limits of our species into alleged so-called gods according to evolutionists. And neither did we evolve from some lower species into human status. Such a claim is just genetically impossible. However space and the scope of this study does not permit me to go into the details of the arguments. Human beings are exclusively human. Thus human rights are exclusive as well; which is for the sole reason of facilitating the fulfillment of our higher purpose. Human exclusiveness is therefore based on our peculiar design which derives our uniqueness, dignity and sovereignty. It is unfortunate how far we have fallen from our dignified rights-purpose.

The following is a diagram of human exclusiveness.





Chapter

4

The Hierarchical Structure Of Rights

Sub-topic of chapter: The Two Categories of Rights

Having covered the definition, and limits of person's rights, the next step is the ideological layout of these rights. What is usually referred to as the basic layout of rights is "life, liberty and property" with minimal changes at times. This structure however misses the mark in many respects; but indeed indicate the need for research and development in the field. A layout must coherently outline rights according to their rank and functionality, the categories and sub-categories of rights, as well as identify their relationship to freedoms, etc.

The inherent differences in value, and functionality of our fundamental rights causes a natural, hierarchical layout within the doctrine. The layout begins with the most valuable right coming first, and the second and third in specific rank following in that order. The following is a listing of the articles of man's three basic rights in hierarchical order. They are:

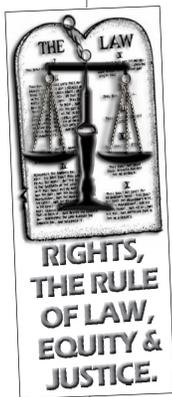
1. The Right to serve God, the Creator (or Religious Liberty)
2. The Right to Life or Existence, and
3. The Right to Private Property

These three rights are called foundational, since they determine the derivation of a host of subordinate rights to accommodate their consistent integrity and maintenance.

I would start out from the last right, i.e. to private property and work back to the first right to justify the coherence of the layout. The right to private property finds its value as a right in context to the second right, the right to life, which in turn finds its value in context to the first right, which encapsulates the very purpose of the second and third rights, henceforth the purpose of human existence.

A person just cannot have a right to personal or private property if he/she does not exist. Thus existence or the right to life must precede, in order to justify the right to private property and its enjoyment. For without private property the right to life cannot be sustained and enjoyed. And without the second and third rights it becomes impossible to enjoy the first right; which is the ultimate of all rights.

The first right is the ultimate of rights because of its absoluteness; which is not difficult to see. Since the first right has to do with service to our Creator. It is obvious, within that interconnect or relationship resides the solutions to the problems of human sinfulness or anti-rightness. The Creator cannot influence His intelligent creation to disrespect the very rights He created us with in the first place. If that were the case why create us with rights, it seems clear that such would reflect a conflict of nature on the path of God. He being the Creator obviously possesses the know-how to repair





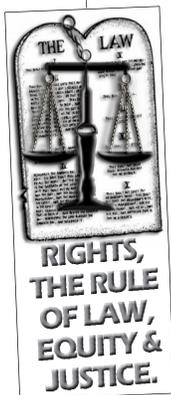
our state of falleness, but which must occur within the context of choice. Logically, the current continuity of human existence indicates the probability of *current* redemption from our anti-rights condition.

The first right being a matter of mind and conscience, in truth and in fact cannot be violated neither is it forfeitable through any 'due process' procedure. However it can be given up which usually occurs due to threats to or violations in some form of the second and thirds rights. There are no conditions under which the first right is the cause of violations of other persons rights, or the denial of it can form part of punitive measures, but on the contrary it has the potential to birth solutions to circumstances that negatively impact others rights. Any religious beliefs that influences violations of persons rights are both flawed and anti-rights. No violation of persons' rights in the name of God or religion can be said to be an exercise of the first right, but rather an abuse it. These are some of the factors that reflect the absoluteness of the first right.

The Two Categories of Rights

All rights fall into two main categories (figure 1.2 table below). They are the Fundamental Rights category and Subordinate Rights. Fundamental rights are the basic or foundational rights of man from which a host of subordinate rights derive to corroborate the consistent exercise, fulfillment and integrity of the Fundamental category of Rights. In addition, Fundamental Rights not only beget Subordinate Rights, they are the standards by which all Subordinate Rights, legitimate or alleged, are judged. For instance, if someone lived in a community that no government presided over, then that person would not exercise certain of his/her Subordinate Rights (right to vote, etc.), since the circumstances doesn't warrant it. This is not the case with Fundamental Rights. Thus circumstances on one side dictate certain human actions and Fundamental Rights on the other determine what are the Subordinate Rights in the given circumstances. In many instances people make claims to certain rights for different reasons, if these claims are not substantiated by Fundamental Rights, then the claims are merely vacuous, and the rights they make claim to cannot be legitimized, hence they are not rights.

Within the Fundamental Rights category there are two sub-categories. The Absolute Right category and the Relative Rights category (please refer to figure 1.3 on page 30 entitled A Diagram of the Absolute and Relative Rights. The first right is the chief or supreme right (rightly referred to in international circles as the cornerstone of all human rights) because it is absolute, whilst the second and third are relative rights. It (the first right) forms the context as well as defines the purpose and perspective of the second and third rights, not the other way around. It is therefore absolute because there are no circumstances that demand its forfeiture, or under which it should or can be forfeited, whilst there are circumstances under which the second and third rights can be justifiably forfeited through due process of law. The first right in reality is unforfeitable since it is a matter of mind and conscience, which places it beyond the reach of anyone. It is usually and can only be attacked by destroying in some form - the relative rights (i.e. the rights to life and private property). The need for the forfeiture of the second and third rights only arises as a result of a certain extent



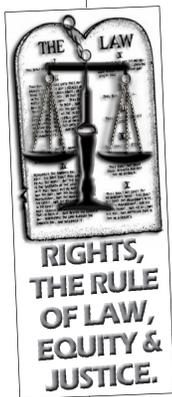


of the non-exercise or transgression of the first right.

The following is a table of the two categories of rights.

FUNDAMENTAL RIGHTS	SUBORDINATE RIGHTS
<ol style="list-style-type: none"> 1. Right of Religious Liberty 2. Right to Life 3. Right to Private Property 	<p>The Right to: Education, Employment, Just Salaries, Association, Reasonable Housing, Health Care, Vote, Fair and Equal Treatment in general and in particular from all public institutions, Privacy, Transact business, Correspondence, Political Involvement, Fair Trial, etc. Many of these rights are categorized by the UN under different headings such as Social, Economic, Political and Cultural rights.</p>

Figure 1.2



The Geneva Report 2001, A Perspective on Global Religious Freedom acknowledges the supremacy of the first right, the right of religious liberty. The following are a few excerpts.

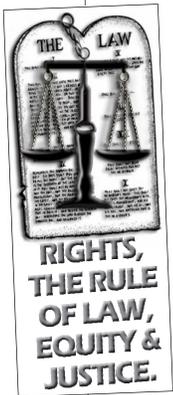
“Religious freedom is the "lynchpin" or litmus test for all other human rights because where there is no freedom of religion other fundamental rights are always missing. Some of the rights most often compromised where religious freedom is lacking are freedom of speech and press, freedom of association and movement, equality before the law, the right to life, liberty and security of person, freedom from torture and other cruel and inhuman treatment or punishment, and the right to work. Recently, Norway's former Prime Minister Kjell Magne Bondevik stated:

Religious freedom and belief is one of the fundamental human rights. Actually, it is more than that. ... Without freedom to worship, there can be no real political freedom - nor freedom of thought and freedom of conscience. These are interrelated.

For people with deeply held religious beliefs, religion is the essence of their very being. It defines the terms of their existence and determines the values they bring to bear daily in relationships and decisions. Article 18 of the Universal Declaration of Human Rights provides, perhaps, the best summation of the scope of religious freedom in the international arena:

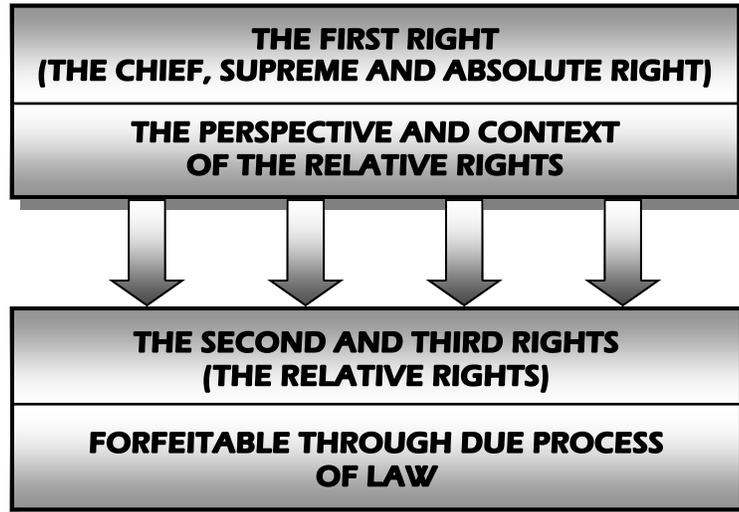
‘Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.’

The following is a diagram of the absolute and relative rights.



A DIAGRAM OF THE ABSOLUTE & RELATIVE RIGHTS

Figure 1.3





Chapter

5

The Relationship between Rights and Freedoms

Sub-topic of Chapter: The Hierarchical Structure of Freedoms

What is freedom? Essentially freedom is the exemption from obstacles that prevents a person from fulfilling his/her rights. It is identified according to its sphere or context, for instance: freedom of thought, freedom of belief, freedom of expression, freedom of movement, etc. Without it the exercising of our rights would be impossible; since it is naturally inherent in rights to facilitate their exercise and enjoyment. Rights therefore determine the existence and shape of freedoms. Thus claims to freedoms can only be true if those claims are legitimized by rights.

Freedom must not be misconstrued for license, which is a commonly made mistake today. License is the pantheistic concept of freedom; which is radically anti-rights. For instance two examples of dictionary definitions of liberty is as follows:

“...Any exemption from constraint or control... Freedom from restraint, in a general sense... Natural Liberty consists in the power of acting as one thinks fit, without any restraint or control... It is a state exemption from the control of others, and from positive laws...” **Noah Webster, American Dictionary of the English Language (1828).**

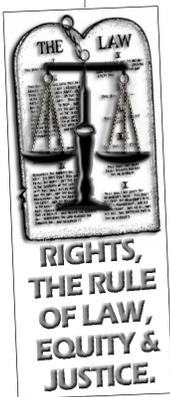
“...Freedom from control or subjection; freedom from restraint... license... Liberty and freedom are used interchangeably; but freedom connotes an absence, want of, or the non-existence of, compulsion or restraint; liberty connotes being free from some sort of restraint or control...” **Edwin B. Williams (General Editor), The Scribner-Bantam English Dictionary.**

If freedom meant that a person is free to do whatsoever he/she feels or desires to do without restraint or limitation, then a person would be free to take away another person/s’ freedoms, or have the right to take away another person/s’ rights. Fortunately a person cannot have a right to no rights or be free to be unfree. Even the advocates of licentious freedom would agree that they cannot have a right to no rights; which reflects the falsehood of the concept.

The Hierarchical Structure of Freedoms

Like rights, freedoms follow a similar hierarchical structure. They are accordingly expressed in three basic articles. They are:

- Freedom to do all that fall within the sphere of sustaining the Religious Right (Freedom of Religion)
- Freedom to do all that fall within the sphere of sustaining the Right to life, and
- Freedom to do all that fall within the sphere of sustaining the Right to private property.





Chapter

7

The Doctrine of Tolerance and Human Rights

Sub-topic of chapter: The Hierarchical Structure of Tolerance • The Real Object of Respect in Human Relations

Chapter (2) dealt with the legal limits of our actions, placed on us by the rights of others. Tolerance on the other hand concerns mainly, how we relate to our differences to prevent us from crossing those boundaries of respecting each others' rights.

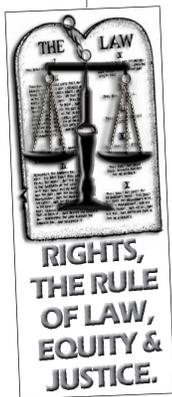
Tolerance is somewhat of an embattled concept today particularly in American society where religious tolerance has undergone a semantic shift to a more "politically and religiously correct" definition. Erwin Lutzer gives us some perspective on the matter.

"You've heard of "political correctness," that doctrine based on a new American right—the right to never be offended. If your views run counter to the official liberal agenda, it is best to remain quiet or be accused of "verbal violence." Rules are being made to prohibit any speech that is offensive to a minority group. Needless to say, pro-lifers are an offense to many people; so are those who do not believe that Christ is the only way to God."

"This new tolerance insist that we have no right to disagree with the liberal social agenda; we should not defend our views of morality, religion, and respect for human life. This tolerance respects absurd ideas but will castigate anyone who believes in absolutes or who claims to have found some truth. This tolerance, someone has said, includes every point of view except those points of view that do not include every point of view. This is tolerance only for those who march in step with the tolerant crowd."¹

Not surprisingly the new tolerance is not only treated as the new god on the block but it is intolerable towards the former tolerance. This shift in no way was driven or inspired by rights, or any legitimate needs.

Tolerance is not an isolated stand-alone concept. If that was the case we would be lost as to what should, from what should not be tolerated, with politicians and powerful interest groups holding the judgment in their hands to say who or what society tolerates. Fortunately that is not the case. Tolerance inevitably relies on rights to dictate and direct its path. In fact, rights is the father of tolerance. Thus rights function as a director, determining exactly what ought and ought-not to be tolerated. Hence whenever rights-values motivate the practice of tolerance, that is legal tolerance and whenever it is the opposite as in the case of the new politically correct religious tolerance; that is illegal tolerance. Therefore it is human rights that determine the existence, structure, limits and function of tolerance.





More than one dictionary reference of the term tolerance is not necessary at this point; hence the use of one reference will serve well in this case. According to **Cassell's New English Dictionary**: the term tolerate is defined to mean: *"To suffer, to endure, to permit by not preventing or forbidding..."*.

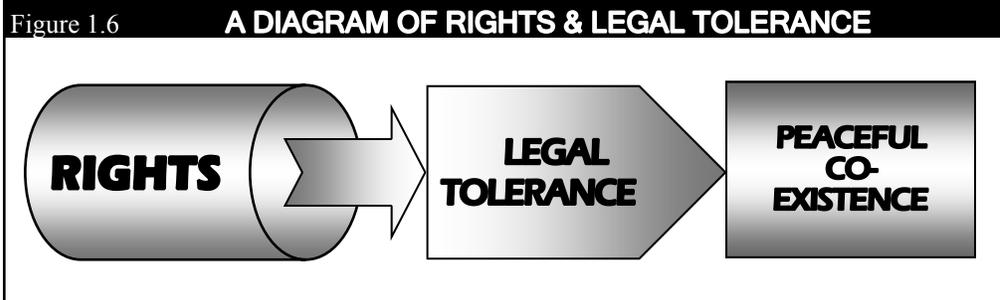
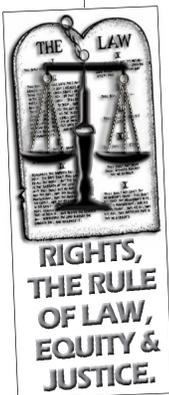
The purpose of tolerance is to preserve the sustenance of individuals' basic rights and freedoms within the context of a world with gross differences of views, values, emotions, cultures, races, physical differences, etc. In cases where a commonality and unity of values, beliefs and practices cannot be reached, tolerance is necessary to prevent persons from allowing differences to give rise to acts of intolerance and persecution and social injustice. Tolerance says that whilst a person's views and practices maybe disliked or even hated, or even if the person is hated, God forbid, that person's rights must *not* be transgressed or denied them in any way as a result.

The Hierarchical Structure of Tolerance

Tolerance being a child of human rights also follows a similar hierarchical structure of layout. The following are the three fundamental statements of the ought-to-dos of tolerance:

- Tolerate only the things that sustain the Right of Religious liberty,
- Tolerate only the things that sustain the Right to Life, and
- Tolerate only the things that sustain the Right to Private Property

The following is a diagram of the relationship between rights and legal tolerance.



The Real Object of Respect in Human Relations

According to the Holy Bible *"God (Creator) is no respecter of persons."*² Meaning, that He loves all equally and discriminates not in His relationship to any. For He is not *"willing that any should perish but that all should come to repentance and live."*³ This concept of "respect of persons"

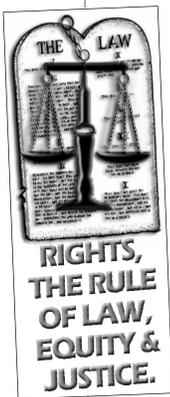


brings out a significant truth that aids to distinguish the real object of respect in human relations, which shows all forms of favoritism to be constituted of a respecting of persons rather than their rights. Be it riches, looks, gender, friendship, family, political or social status, these are some of the bases of favoritism. Not only is it wrong, it is sometimes the cause of discrimination to others in the delivery of goods and services.

Favoritism is the opposite extreme of discrimination with the central position being the respect of rights. Discrimination is the denial of some service/s to persons to whom it is legally due, and which is done because of some unjust dislike or alleged defect. It is tantamount to unfair or unequal treatment of persons; whilst favoritism on the other hand is giving to persons more than is due to them, because of some preference or special liking; and is tantamount to above equal treatment. Following a rights-based framework would determine balanced treatment of persons in the delivery of goods and services. Rights therefore are the real object of respect in human relations.

Though the term is otherwise used, respect is really a human relations concept. Peoples' rights must be respected, not their views or beliefs. How we relate to the views and beliefs held by others are called rational. Whether the outcome is acceptance or rejection of the view held, the type of response to be rendered is rational. Any other response would be irresponsible. Notwithstanding persons usually do not relate rational to the views of others that differ from theirs. Whether your disagreements with another person's positions are legitimate or emotive; you tolerate, not cross the line.

As in the case of favoritism, if respect is founded upon changeable circumstances such as personal distinctions, riches, etc., when or if these circumstances change, a shift in respect would obviously follow. Hence the rights of man are the most logical platform to found and inspire respectful human relations.



Footnotes

1. For an expanded explanation of the shift from the former to the new politically correct, religious tolerance in American society by Erwin Lutzer in his book *Christ Among Other gods* can be found in APPENDIX III.
2. Taken from Acts 10:34 and Romans 2:11. KJV.
3. Taken from 2 Peter 3:9.



Chapter

8

Rights, Religious Tolerance and Criticism in Multi Religious Societies

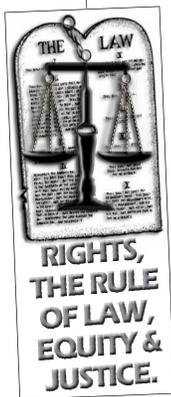
Sub-topics of chapter: Religious Criticism • Legislation Against Criticism Always Interfere with Freedom of Religion • The Relevance of Truth to Justice and Progress in Society • Religion and Human Rights • How Should Religions be Viewed and Judged by the Public

It would be unrealistic to think that the religious divergences of our world today would cease or somehow go away. For that matter, with the passing of time differences will continue to increase. However if religious persecution, oppression and intolerance is to reduce, governments must adopt the position that its citizenry develop the spirit of religious tolerance and perpetuate respect for peoples' inalienable rights. Contrary to popular belief religious tolerance is in fact, *the solution* for peaceful co-existence within multi-religious societies, not anti criticism legislation such as blasphemy laws and the likes thereof.

Dr. Winston L. Frost former Dean of the Trinity Law School made a very valuable statement on the concept of religious tolerance in his speech at the International Coalition For Religious Freedom Conference entitled **Religious Freedom and the New Millennium**, that I deemed it fitting to make reference to it. He said:

“There is a mistaken view that tolerance means that you have to accept everything and everyone's truth claims as being true. Such a view would mean that you can hold no truth claim to be less valid than your own. Because if your truth claim is an exclusive truth claim, to accept that everyone's truth is equally as true is to invalidate the claims of your own religion. So what we have to realize is that tolerance does not mean accepting that everything is true. Tolerance means being able to distinguish between what is and what isn't true, but accepting the fact that there are those who believe differently than you do and allowing them to have that view and to be able to discuss, debate, and deal with that in the public square.

In a legal and political sense, toleration means refraining from prohibition or persecution. It implies disapproval or dislike of the thing being tolerated. That is one of the things that we have to accept. Part of toleration is that you disagree with the other person on the nature of their truth claims and yet you are willing to agree to discussion. You are willing to listen, to dialogue, discuss, and to be open to new ideas, new thoughts, and new approaches. So when we are talking about tolerance, as Bernard Kripp describes it, "It is the degree to which we accept things of which we disapprove or the





deliberate forbearing of power we could use otherwise."

It is a huge mistake on the part of some governments to think that legislation against religious criticism is a solution of sorts, particularly to address persons incapacity to cope with offence as a result of criticism of their beliefs. A political move of this sort would only strengthen the offended parties' intolerant sentiments, and give birth to a social trend that would reap vast negative effects on that society eventually.

The negative psychological, social and political results of anti-criticism legislation have been proven by history to be problematic rather than solutional. Needless to say whether the current drive to advance the new anti-criticism, politically-correct, religious tolerance poses any semblance to a solution either; since the theory have been founded on the flawed premise of religious pluralism; which claims that all religions lead to the same god. A comparative study of religions around the world evidently prove this claim to be furthest from reality.

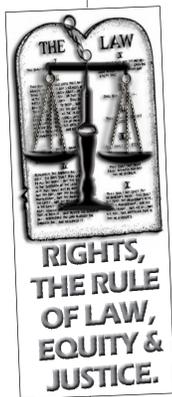
In the interest of rights, circumstances of offence dictate that governments take a hands-on approach to the matter. For if persons are cogently sensitized about individual rights and the benefits of tolerance, and are allowed to face criticism they would eventually mature to the point of developing the capability of :

1. Bearing the offence without becoming emotionally overwhelmed,
2. Managing a strategic (non-emotive) response to the criticism,
3. Not seeking government legislation for protection from offence, and
4. Respecting the rights of their opponents.

Developing the trait of religious tolerance could bring untold benefits to individuals and society alike. Apart from advancing peaceful co-existence between religions and religious persons; it creates an atmosphere conducive to real interfaith dialogue. But does it stop there? No. Religious tolerance is the highest form of tolerance to develop due to the immense sensitivity of the issue, hence once it is attained, persons naturally become capable of handling other less sensitive matters that require lesser levels of tolerance to manage the conflict successfully. This is just one example of the benefits to be derived thereby. Religious tolerance therefore, is indeed the de facto solution to the spirit of religious offensiveness, intolerance and persecution.

Religious Criticism

History confirms that due to the fallibility of human beings - mistakes, deceptions and untoward behavior of all sorts have been and continue to be perpetuated in the name of God and religion. By no means therefore should religion be made off-limits to criticism by governments' request or by legislation. History is too replete with instances of religious corruption, persecution and all forms of intolerance for any free society and government to implement measures against criticism. Persons who disagree with the religious beliefs and practices of others must be free to





publicly express those differences regardless of who is offended. The onus is upon all free societies to adopt the spirit of religious tolerance rather than a spirit of offensiveness and intolerance towards criticism and the criticizing party or parties. Religions have too great an influence upon political doctrine, law, business practices, medical and sociological standards and the direction of history in general to be rendered uncriticizable.

Criticism tends to keep religions in line just as in cases of political parties, scientific institutions and other organizations. Religious persons have nothing to fear from criticism, unless there are doctrinal or other reasons to fear exposure. If the criticisms leveled at a religious denomination are wrong the best way to respond, is to expose and show the flaws of the criticisms to be wrong and unjustified. Such a response will further justify the truth-claims of the religion targeted by the criticism above any actions of intolerance or efforts to get government to interfere to protect their beliefs and practices from criticisms; which in itself is an indication of a great weakness in that religion. I would end with a word of wisdom from former American president Thomas Jefferson, he said,

"The man who fears no truths has nothing to fear from lies"¹.

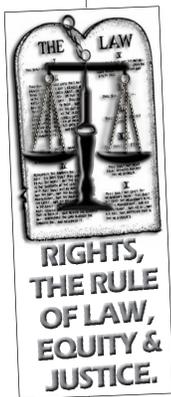
Legislation Against Criticism Always Interfere with Freedom of Religion

Another atrocity often committed by powerful false religions is to influence governments to pass laws to protect them from being criticized on the flawed grounds of protecting religious persons from being offended.

Since we (Trinidad and Tobago) follow the Westminster model of government the following quotations have been taken from British authors on the matter.

"The right to religious freedom is violated if one is not free to choose, express and manifest one's religious beliefs: the right is not so violated simply because one is not protected from mental suffering caused by verbal attacks upon one's religion". " ... Clearly, the damage done to freedom of religion if there is no blasphemy law is far less than the damage done to freedom of speech if there is one; it is therefore concluded that the argument that freedom of religion demands a blasphemy law, fails"².

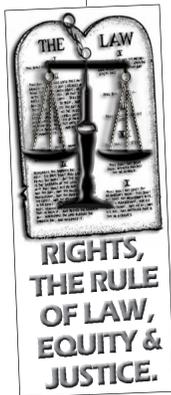
"If a law is to protect all religious believers from abuse, we must ask what 'religion' is. How will the term be defined? Professor Ward, a philosopher of religion, concludes that 'religions' are fundamentally opposed to one another and there is no one "thing" called "religion" wherein people agree. 'I believe it would prove impossible to define a religion for legal purposes. If you did define it you would probably find yourself covering groups you did not want to include'. To make a





list of major religions would still exclude minor religions, and it is hard to justify that morally or legally. However, to all groups professing religious status would, as Ward warns, open the door to the protection of all kinds of cults ... Hence I conclude, with the Law Commission report, that the definition of religion required for such a Law is impossible"³. "No blasphemy law could protect the beliefs of a religious people from being publicly denied and criticized. After all, the beliefs of different religions: Qu'ranic teaching about Christ denies his divinity; the symbolic depiction of God in many religions is deeply idolatrous to Islam; such examples could easily be multiplied. It would be logically contradictory to promulgate a blaspheme law to protect the beliefs of different religions which are themselves mutually contradictory.

What is acceptable criticism to one will be gross offence to another. It is hard to see how law can be designed to operate on the basis of the feelings of religious believers. Law requires as objective a standard as possible by which to judge. This could more practically be supplied by legislation aimed at prevention of incitement of hatred and the control of publications according to criteria for the fair criticism of others' beliefs"⁴.



The Relevance of Truth to Justice and Progress in Society

Without truth, justice cannot be accomplished or executed since it relies on the truthfulness of matters to determine just verdicts and just ends. Without truth the possibility of learning about reality would not exist nor the facts of my current statements explainable. It is because of truth I can explain the truth about truth. It is an unfortunate truth, that minds are many a times blinded by errors which causes the advancement of societies to be deterred by the hindrances of deceptions and its consequent destructions. The absence of truth would obviously affect every sector of human society, be it scientific, political, economic, medical, educational, moral or religious.

Medina on the relevance of truth to society stated:

*"Truth is the lifeblood of a society and tolerance is the temperature that allows it to work, but when men enact laws to limit the flow of information and ideas, they introduce clots that starve the organism of society and so break down would soon follow"*⁵.

Religion and Human Rights

Religion⁶ is supposed to be a means of influencing, encouraging, advocating and advancing mutual respect for one another's rights through a variety of ways. Religious doctrines is the methodological instruments by which the problem of anti rights values and behavior are addressed rather

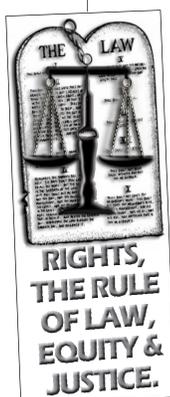


than encouraged and propagated. Yet we cannot afford to forget that the dark ages was caused by adherence to anti rights religious beliefs as well as many other problems the world over. For instance Sudan, Indonesia, Pakistan, India, Israel, Afghanistan, etc. to name a few of the places that anti rights teachings caused many an atrocity to be perpetuated, from persecution to genocide to wars, etc. The Jim Jones circumstance and the St. Bartholomew massacre are just a couple of the instances we just cannot afford to forget. Reason be it why criticism plays such an important role in checking the evils of religions to keep them within the zone of respect for others rights.

Religious freedoms must be respected and promoted, but crimes and other anti rights actions committed in the name of God and religion must be addressed by government.

How Should Religions be Viewed and Judged by the Public

Religious persons need to adopt more intelligent and less emotive attitudes regarding their religions' system of beliefs and practices. Religions must be viewed and weighed in *terms of rights*. Truth and respect for rights should be of greater concern than religious sentimentalism. There are multiple religions and many well established ones with lots of resources as well, yet so little is their *righteous* influence, so little is their contribution to advance genuine respectful human relations in society, so little their capability to develop real pro rights solutions for the many problems that plague society after society; and so vast the problems they have caused throughout history by their infiltrating anti-rights influences: the political conflicts, the religious and political intolerance and persecution, the millions and millions of lives that have been lost, particularly during the dark ages, the wars that were fought as a result of religious beliefs, and the list goes on and on. Religion in this modern enlightened age **must** be subject to the **validation and judgment of human rights**. Governments must keep legislation free from religious dogma and practice if truth, justice and respect for rights are to reign supreme.



Footnotes:

1. Thomas Jefferson to George Logan.
2. Civil Liberties, pp 223.
3. Blasphemy and the Law in a Plural Society pp. 18-19.
4. Ibid. p.20.
5. Nyron Medina, Quotable Quotes on Religious Liberty, Freedom of Expression and Religious Intolerance.
6. Many today say that religion is the product of man, and that they are not preaching religion but a relationship with God, which is clearly a misuse of the term. Religion consist of two terms, 're' and 'ligion' - re, meaning again and ligion meaning to unite, together meaning to renite man to his Maker. Thus religion simply means, a system of beliefs to reunite human beings with their Maker, which obviously includes having a relationship with Him, being reconciled, etc. This is the sense in which I use the term religion to mean.



Chapter

9

Rights and the Natural Dimensions of Free Speech

Within the context of our imperfect world, human speech naturally falls into three content categories or dimensions. Whenever we speak, the knowledge we convey can either be classified as content that are:

1. New (ideas that are communicated for the first time in history)
2. Similar to (ideas that are not new but similar to already existing ones)
3. Against (ideas that are opposed to or against other existing ones)

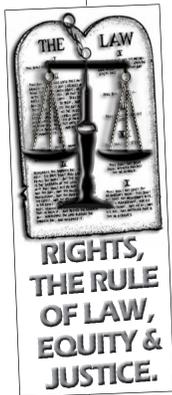
These three inevitable dimensions of speech are totally natural in a sinful and imperfect world such as ours. Their inevitability derives from the reality of our fallible and imperfect condition, which in turn gives rise to the probability of differences of opinion being of a contrary character. In other words we live in a world where truth and error co-exist, and contest for supremacy and rule through its advocates. However it is truth alone that can advance and develop individuals and societies, and free us from the shackles of oppression, discrimination, and injustice.

To interfere with the third dimension of speech by legislating against the criticism of religion or politics (which comes under the third dimension) as many a government do to suit the wishes of powerful interest groups and religions, is to reduce and limit free speech to the first and second dimensions alone. Allowing the third dimension of ideas to have an unhindered existence does not work against, but in favor of peoples' rights. Conflicting views in no way harms truth but on the contrary causes it to shine brighter and in most circumstances its champions to think critically about the views under attack. Anti-criticism at any level, whether in the home, in the classroom, or in legislation tends to stagnate the intellectual, moral, social and political development of a society. Only in cases of slander, libel and indecency can speech be justifiably curtailed, since such speech harms rather than preserve rights.

Apart from Mill's own ideology he made certain statements to the tune of the aforementioned dimensions of speech in his essay **On Liberty** that is worth mentioning at this point. He stated,

“If all mankind minus one, were of one opinion, and only one person were of the contrary opinion, mankind would be no more justified in silencing that one person, than he, if he had the power, would be justified in silencing mankind.”

“Unfortunately for the good sense of mankind, the fact of their fallibility is far from carrying the weight in their practical

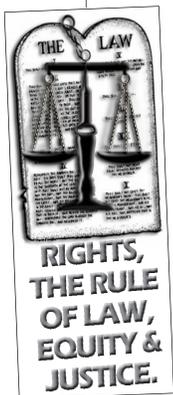




judgment, which is always allowed in theory; for while everyone knows himself to be fallible, few think it necessary to take any precautions against their own fallibility, or admit the supposition that any opinion of which they feel very certain, may be one of the examples of the error to which they acknowledge themselves to be liable.”¹

“In every country where man is free to think and speak, differences of opinion will arise from difference of perception, and the imperfection of reason; but these differences when permitted, as in this happy country, to purify themselves by free discussion, are but as passing clouds overshadowing our land transiently and leaving our horizon more bright and serene”².

I would close this chapter with a remarkable quote from French statesman Frederic Bastiat, which in essence points out the benefits to be reaped from not interfering with the third dimension of free speech.



*“It seems to me that this is theoretically right, for whatever the question under discussion — whether religious, philosophical, political, or economic; whether it concerns prosperity, morality, equality, right, justice, progress, responsibility, cooperation, property, labor, trade, capital, wages, taxes, population, finance, or government — at whatever point on the scientific horizon I begin my researches, I invariably reach this one conclusion: the solution to the problems of human relationships is to be found in **liberty**”³. (emphasis supplied).*

Footnotes

1. Chapter 2, On Liberty by John Stuart Mill.
2. Thomas Jefferson to Benjamin Waring, 1801.
3. Taken from his essay entitled The Law, Frederic Bastiat p 72.



Chapter

10

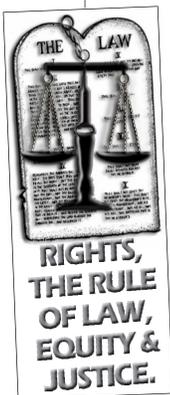
Rights and the Role of Government

Subtopic of chapter: The Relationship Between Rights and Law

In summation, the role of government is to protect and support the individual rights and freedoms of each citizen and the nation as whole, through a variety of systems, laws and mechanisms. Also to insure that equal treatment is meted out to all with regards to the delivery of goods and services and resources of the nation.

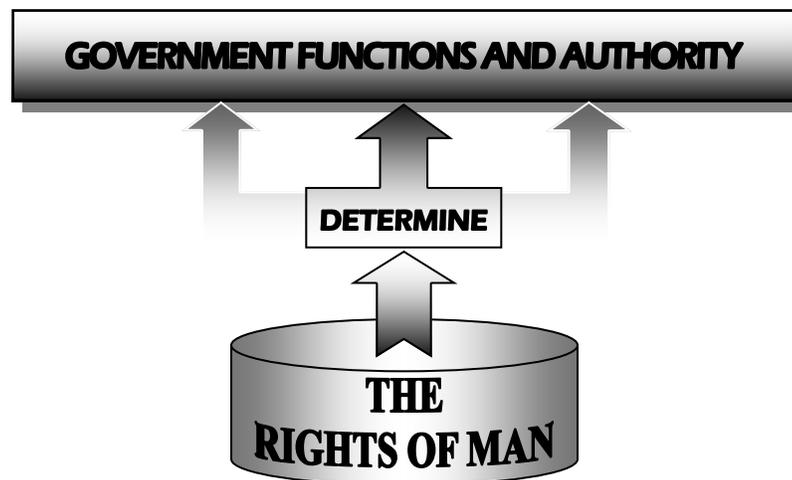
It is the natural rights of the people that determine the structure, functions, powers and limitations of governmental authority and operations. The constitution which defines the powers and operations of government, must acknowledge the inalienability and inviolability of the rights of the citizens, and contain a Bill of the Rights of the peoples of that nation with provisions that distinctly guarantee protection of the citizen's said fundamental rights and freedoms. Therefore it is the responsibility of governments to insure that protecting these rights are the theme of all legislative, judicial and executive activities.

The following is a diagram on the foundation of government's function, authority and responsibility.



A DIAGRAM ON THE FOUNDATION OF GOVERNMENT FUNCTIONS

Figure 1.6



Government's relationship to the first right or Religious Liberty is particular concern. The first right must be constitutionally guaranteed, and declared to be a matter of individual conscience and the Creator; which ren-



ders it off-limits to legal regulation and determination. In other words; government's specific duty relating to the first right is to make sure that there is, as follows:

- (a) No legislation of any religion/s religious dogma or practice
- (b) No legislation *against* any religion/s religious dogma and practice
- (c) No legislation *against* the *free and full* practice of religion.

However this position in no way allows for crimes or infringements of persons rights to be carried out or practiced in the name of God or religion. Religions must not be allowed to carry out violations of persons rights through so-called customs and rituals, even if it is claimed that they are necessary pacifications of their god/s.

It is historically evident that the American model of "separation of religion from legislation" is by far the most suitable, effective and rights-friendly government-religion relational structure to follow given the circumstances of our imperfect world with multiple religions. Unfortunately our (Trinidad and Tobago) Constitution does not contain a provision in our Bill of Rights similar to the first amendment of the US Constitution. Their First Amendment reads as follows:

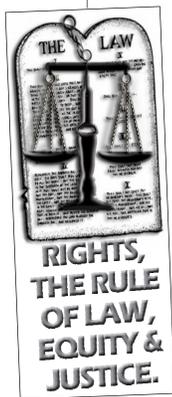
"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press..."¹

A few excerpts from the writings of former American presidents to indicate their thoughts on the benefits that follow adopting the "separation of religion and legislation model".

"We are teaching the world the great truth that Governments do better without Kings & Nobles than with them. The merit will be doubled by the other lesson that Religion flourishes in greater purity, without than with the aid of Govt." ²

"Believing with you that religion is a matter which lies solely between man and his God; that he owes account to none other for his faith or his worship; that the legislative powers of the government reach actions only, and not opinions, I contemplate with sovereign reverence that act of the whole American people which declared that their legislature should 'make no law respecting an establishment of religion, or prohibiting the free exercise thereof,' thus building a wall of separation between church and State."³

"Almighty God hath created the mind free; all attempts to influence it by temporal punishments or burdens, or by civil incapacitations, tend only to beget habits of hypocrisy and meanness, and are a departure from the plan of the Holy Author of our religion, who being Lord both of body and mind, yet chose not to propagate it by coercions on either, as was in His almighty power to do."⁴





The only system of government that meets the conditions to be qualified as truly protective of people's inalienable rights is that of Republican form, in other words Republicanism. Its infrastructure, operational procedures and checks and balances not only acknowledges the inalienability and inviolability of rights but makes its officers responsible for protecting and preserving these very rights. The first right or religious liberty is acknowledged to be a matter of mind and conscience, which right is off-limits to government interference, notwithstanding their role to insure its free and full practice.

It is the nation of America that have given to the modern world the governmental system of Republican Constitutionalism. In response to the problems they (America) faced in the beginnings of their development as a nation, particularly in context to the problems of the dark ages with despotic governments and state religions, they practically developed the doctrine of Republicanism. Unfortunately the America of today have been gradually moving away from its republican principles and practices and we are witnessing instances of blatant infringement of the rights of persons and other nations.

The Relationship Between Rights and Law

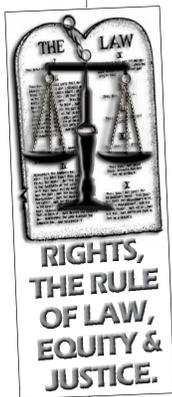
Laws are drafted by the legislature, which is lawmaking arm of government; hence its function form part of the overall function of governments, which is to protect citizens rights. Law therefore is the instrumental and enforcement tool by which governments govern and actually protect persons' rights. Some so-called legal minds are of the view that the law functions as education, to regulate persons lives. This is the case with Communist systems that usually has tons of laws to allow the government to tightly control the behavior of the populace. Such a system hinders advancement at all levels and is violative of individuals rights in many respects.

The law occupy not a casual but a substantive upscale status in society. Its force commands obedience hence it is not to be treated as simply advice; but imperative rights-based content following in the path of the Ten Commandments.

The purpose of law is:

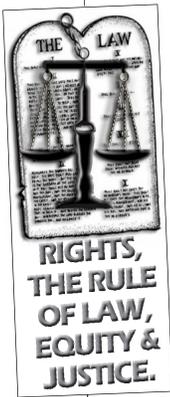
- In the first instance, to equally protect the rights of all citizens by punishing all violations of rights regardless of the perpetrators status in society
- In the second instance, to insure a social climate pursuant to the free exercise and maximum fulfillment of peoples' rights, through the prevalence and advancement of truth in general to steer nations to higher levels resolution, development and happiness.

Functionally speaking, rights reach where law cannot, in that an appropriate education in rights justifies human worth to the point that it affects the limits of one's behavior in mutual relations. Rights places on each individual the responsibility and duty to respect his/her fellowmen's rights. The





empire of law is to perpetuate this reality.



Footnotes:

1. Taken from the Bill of Rights of the American Constitution.
2. James Madison, Letter to Edward Livingston, July 10, 1822.
3. James Madison, Journal excerpt, June 12, 1788.
4. Thomas Jefferson, Letter to the Danbury Baptist Association, January 1, 1802.
5. Thomas Jefferson, Author of the Declaration of Independence, 1785.



Chapter

11

Rights and the Rule of Law

Basically the rule of law is contrasted to the rule of kings and tyrants; which is opposite to the practice of republican governments. Since much have been already said on the topic a few excerpts from different authors would suffice to elaborate the view herein.

Beginning with Dicey.

“We mean, in the first place, that no man is punishable or can be lawfully made to suffer in body or goods except for a distinct breach of law established in the ordinary legal manner before the ordinary courts of the land. In this sense the rule of law is contrasted with every system of government based on the exercise by persons in authority of wide, arbitrary, or discretionary powers of constraint... It means ... the Absolute supremacy or predominance of regular law as opposed to the influence of arbitrary power, and excludes the existence of arbitrariness, or prerogative, or even of wide discretionary authority on the part of the government. Englishmen are ruled by the law, and by the law alone; a man may with us be punished for a breach of the law, but he can be punished for nothing else”¹.

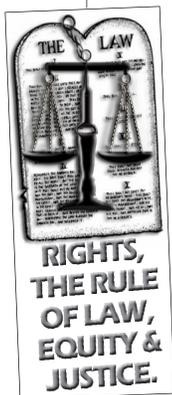
“Prohibitions del Roy (Case of Prohibitions) (1607)

The king purported to hear and decide a case himself. On appeal, it was argued that in matters which were not covered by express legal authority, the monarch himself ‘may take what causes he shall please to determine, from the determination of the judges, and may determine them himself’. This right was divinely given to the king, and the judges were merely his delegates to exercise it during his pleasure”².

The following quotations were taken from an American author to reflect the fact that during the period of their constitutional development consideration was given to insure their constitution was based on the rule of law.

“Before America was born, men and women were ruled by kings who claimed a divine right to rule, kings who changed laws to suit their own personal whim. This was considered intolerable by our founding fathers who dreamed of a nation established on the rule of duly enacted laws ... not the conceited edicts of arrogant tyrants.

Humanity lived under the iron rule of one form of king or another for thousands of years until that fateful day in Philadelphia, when wise, courageous leaders gathered on the Fourth of July 1776 to institute a new form of government whereby the people would rule themselves under law ... according to the principles of due process embodied in our Rules of Court that protect every person who





knows the Rules. The dream of America was that we would live in a land of liberty and justice for all (based on the Rule of Law). The promise was that no longer would kings and tyrants rule us. We would rule ourselves, according to the Rule of Law and the principles of due process ... government of the People, by the People, and for the People! (However, only those who know how to use the Rules of Court to obtain due process at the hands of government are truly protected by the Rule of Law. The ignorant remain enslaved to those who know how to use the Rules.

The Rule of Law and due process were married when America was born. This is our legal heritage.

Not without many problems was America born. Not without mistakes. Not without errors of the most horrible kind ... because people do not know the Rules of Court or the principles of due process, and our government has not yet seen the need to teach us in our public schools while we are still children.

The Rule of Law lives in the hearts of free people everywhere. We all know deep inside that each of us is entitled to be treated equally by government, that no men or set of men should be given special favors or powers to rule us outside the written law ... yet only a few know the Rules of Court so they can be protected from the law of force by the law that's written ... and nothing is said about it in our public schools!

Why, then, is there so much talk about the Rule of Law and so little effort to teach people the Rules of Court?

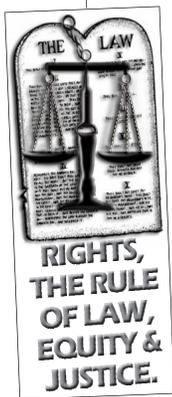
The Rule of Law asserts that men should not be trusted to govern others unless their rule is just, tempered by fixed laws to prevent tyranny, laws that stop individuals from accumulating wealth by force, laws that keep those in high office from exercising power over the populace without restraint, laws that deny the majority power to act without due regard for the rights and well-being of individuals who are a minority, laws that prevent the powerful from plundering the weak.

The Rule of Law decrees that Law shall govern us according to the will of the People and not by the will of ambitious men and women in high places.

The Rule of Law is what our heroes died for in past wars for liberty.

The Rule of Law is worthy of our highest aspirations and dedicated efforts as a united people.

Yet, without more widespread understanding of the Rules of Court



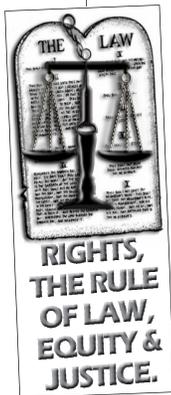


by which alone we can enforce the Rule of Law, these high-sounding ideals are meaningless. The Rule of Law is threatened today by seemingly innocent schemes of powerful people who seek to undermine the principles of due process for the sake of a global economy and its all-powerful government that will decree what law is and enforce its edicts with unbridled force. By learning the Rules of Court and using that knowledge to enforce the Rule of Law, you are making the world safer for future generations.

Remember: you cannot have one without the other.

This principle that laws should govern instead of men -- laws of our own making and not the cruel edicts of tyrant dictators or divine right decrees of kings -- is the bedrock of human justice, the philosophical cornerstone of these United States, and the foundation of hope for all mankind.

Thus the rule of law is the reign of human rights law allowing for the exercise and enjoyment of rights without hindrance.



Footnotes:

1. Dicey, AV An Introduction to the Study of the Law of the Constitution (1965, 10th edition) pp 188, 202.
2. Cavendish Briefcase Series On Constitutional and Administrative Law, pp 5 under the heading The Courts are independent of the executive in the administration of justice.
3. Taken from <http://www.jurisdictionary.com>



Chapter

12

Rights and the Evidential Case for Universal Standards of Justice

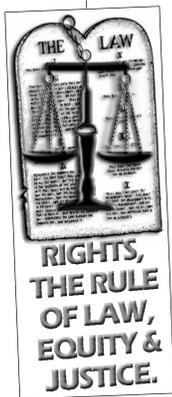
In the face of the current advancement of vast arguments in favor of an alleged relativism and non-absolutism of truth, morals and ethics, fundamental rights stands vindicated as universal human rights by virtue of its self-evidentiality. By human rights being the factor that constitute our common basic humanity they indicate the very context of a set of universal standards of justice and higher law.

Absolutism is an inevitable natural law. Adherents of the view - that there are no absolutes, and that truth is relative overlooks the fact that their arguments only *appear* to claim that there are no absolutes when in truth and in fact they are really just claiming different absolutes to the ones they disagree with; much more to even substantiate the claims of their arguments. For to claim that there are no absolutes is merely to say that “no absolutes” is the new absolute, and if all truth is relative, it has to be apart from the truth - that all truth is relative, which is an absolute as well. Thus the arguments for no absolutes are self-defeating and effectively null and void, perpetuated as they may be. Fortunately the *self-defeating* function is a natural attribute of all erroneous and untruthful arguments. The question therefore is - “which are the real absolutes?” This, the doctrine of human rights answers in the affirmative.

Contrary to the arguments of relativism and non-absolutism a universal standard of justice, and right and wrong creates a better and more solutions-oriented path to conflict resolution, friendly international relations, international law, pro peace resolutions, etc. Relativism only creates difficulties in conflicting international circumstances, as in cases of war between different nations. If the warring nations adhere to different standards of right and wrong then both or all the nations as the case may be will see their actions to be right and justified; whereas if both adheres to one common standard the difficulties to establish what is wrong from what is not is reduced, and so the process of resolution can be more cogently approached and effected.

It is very unfortunate that the American and British governments resorted to an unjustified, unrepugnant and anti-rights war against Saddam Hussein and Iraq whilst countries like Israel possess nuclear weapons, and as a result of a survey recently done is now identified to be the country that poses the greatest threat to world peace. Irregardless of the progress of the UN weapons inspectors and absolutely no evidence of weapons of mass destruction, and in the face of great protests around the world against the war, they still went ahead. Not only were their arguments for the war with Iraq flawed but their actions constituted a clear and blatant transgression of international law.

Adherence to an internationally acknowledged pro-rights universal standard of justice is the absolute criterion for *more* just international relations

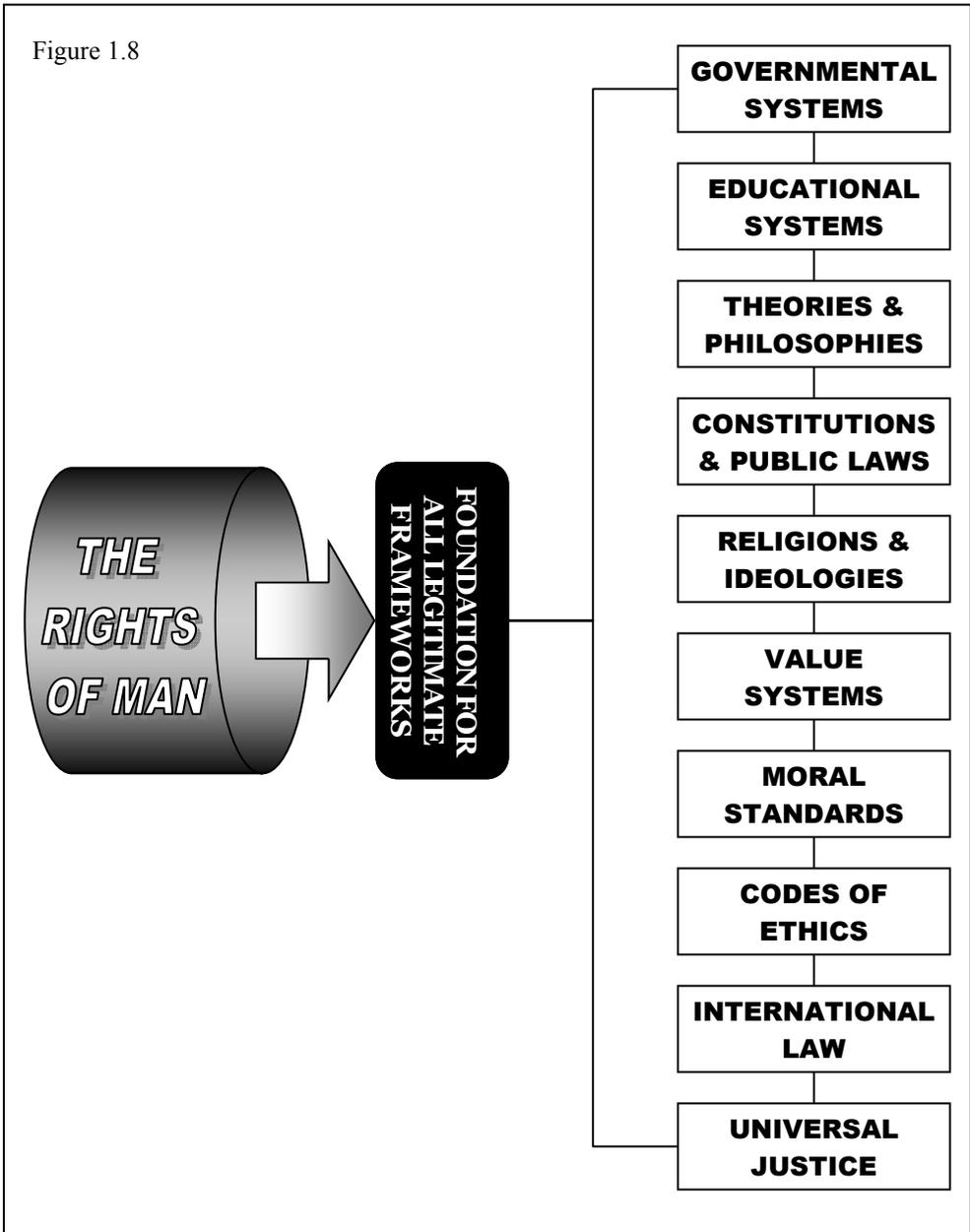
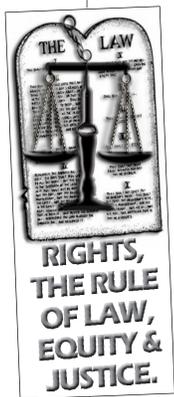




and international law, above any problematic relativistic situational standards. It is clear that situational standards and ethics are impractical and inoperable absolutes that if adhered to, a state of chaos would follow.

In conclusion, the rights of man are the real foundation for all legitimate laws, legal systems, sciences, philosophies, religions, economic practices, moral standards, best practices, benchmarks, corporate systems, etc.

The following is a diagram that shows rights to be the foundation of legal framework infrastructures.





APPENDIX I

The Ten Commandments

Exodus 20:1-17. King James Version.

“And God spake all these words, saying,

Article I: I am the LORD thy God which have brought thee out of the land of Egypt, out of the house of bondage. Thou shalt have no other gods before Me.

Article II: Thou shalt not make any unto thee any graven image, or any likeness of anything that is in heaven above, or that is in the earth beneath, or that is in the water under the earth. Thou shalt not bow down thyself to them, nor serve them: for I the LORD thy God am a jealous God, visiting the iniquity of the fathers upon the children unto the third and fourth generation of them that hate Me; and shewing mercy unto thousands of them that love me, and keep my commandments.

Article III: Thou shalt not take the name of the LORD thy God in vain; for the LORD will not hold him guiltless that taketh His name in vain.

Article IV: Remember the Sabbath day to keep it holy. Six days shalt labour, and do all thy work: but the seventh day is the Sabbath of the LORD thy God in it thou shalt not do any work, thou, nor thy son, nor thy daughter, thy manservant, nor thy cattle, nor thy stranger that is within thy gates: for in six days the LORD made heaven and earth, the sea, and all that in them is, and rested the seventh day; wherefore the LORD blessed the Sabbath day, and hallowed it.

Article V: Honour thy father and mother: that thy days may be long upon the land which the LORD thy God giveth thee.

Article VI: Thou shalt not kill (murder).

Article VII: Thou shalt not commit adultery.

Article VIII: Thou shalt not steal.

Article IX: Thou shalt not bear false witness against thy neighbour.

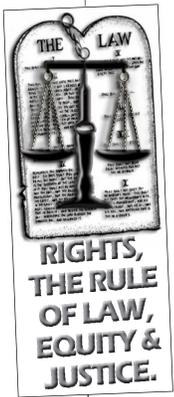
Article X: Thou shalt not covet thy neighbour's house, thou shalt not covet thy neighbour's wife, nor his manservant, nor





maidservant, nor his ox, nor his ass, nor anything that is thy neighbour's.

The identification of each article have been added.





APPENDIX II

The following excerpts were taken from the reputable work on the theory of Pantheism entitled **The Evil Results of Pantheistic Theories** by Nyron Medina to give readers a more in-depth understanding of the doctrine.

1. “The world today is returning to all sorts of pantheistic theories like the ancient times.

“Pantheism is a perennial heresy that has cropped up in every world religion. Less frequently, it has appeared as a philosophy or religion in its own right. But because the word pantheism was not invented until the early eighteenth century, it rarely appeared under this name before modern times. Pantheism has shown up in a number of different varieties, ranging from simple reverence of the physical universe and nature just as they are, through beliefs in vast cosmic souls, to versions that believe that everything we see is only an illusion concealing a perfect mental unity.” Paul Harrison, **The Elements of Pantheism**, p. 13.

2. Hinduism teaches different types of Pantheism.

- a. The god-in-everything theory:

“but a higher advanced Sadhaka who has a pure mind and who sees the divine presence everywhere and in everything, can worship any kind of object.” Swami Sivananda, **The Philosophy and Significance of Idol Worship**, p. 8.

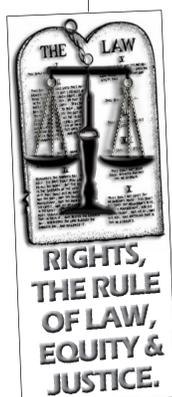
“... it is possible to commune with the all-pervading Lord through the medium of an idol. The divinity of the all pervading God is vibrant in every atom of creation.” **Ibid**, p. 12.

The everything-is-god theory:

“Even so, the Lord is highly pleased when a small portion of His Virat (cosmic) body is worshipped. An idol is a part of the body of the Lord. The whole world is His Body, Virat Form.” **Ibid**, pp. 14-15.

“To the worshipper who believes the symbol, any kind of image is the body of the Lord under the form of stone, clay, brass, picture, Saligram, etc. Such worship can never be idolotry. All matter is a manifestation of God ... all is a manifestation of God ...” **Ibid**, p. 15.

- c. The everything-in-God theory:





“He who sees Me (the universal Self) present in all beings, and all beings existing within Me, never loses sight of me ...” **Srimad Bhagavadgita**, p. 66.

“Arjuna, that eternal unmanifest supreme Purusa in whom all beings reside and by whom all this is pervaded is attainable only through exclusive Devotion.” **Ibid**, p. 84.

d. The all-is-One (god) theory:

“Arjuna, he who looks on all as one, on the analogy of his own self, and looks upon the joy and sorrow of all with a similar eye—such a Yogi is deemed the highest of all.” **Ibid**, p. 66.

“There is nothing else beside Me, Arjuna.” **Ibid**, p. 72.

3. Some teach that an energy that pervades all or is behind all is God.

The all-is-energy theory:

“I believe that the universe is one being, all its parts are different expressions of the same energy ...” Paul Harrison, **The Elements of Pantheism**, p. 37.

“The universe is omnipresent because **it is** filled with energy spreading from every part to every other part.” **Ibid**, 41.

4. Some teach that God is an impersonal force in nature. The god-is-an-impersonal-force theory:

“For many centuries it has been believed that to destroy the personality of God was to detract from his magnificence, when in reality to invest him with a personality is to degrade him to the estate of man. Impersonality is a divine attribute; it is a state inherent in the nature of God ...” Manly P. Hall, **Lectures on Ancient Philosophy**, pp. 155.

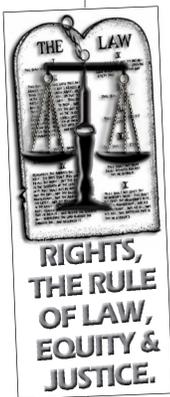
“The dot is universal consciousness, the line is universal intelligence, and the circle is universal force—the three fold, unknowable cause of all knowable existence ...” **Ibid**, p. 8.”

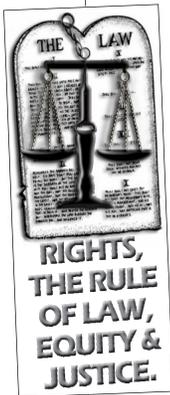
pp. 2-4 The Evil Results of Pantheistic Theories by Nyron Medina

“...Here are logical accounts as to how the various theories of pantheism all ultimately lead to lawlessness or evil.

a. The god-in-everything theory (usually called panentheism):

i. God is in all or pervades all.





- ii. All is of God.
 - iii. The good of all is of God.
 - iv. The evil of all is of God.
 - v. God in all is responsible for the good and evil.
 - vi. Thus good and evil is from God
- b. The everything-is-god theory:
- i. All is God
 - ii. Creation is God
 - iii. The good of creation is of God.
 - iv. The evil of creation is of God.
 - v. The good and evil of creation from God go together.
 - vi. Thus good and evil comes from God.
- c. The everything-in-god-theory:
- i. All is in God.
 - ii. All operate in and thus from God.
 - iii. The good all operates in and thus from God.
 - iv. The evil all operates in and thus from God.
 - v. The good and evil all operates in and thus from God.
 - vi. Thus good and evil comes from in God.
- d. The all-is-One (god) theory (this is sometimes called monism):
- i. All is the One.
 - ii. Good is the One.
 - iii. Evil is also the One.
 - iv. Good and evil is the One.
 - v. The One is god.
 - vi. Thus good and evil is god.
- e. The all-is-energy theory:
- i. God is cosmic energy, the only reality.
 - ii. All creation is energy manifested.
 - iii. The good of creation is energy manifested.
 - iv. The evil of creation is energy manifested.
 - v. The good and evil of creation is caused by the energy.
- vi. Thus the cosmic energy is responsible for good and evil.
- f. The god-is-an-impersonal force-theory:
- i. God is an impersonal force in creation.
 - ii. Creation operates from this impersonal force.
 - iii. The good of creation operates from that impersonal force.
 - iv. The evil of creation operates from that impersonal force.

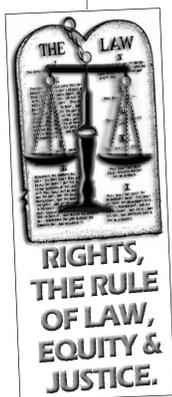


- v. Good and evil together operates from that impersonal force.
- vi. The impersonal force (though unconcerned), is therefore the cause of both good and evil.

15. These illustrations therefore clearly show us that any type of pantheistic theory can only lead to the justification of evil. This is why we read in the Hindu scriptures that their god is responsible for evil.

“All actions are being performed by the modes of Prakrti (Primordial Matter). The fool, whose mind is deluded by egotism, thinks: ‘I am the doer.’ **Srimad Bhagavadgita**, p. 35.”

Ibid. pp.6-8.





APPENDIX III

Erwin W. Lutzer B.A., Th. M., M.A., LL.D., gave a wonderful explanation of the spirit of the development and shift to the new “politically correct” religious tolerance as it occurred in American society, in his book, **Christ Among Other gods**.

The Icon of Tolerance

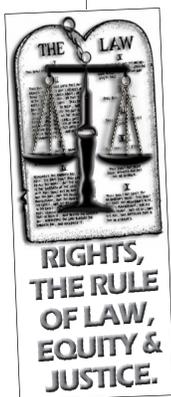
“...Our highly specialized, consumer-oriented society has redefined God so that He no longer stands in judgment of our culture but rather endorses it. According to the book, *The Day America Told the Truth*, the word *God* to many Americans is “a distant and pale reflection of the God of their forefathers.... This is not the ‘jealous God’ of the Old Testament but ... a general sense of good and happiness in the world.” And someone has said that heaven for modern man looks like the biggest shopping mall one can imagine. We have a god who desires our pleasure, a god (or goddess, if you prefer) who promotes feminism, sexual preferences, abortion, and radical individualism. We have a god who is wholly committed to our happiness and who believes in human potential. We have a god who lets us make up our own ten commandments.

For such a kinder, gentler god to flourish, we have had to bow before another god who is undisturbed by the moral/spiritual/religious diversity in our culture. This god’s name is *tolerance*. Officially, sin does not exist in our society, but if there was one sin left it would be a belief in objective truth, a belief that some are still right or wrong; a belief that discrimination still has value if defined as being discriminating in what we believe, the way we behave, and what we defend.

“To live and let live” has now been enshrined as the one non-negotiable absolute of society. Only what is often defined as intolerance is utterly intolerable. Our God is as tolerant as a talk show host, as loving as a doting grandparent, and, I might add, as relevant as last year’s calendar.

Let me be clear that tolerance can be defined in two legitimate ways. As mentioned in the first chapter, *legal tolerance* is the right for everyone to believe in whatever faith (or none at all) he wishes. Such tolerance is very important in our society, and we as Christians should maintain our conviction that no one should ever be coerced into believing as we do. Freedom of religion should not only be retained in Western democracies but promoted in other countries as well.

Second, there is *social tolerance*, a commitment to respecting all men even if we vigorously disagree with their religion and ideas. When we engage other religions and moral issues in the ideological marketplace, it should be with courtesy and kindness. We must live in peace with all men and women, even with those of divergent faiths, or those who have no faith at all. We don’t need any more self-righteous Christians who piously judge





others without the humble admission that we are all a part of a fallen human race; we are all imperfect and we are all created in the image of God. Tolerance, like patience, is a fruit of the Holy Spirit.

But the tolerance of which I speak—our national icon, if you will—is something quite different. This is *uncritical tolerance* that avoids vigorous debate in the quest for truth. This new tolerance insist that we no right to disagree with the liberal social agenda; we should not defend our views of morality, religion, and respect for human life. This tolerance respects absurd ideas but will castigate anyone who believes in absolutes or who claims to have found some truth. This tolerance, someone has said, includes every point of view except those points of view that do not include every point of view. This is tolerance only for those who march in step with the tolerant crowd.

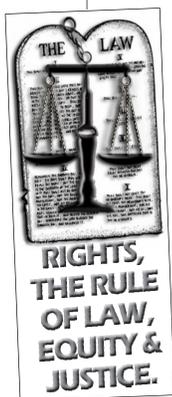
This new god is our one absolute, the one flag still deemed worthy of our honor. This kind of tolerance is used as an excuse for perpetual skepticism, for keeping any religious commitment at arms length; it is also a doorway for being vulnerable to accept the most bizarre ideas. Truth, it is assumed might exist in mathematics and science, but not in religion or morality. The pressure to accept this uncritical tolerance is growing every year.

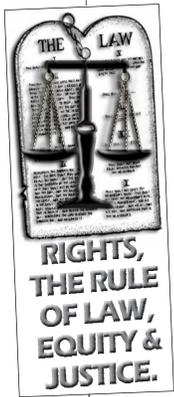
You've heard of "political correctness," that doctrine based on a new American right—the right to never be offended. If your views run counter to the official liberal agenda, it is best to remain quiet or be accused of "verbal violence." Rules are being made to prohibit any speech that is offensive to a minority group. Needless to say, pro-lifers are an offense to many people; so are those who do not believe that Christ is the only way to God.

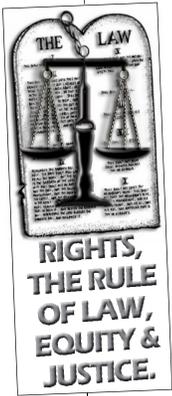
"The purpose of education," laments Allan Bloom, "is not to make scholars but provide them with a moral virtue—openness."³ He says that reason has been replaced by mindless commitment, "an exercise in consciousness-raising, trashy sentimentality and elevated sentiment."⁴ The quest for truth is short-circuited because truth, if it exists at all, is beyond our reach.

We have moved from the conviction that everyone has a right to his own opinions to the notion that every opinion is equally right! We have moved from genuine pluralism, the idea that the religions of the world can peacefully co-exist, to syncretism, the idea that the beliefs of various religions can be mindlessly combined.

If you were on a talk show and said, "I believe in Christ," you would be applauded; but if you were to say "Christ is the Savior for everyone," boos would echo throughout the crowd. At the Parliament of World's Religions, a seminar was held to show that the Jordan River and the Ganges River actually are the same religious stream. Christ and Krishna, the perfect team!" **pp 28-30.**







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