

Religious Human Rights and Peace Interrelationship between Human Rights and Peace

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Abstract

This paper assumes the author's conceptual analysis of rights as complexes of Hohfeldian positions that confer dominion on the right-holder in face of one or more second parties and his theory of moral reasons as essentially social dual-aspect practical reasons, both explained in previously published books. It analyses the international human right to have or adopt a religion or belief of one's choice and the international human right to manifest one's religion or belief in worship, observance, practice and teaching as liberties of individual human beings protected by duties of non-interference and immunities from extinction holding against State Parties. It then identifies their moral grounds, the most important moral justifications for recognizing and maintaining these religious human rights in international law. It suggests that these are analogous moral religious human rights and some of the morally proper purposes of international law, including the promotion of international peace. It explains how the problematic human rights to change one's religion or belief and to proselytize one's religion or belief can be derived from the more basic human rights to have or adopt a religion or belief and to manifest one's religion or belief respectively. It examines the reasons that many deny these rights and argues that, correctly interpreted, they are morally justified. Finally it reexamines the question as to whether the human rights to have or adopt a religion or belief and to manifest one's religion or belief do more to threaten or to promote peace. It argues that although these human rights threaten peace to a limited extent, on balance they would, if universally respected, protect and enhance both internal and international peace even more. It concludes that there are two important relations between these religious human rights and peace. Both would be conducive to peace were they universally respected. And this fact is one of the moral grounds of these human rights in international law.

How are the international human rights to religious freedoms, as best interpreted, related to Peace? Article 18.1 of the *International Covenant on Civil and Political Rights* reads:

Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

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Because the language of rights is unclear and often misleading, one needs a conceptual analysis of these human rights. And because the United Nations documents presuppose analogous fundamental moral rights, they are best interpreted in the light of their moral grounds.

Although the focus of Article 18 is freedom of religion, it is not limited to religious freedoms. It asserts a considerably broader right to freedom of thought, conscience and religion. As the Human Rights Committee explains in its General Comment 22 (48):

The right to freedom of thought, conscience and religion (which includes the freedom to hold beliefs) in article 18(1) is far-reaching and profound; it encompasses freedom of thought on all matters, personal conviction and the commitment to religion or belief, whether manifested individually or in community with others. The Committee draws the attention of States parties to the fact that the freedom of thought and the freedom of conscience are protected equally with the freedom of religion and belief.

This probably reflects the facts that even when a religion is institutionalized, it is also very personal for those who are committed to it, and that in the life of a person, being religious involves thinking about one's place in the universe, having a sense of how one ought morally to live one's life, and accepting some set of fundamental beliefs. However, the practical importance of this Article lies in its assertion of two more specific religious rights subsumed under this more general human right: the right of freedom to have or adopt a religion or belief and the right of freedom to manifest one's religion or belief.

1. The Right to Have or Adopt a Religion or Belief

Article 18 asserts a human right of "freedom to have or adopt a religion or belief of one's choice." The two most obvious puzzles in this formulation are the two alternatives it describes. First, why is there one right to have or adopt rather than two rights, a right to have and a right to adopt? It is because this is a human right to religious freedom and the choice between having and adopting is essential to any real freedom of religion. To genuinely have a religion or belief is not merely to accept it as true, but to be committed to live by it now and in the future. To adopt a religion or belief, on the other hand, is to change one's religious commitment. This may consist in a change from one religion to a different religion, or from being non-religious to accepting some religion or religious belief or from some religious orientation to rejecting religion of every kind. That these

kinds of choices are essential to this human right to religious freedom is made explicit in the qualifying phrase “of one’s choice.”

More puzzling is the alternative between a religion or belief. Because the focus of Article 18 is religious freedoms, one would expect this right to be nothing more than a right of freedom to have or adopt a religion. Why add “or belief”? This is probably because although the traditional religions are institutionalized in the form of public organizations, one’s religion is also a matter of individual personal conviction and commitment. But why not limit the alternative to religious belief? This is because any full religious freedom must include the freedom to reject any and all beliefs of a religious nature, to be an atheist or agnostic. Hence, I interpret “belief” in this formulation to refer to any belief of a religious nature or concerning religion. The second comment of the Human Rights Committee seems to confirm this hypothesis, for it reads in part:

Article 18 protects theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief. The terms belief and religion are to be broadly construed. Article 18 is not limited in its application to traditional religions or to religions and beliefs with institutional characteristics or practices analogous to those of traditional religions.

Assuming that I have interpreted the language that defines the human right of freedom to have or adopt a religion or belief of one’s choice correctly, how is it intended to function in international law?

As I conceive of rights,¹ a legal right consists of a core legal position that defines its essential content together with associated legal positions that confer dominion over this core upon the right-holder. Presumably the defining core of any right of freedom is a legal liberty of some sort. Hence, the core of the international human right of freedom to have or adopt a religion or belief of one’s choice is the legal liberty to have or adopt a religion or belief, where having or adopting a religion or belief are interpreted as I have explained above. Thus interpreted, this human right implies a variety of bilateral legal liberties including the legal liberties to believe or not believe in the existence of a god or gods, to accept or not accept any theology, to commit oneself or not commit oneself to living by some religious code of conduct and to subscribe or not subscribe to a religious organization.

1. Carl Wellman, *A Theory of Rights: Persons Under Laws, Institutions, and Morals*, Totowa NJ: Rowman & Allanheld, 1985, pp. 81-119 and 161-184.

This core legal liberty is protected under international law by a duty of State parties to the *International Covenant on Civil and Political Rights* not to interfere with its exercise by any form of coercion. Article 18.2 reads: “No one shall be subject to coercion which would impair his freedom to have or adopt a religion or belief of his choice.” Here coercion should be interpreted broadly. As the Human Rights Committee explains in its comment 5:

Article 18(2) bars coercion that would impair the right to have or adopt a religion or belief, including the use or threat of physical force or penal sanctions to compel believers or non-believers to adhere to their religious beliefs and congregations, to recant their religion or belief or to convert. Policies or practices having the same intention or effect, such as, for example, those restricting access to education, medical care, employment or the rights guaranteed by article 25 and other provisions of the Covenant are similarly inconsistent with article 18(2).

It is not clear whether this duty of non-intervention holds against private organizations and individuals as well as State parties to the *Covenant*.

This core legal liberty is also protected under international law by the right-holder’s legal immunity against having the legal duty of any State party not to interfere with his or her exercise of it suspended by derogation even in time of public emergency. Article 4.2 makes this explicit. No doubt there are additional associated positions in this human right, but these are sufficient to indicate its nature.

What are the moral grounds of this international human right? The *United Nations Charter* and the *Universal Declaration of Human Rights* presuppose the prior existence of moral human rights. This suggests that one of the moral grounds of the human right of freedom to have or adopt a religion or belief in international law is an analogous moral human right. Presumably this would consist of a defining core moral liberty to have or adopt a religion or belief together with at least the moral duty of others not to prevent or hinder one from exercising this religious liberty and the moral immunity against having this protective duty extinguished by State legislation. Does any such fundamental moral right really exist? This depends upon whether there are moral reasons sufficient to justify its constituent positions.¹ What could be the grounds of a moral human right to have or adopt a religion or belief?

1. Carl Wellman, *Real Rights*, New York & Oxford: Oxford University Press, 1995, pp. 39-49.

One has a moral liberty to do something if and only if there is no moral duty not to act in this manner. I believe that there is no general moral duty not to have or adopt a religion or belief of one's choice. After all, this is merely a liberty of inner thought and conviction, not a liberty of overt action that might harm other individuals or society. Therefore, the defining core of this moral right is an innocent liberty, a liberty that needs no moral reason to serve as its ground.¹ Whether the moral liberty to manifest one's religion or belief is a suspect liberty requiring some special justification remains to be seen.

The primary grounds of the moral duty of others not to prevent or hinder one in exercising this liberty consist in the serious harms one inflicts upon any normal human being by coercive interference with its exercise. The terms by which the *Covenant* defines the more general religious right to freedom of "thought, conscience and religion" suggest the nature of these harms. Only by thinking through one's fundamental perspective on the universe and one's place in it can one reach a firm conception of who one is and who one should strive to be. As Myles S. McDougal *et. al.* observe:

In a community genuinely committed to the goal of human dignity, one paramount policy should be to honor and defend the freedom of the individual to choose a fundamental orientation toward the world. One of the most distinctive acts available to man as a rational being is the continual redefinition of the self in relation to others and to the cosmos. Thus, each individual must be free to search for the basic postulates in a perspective that will unify the experiences of life.²

Therefore, to interfere with having or adopting the perspective of one's choice is to damage one's identity as an individual person. And to undermine one's conscience, one's sense of moral right and wrong, is to weaken or destroy one's moral integrity, the central aspect of one's character as a responsible moral agent. Moreover, to prevent one from committing oneself to some traditional religion or to refrain from such a commitment is to deny one a shared faith to sustain one in troubled times or the independence to face life on one's own terms. The secondary grounds of the duty of society not to prevent or hinder one's exercise of

1. Wellman, *Real Rights*, p. 60.

2. Myles S. McDougal, Harold D. Lasswell, and Lung-chu Chen, *Human Rights and World Public Order: The Basic Policies of an International Law of Human Dignity*, New Haven CT: Yale University Press, 1980, p. 661.

this core liberty are the social harms of doing so. By attempting to interfere coercively with one's freedom to have or adopt a religion or belief, society alienates the coerced individual and thus weakens her loyalty as a citizen. And when a State denies or restricts this religious liberty of any large number of citizens, it sows discontent and the seeds of social conflict.

One has a moral immunity against some second party's changing a moral position in some way if and only if nothing that this second party could do would result in such a change. The ground of the moral immunity of the individual against having the State by legislation eliminate or reduce its duty not to prevent or hinder her from exercising her moral liberty to have or adopt a religion is simply the fact that no act of legislation could eliminate or reduce the moral reasons that ground this protective duty.

Additional moral grounds of the legal human right of freedom to have or adopt a religion or belief of one's choice are based upon the morally justified purposes of international law. One of these is to preserve international peace and friendly relations between nation states. Because any systematic denial of the freedom to have or adopt a religion or belief creates international tension and even threatens formal or informal warfare, there ought to be a human right to this freedom in international law. W. Cole Durham, Jr., argues that tensions between fundamentally different religious cultures explain many patterns of strife in the contemporary world. For example:

Perhaps the youngest of these civilization clashes has to do with the tensions tracing back to the Reformation between Protestantism and Roman Catholicism. The fault lines of this cultural divide are still evident in Northern Ireland, and they remain a dominant feature of the background in the relations between North and South in the Western Hemisphere. To a large extent, modern conceptions of religious freedom were born in the crucible of warfare and social tension that flowed from this fundamental cultural divide.¹

Still older in its provenance but even more critical today is the tension between Islam and Christianity. The collision of Western, Eastern and Muslim tectonic plates is currently visible in the violent tremors in

1. W. Cole Durham, Jr., "Perspectives on Religious Liberty: A Comparative Framework," in *Religious Human Rights in Global Perspective: Legal Perspectives*, Johan D. van der Vyver and John Witte, Jr., (eds.), The Hague: Martinus Nijhoff, 1996, p. 4.

Bosnia. More generally, as former east bloc countries consolidate their ties with the West, polarization along Christian-Muslim lines at the international level seems increasingly likely.¹

Moreover, Cole mentions the fact that many religious groups regard secularism as something that is profoundly threatening. This implies that international peace requires the freedom to reject religions as well as to adopt one of them. Therefore, one of the moral grounds of the international human right of freedom to have or adopt a religion or belief of one's choice is the fact that any serious denial or infringement of this right threatens international peace.

Another moral purpose of international law is to recognize and protect the fundamental moral civil and political rights of all human beings. But history shows that "discrimination based upon religious beliefs and expressions forms the basis for some of the most serious deprivations of civil and political rights."² The individual's rights to own property, to vote or hold public office, and to educational opportunity have often been denied or restricted on religious grounds. And religious persecution of heresy, epitomized by the Inquisition, has even violated the individual's moral right to life. Therefore, there ought to be an international human right of freedom to have or adopt a religion or belief of one's choice in order to protect many other fundamental moral civil and political human rights.

2. The Right to Manifest One's Religion or Belief

Article 18 also asserts a human right of "freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching." The defining core of this human right is the liberty under international law to act for some reason in or motivated by some aspect of one's religion or belief. In its fourth comment, the Human Rights Committee explains that:

The freedom to manifest religion or belief in worship, observance, practice and teaching encompasses a broad range of acts. The concept of worship extends to ritual and ceremonial acts giving direct expression to belief, as well as various practices integral to such acts, including the building of places of worship, the use of ritual formulas and objects, the display of symbols, and the observance of holidays and days of rest. The

1. *Ibid.*, p. 5.

2. McDougal *et. al.*, *Op. Cit.*, p. 653.

observance and practice of religion or belief may include not only ceremonial acts but also such customs as the observance of dietary regulations, the wearing of distinctive clothing or head coverings, participation in rituals associated with certain stages of life and the use of a particular language customarily spoken by a group. In addition, the practice and teaching of religion or belief includes acts integral to the conduct by religious groups of their basic affairs, such as, *inter alia*, the freedom to choose their leaders, priests and teachers, the freedom to establish seminaries or religious schools and the freedom to prepare and distribute religious texts or publications.

Moreover, it includes the freedom of an agnostic or atheist who doubts or rejects all of the organized religions to act on his individual conscience, on the basis of his moral convictions. This is a legal liberty of individual human beings, not of religious organizations as corporate bodies. However, it is a liberty to manifest one's religion or belief in community with others as well as individually.

This legal liberty to manifest one's religion or belief is protected by both the legal duty of State parties not to deny or inhibit its exercise, except for some reason specified in Article 18.3 of the *Covenant*, and the legal immunity against having this State duty suspended by derogation in time of emergency.

What are the moral grounds of this international human right to manifest one's religion or belief? Presumably, one ground is an analogous moral human right. If so, the defining core of this presupposed moral right is probably the moral liberty of acting on the basis of one's religion or belief. Associated moral positions include at least the moral duty of others (individuals and private organizations as well as states) not to prevent or hinder the exercise of this liberty by any coercive action and one's moral immunity against having this duty extinguished or reduced by state action, including any act of derogation.

What, then, are the moral grounds of this moral human right to act on the basis of one's religion or belief? Its core moral position, the moral liberty to act on the basis of one's religion or belief, is an innocent liberty. To say that this is an innocent moral liberty is to say that there is no corresponding moral duty not to exercise it. The moral liberty to act on one's religion or belief is an innocent moral liberty because there is no general moral duty not to so act, although there are specific moral duties not to act on one's religion or belief especially not to exercise this liberty in a way that violates any human right of others. There is no contrary general

duty because there is nothing about acting on the basis of one's religion or belief that in and of itself constitutes a reason for a moral agent not to do so and for others to react negatively to one who does so. And because by definition a moral liberty consists in the absence of any contrary moral duty, the moral liberty to act on the basis of one's religion or belief is grounded simply on the absence of any general moral duty not to do so.

Some of the grounds of the moral duty of others not to hinder or prevent one from exercising one's moral liberty of acting on one's religion or belief are the same as the grounds of the duty of others not to interfere with one's exercising one's moral liberty to have or adopt a religion or belief. These are that to do so is to weaken or destroy one's moral integrity, to alienate one from the state and thus undermine one's loyalty as a citizen, and that it sows seeds of discontent and social conflict. Probably more important, however, is the fact that to hinder or prevent one from acting on one's religion or belief is to refuse or fail to respect that person's rational agency. I have explained the duty to respect the rational agency of others as follows:

The *Oxford English Dictionary* defines respect as "deferential esteem felt or shown towards a person, thing, or quality....the manifestation of a disposition to yield to the claims or wishes of another." Deferential esteem is not a mere feeling analogous to pain, for it involves an estimation or judgment that what is esteemed is worthy of deference. The object of the duty of respect, what is to be respected, is the rational agency of others, not their social status or achievements or even their moral virtue. And what is required by this duty is that that one show or manifest this respect, or at least act as though one does respect the rational agency of others, by deferring to their choices and yielding to their actions.¹

I have also argued that the moral grounds of this duty are that the respect of others for one's rational agency is a necessary condition for having sufficient control over one's life to enable one to carry out extended projects that give meaning and value to one's life and for the self-respect required to sustain one's initiative and self-reliance.²

Finally, one's moral immunity against having the duty of others not to interfere with one's exercise of one's moral liberty to act on the basis of

1. Carl Wellman, *Medical Law and Moral Rights*, Dordrecht: Springer, 2005, p. 66.

2. *Ibid.*, p 67.

one's religion or belief extinguished or suspended by any state action is grounded on the fact that nothing a state could do would eliminate or reduce the moral grounds of this moral duty.

Additional moral grounds of the legal human right to manifest one's religion or belief reflect the morally justified purposes of international law. One of these is to prevent war and promote friendly relations between nation states. In the contemporary world with rapidly increasing global interaction and interdependence, any attempt to prevent individuals from acting on the basis of their religion or belief will alarm and distress persons in other societies with similar perspectives and thus cause dangerous international tensions. Hence, one ground of the legal right to manifest one's religion or belief is the fact that this international right will tend to promote peace. A second purpose of international law is to protect the civil and political moral human rights of all individuals. Since the fact that some individual has acted on the basis of an unpopular religion or distrusted belief is often the basis for infringing her civil or political rights, another ground of the international human right to manifest one's religion is that it will help to prevent discrimination of this kind. A third morally appropriate purpose of international law is, in the words of the *United Nations Charter*, "to promote social progress and better standards of life in larger freedom." Only if individual persons are free to live according to their most fundamental religious and moral convictions, will there be the richest diversity of lifestyles. Although many of these may be imprudent and some even perverse, this is best demonstrated by their failure in the living rather than by their prohibition. And social progress in a world of increasingly rapid change and with diverse societies existing in different sorts of circumstances requires a vast variety of what John Stuart Mill called experiments in living¹ to point to improved interpersonal and social arrangements. Therefore, a third ground of the international human right to manifest one's religion or belief is that this will tend to promote social progress on a national and international scale.

3. The Limits to Religious Freedoms

In international law, there are no limits to and no restrictions on the liberty to have or adopt a religion or belief. Those who drafted the

1. John Stuart Mill, *On Liberty*, in *Collected Works of John Stuart Mill*, Vol. XVIII, *Essays on Politics and Society*, John M. Robson (ed.), pp. 260-267.

International Covenant on Civil and Political Rights assumed that it should be absolute in the sense of being without exception. There is, however, one limitation on the liberty to manifest one's religion or belief. Article 5.1 reads:

Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at a greater limitation than is provided for in the present Covenant.

Thus, the human right to manifest one's religion or belief is limited by all the other civil and political human rights in international law. Some authorities on international law would add that by virtue of Article 30 of the *Universal Declaration of Human Rights* it is limited by the economic, social and cultural human rights as well. These limitations are surely morally justified, at least to the extent that the human rights recognized in the *International Covenant* and the *Universal Declaration* are morally justified.

Much more important in practice are the limitations imposed upon religious freedoms in the several national legal systems. Article 20 of the *Covenant* requires States parties to impose two legal limitations on the freedom to manifest one's religion or belief. These are to prohibit any propaganda for war and to prohibit any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. There are those who argue that any such prohibitions are unjustified violations of the fundamental moral right to freedom of speech protected by the legal human right to freedom of expression recognized in Article 19 of the *International Covenant*, but most commentators believe that they are morally justified to prevent the abuse of religious human rights.

The *International Covenant* does not permit State parties to limit the freedom to have or adopt a religion or belief in any manner whatsoever. Article 2 asserts without qualification that "No one shall be subject to coercion which would impair his freedom to have or adopt a religion or belief of his choice." However, Article 3 permits limitations on the freedom to manifest one's religion or belief that "are prescribed by law and are necessary to promote public safety, order, health or morals or the fundamental rights and freedoms of others." This different treatment of these two religious freedoms is presumably justified by the fact that

having or adopting false religious doctrines or moral convictions becomes harmful to other individuals or to social institutions only when they are manifested in external action.

One should ask, however, whether the specified reasons to render limiting the freedom to manifest one's religion or belief permissible do in fact constitute moral justifications for any such restriction. Properly interpreted, they do seem to be the right kind of reasons, for presumably a nation state ought to promote the general welfare and protect the fundamental rights of its members. But each of these considerations admits of varying degrees of importance. A threat to public safety may be trivial or momentous, and a manifestation of one's religion or belief may be slightly or seriously immoral. Therefore, I believe that each of these reasons would be sufficient to morally justify limiting the freedom to manifest one's religion or belief only when it is present to a high degree. The Strasbourg Court has adopted something like this interpretation of the analogous Article 9 in the *European Convention for the Protection of Human Rights and Fundamental Freedoms*. In *Case of Silver and Others*, it held that any limitation on the freedom to manifest religion must be necessary to promote a "pressing social need."

4. Problematic Derived Rights

Because the human rights to religious freedoms recognized in the *International Covenant on Civil and Political Rights* are defined in very general terms and the Human Rights Committee has insisted that they be interpreted broadly, it is possible to derive a wide variety of rights to more specific religious freedoms from them. Thus, Article 6 of the *General Assembly Declaration on the Elimination of all Forms of Intolerance and of Discrimination Based on Religion or Belief* of 1981 asserts that they include at least nine human rights to religious freedoms. However, I shall confine my attention to only two derived human rights, two that were especially controversial during the drafting of Article 18 of the *Covenant*.

The first of these problematic rights is the right to change one's religion or belief. At one stage in the drafting process, the second sentence of Article 18.1 read in part "This right shall include freedom to maintain or to change his religion or belief..." Some argued that any specific mention of the right to change one's religion or belief might be interpreted as unduly favoring missionary activities or concerted efforts to propagate anti-religious beliefs or as encouraging doubts in the minds of believers. Others insisted that the right to change one's religion or belief is necessary to give

legal content to the right of freedom to have or to adopt a religion or belief. It is interesting that Islamic nations differed on this issue. Saudi Arabia moved to delete these words, but Pakistan argued that Islam is a missionary religion and therefore should not deny to other faiths the right to convert. Eventually, the words “to maintain or to change” were replaced with the words “to have or to adopt.”¹ However, eliminating the word “change” from Article 18.1 does not eliminate the human right to change one’s religion or belief from international law because it remains as a right derived from the human right to freedom to have or adopt a religion or belief. In its fifth comment, the Human Rights Committee asserted:

The Committee observes that the freedom to “have or to adopt” a religion or belief necessarily entails the freedom to choose a religion or belief, including, *inter alia*, the right to replace one’s current religion or belief with another or to adopt atheistic views, as well as the right to retain one’s religion or belief.

Is this derived legal human right to change one’s religion or belief morally justified?

If the human right of freedom to have or adopt a religion or belief is morally justified, as I have argued, and if this general right does in fact imply the more specific right to change one’s religion or belief, as seems clear, then presumably the right to change one’s religion or belief is itself morally justified. Nevertheless, there are four situations that might constitute exceptions to or limitations on this derived human right. One is when a person who had previously accepted the established religion, either the official religion of his nation state or one accepted by the overwhelming majority of its citizens, adopts another religion or belief. Some argue that social stability is possible only when the members of a society share the same set of religious and moral convictions. As a consequence, anyone who doubts or abandons the established religion threatens public order and invites social conflict. Some conclude that no citizen has a moral liberty to abandon the established religion of his society and that his society would be morally justified in attempting to prevent him from so doing. However, if only a few citizens abandon the established religion, then there will be no significant weakening of the social fabric; and if many members of the society do so, then any attempt to force them to retain their previous faith will be more likely to produce civic strife or even civil war than to maintain the public peace.

1. Bossuyt, *Op. Cit.*, pp. 357-358.

Another situation that might constitute an exception to the right to change one's religion or belief is when one has publicly committed oneself to a religion, for example by joining a church or participating in a ritual such as baptism, and later abandons this religion. Thomas Aquinas compared this to failing to fulfill a promise. Although one should not be forced to make a promise, if one does make a promise or take a vow, then one is not at liberty to change one's mind and one may be compelled to fulfill one's undertakings.¹ This may be true when one has promised to perform some voluntary act, but what is at issue here is inner conviction or belief. One cannot have a moral duty not to abandon one's previous faith because one cannot choose to remain convinced under any and all circumstances. And for the same reason, any attempt to compel one to retain any previously accepted religious conviction would be futile and hence a morally unjustified imposition of harm on the person who has lost his previously accepted religious faith.

A third situation when there might be an exception to the right to change one's religion or belief is when one adopts a pernicious religious belief such as that of a cult that practices mass suicide or a sect that forces very young girls to marry and to bear children. Once more one must bear in mind that the human right of freedom to have or adopt a religion or belief, and therefore the derived right to change one's religion or belief, is distinguished in international law from the human right of freedom to manifest one's religion or belief. Hence, the derived right to change one's religion or belief concerns the individual's inmost thought and conviction only and does not extend to external action. And it is not adopting a religion or belief that is pernicious, but only acting on it in a harmful or morally wrong manner. Therefore, any coercive attempt to prevent or hinder a person from adopting a pernicious religion would be premature and presumably unjustified.

A fourth situation when there might be an exception to the right to change one's religion or belief is when one abandons the one and only true religion. Some religions claim to be the one true path to salvation and to have exclusive authority to demand obedience to its commandments. If there is any such religion and if this religion does indeed command every human being to remain faithful to its God and to obey His Divine

1. See Brian Tierney, "Religious Rights: An Historical Perspective," in *Religious Human Rights in Global Perspective*, John Witte, Jr. and Johan D. van der Vyver (eds.), The Hague: Martinus Nijhoff, 1996, p. 32.

commands, then no human being would have a moral liberty and ought not to have a legal liberty to abandon this one true religion. Moreover, the authorities of church or state would presumably be morally justified in using persuasion or even coercive measures to reestablish the lost faith necessary for the salvation of the individual and to prevent his treason against the Divine ruler of the universe. I confess that I cannot find reasons sufficient to establish the existence of any such one true religion. What I do find is a number of very different religions, each of which claims to be the one and only true religion but none of can produce credentials markedly different from those of its competitors. Although I cannot prove that none of them does in fact have a monopoly on religious truth, I do not believe that the mere possibility that there might be one and only one true religion grounds any exception to the derived human right to change one's religion or belief. Therefore, I do believe that the derived human right to change one's religion or belief is morally justified.

A second problematic derived human right of religious freedom is the right to proselytize, to induce someone to convert to one's own religion or faith. During the process of drafting the *International Covenant on Civil and Political Rights*, some argued that Article 18 ought not to lend its support to any religious body in its proselytizing or missionary effort and should not be instrumental in creating doubt in the mind of any believer of the truth of his belief. Others suggested that the missionary society of one religion often tends to undermine the fundamental faith of another religion and thereby constitute a source of inter-religious misunderstanding or friction.¹ Nevertheless, the right to proselytize seems implicit in the human right of "freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching" recognized in Article 18.1. Many religions regard missionary activity as an essential part of their practice and proselytizing would seem to be nothing more than one way of teaching a religion to unbelievers. Granting for the sake of the argument that the human right to proselytize can be derived from the international human right of freedom to manifest one's religion, is it morally justified?

Given that the right to proselytize seems to be implied by the morally justified right to manifest one's religion, why might it not be justified? First, it might not be morally justified because proselytizing is harmful to

1. Bossuyt, *Op.Cit.*, pp. 360 & 363.

individuals and societies. The attempt to convert others to one's own religious faith (or lack of it) tends in most cases to create doubt or disbelief rather than to substitute a new religious faith. It thereby harms individuals by depriving them of the faith they need to sustain them in their lives. On a larger scale, it tends to undermine the predominant religion in a society and thereby to lead to social disintegration and the loss of a shared ethnic identity among its members. I can see that proselytizing sometimes, perhaps often, does have these harmful effects. However, there is no reliable empirical evidence that these harmful consequences outweigh the beneficial consequences of proselytizing in other situations. Moreover, in the contemporary world with increasing globalization of both international communications and mobility of persons, there is no way in which religious beliefs can be isolated from external challenges. The only realistic hope of sustaining individual faith and social religious institutions is to revitalize them from within their own perspectives.

Second, the derived right to proselytize might not be morally justified because proselytizing produces inter-religious friction and dangerous conflict between diverse religious faiths. It is thereby a threat to peace, both within a society and internationally. Here I would insist upon distinguishing between the conflict of ideas and the hostile acts of one state, group or individual against another. Although the former may threaten the peace of mind of persons unable to resolve their religious doubts, this is inevitable in any society open to international travel and communications. The latter is more likely to result from the attempt of governments to prohibit and prevent proselytizing or by religious organizations attempting to impose their dogmas upon others by force than by non-coercive proselytizing. Thus, the human right of *freedom* to proselytize is more likely to reduce the intensity and danger of religious conflict than to exacerbate it.

However, third, some argue that proselytizing is typically coercive. They point out that proselytizing is practiced primarily by religion organizations and that its efficacy depends much more on the fact that they offer education, medical care and even food to those in need than to preaching alone. The Human Rights Committee has defined the coercion prohibited by Article 18.2 very broadly to include, in addition to the use or threat of physical force, "Policies or practices having the same intention or effect, such as, for example, restricting access to education, medical care, employment or the rights guaranteed by article 25..." Thus,

some argue, that in practice, proselytizing is morally unjustified because it is coercive. However, I would reply that attempting to induce someone to convert to one's own religion or faith is not by its very nature coercive. And in most cases, religious organizations that offer education, medical care or food do not make these necessities of life contingent upon conversion. Therefore, the derived human right to proselytize is morally justified provided it is limited to non-coercive proselytizing.

Fourth, the right to proselytize might be morally unjustified because it often takes advantage of the ignorance, weakness or subordination of those one is attempting to convert. I grant that proselytizing is sometimes immoral for this reason, but whether this is often or only occasionally the case is unclear. However, I would meet this objection in the same way I met the previous one. Although in general the derived human right to proselytize is morally justified, this right should be limited to exclude taking advantage of the vulnerability of others.

The European Court of Human Rights has reached a similar conclusion, for it distinguishes between the forms of proselytizing that are protected by Article 9 of the *European Convention for the Protection of Human Rights and Fundamental Freedoms* and improper proselytizing. The latter "may take the form of activities offering material or social advantages with a view to gaining new member for a Church or exerting improper pressure on people in distress or in need; it may even entail the use of violence or brainwashing...."¹ Therefore, I would argue that the principle asserted in Article 10 of the *Cairo Declaration on Human Rights in Islam*, "It is prohibited to exercise any form of compulsion on man or to exploit his poverty or ignorance in order to convert him to another religion or to atheism." is consistent with the derived human right to proselytize when both are properly interpreted.

5. Religious Human Rights and Peace

Because the language of rights is unclear and often misleading, I have explained my conceptual analysis of the two basic religious human rights in international law, the right of freedom to have or adopt a religion or belief and the right of freedom to manifest one's religion or belief. Joel Feinberg reminds us that statements about freedom are typically elliptical and fully analyzed include a freedom to do or have something and a freedom from some compulsion or constraint.² Accordingly, each these

1. Kokkinakis v. Greece, (1993) Ser. A, No. 260-A, 17 EHRR 397, paragraph 48.

2. Joel Feinberg, *Social Philosophy*, Engelwood Cliffs NJ: Prentice-Hall, 1973, pp. 9-11.

two human rights of religious freedom includes a core legal liberty and a protective duty of States Parties not to interfere coercively with the exercise of this liberty.

Because the *Universal Declaration of Human Rights* and the *International Covenant on Civil and Political Rights*, the two most fundamental sources of these religious rights in international law, both presuppose prior moral human rights, I have explained what I believe are the moral grounds of these two legal rights of religious freedoms. One, but only one, of these is the fact that they are conducive to international peace and friendly relations among nation states, one of the morally justified goals of international law.

But are these religious human rights really conducive to peace? Or, to ask the question of most importance for moral reform and political practice, would these two international human rights of religious freedoms be conducive to both international and national peace IF (a big if) they were universally respected? Let us remember that genuine peace requires more than the absence of international or civil war. International peace also entails the absence of unfriendly relations among nation states and national peace presupposes the absence of hostile interactions between groups of citizens.

(1) Would the human right of freedom to have or adopt a religion or belief be conducive to peace if it were respected? Because its defining liberty is unlimited, there are two situations in which its exercise might seem to threaten rather than promote peace. When one adopts a religion or belief different from the religion shared by the majority of members of one's society, this might undermine the common values that are necessary for social harmony and peaceful cooperation. And when one adopts a religion or belief intolerant of the religious or moral convictions of other citizens, this might lead to social antagonism and hostile interactions.

Those who drafted the *International Covenant on Civil and Political Rights* believed that this liberty would not be dangerous because they distinguished it from the liberty to manifest one's religion or belief.

No restrictions of a legal character, it was generally agreed, could be imposed upon man's inner thought or moral consciousness, or his attitude towards the universe or its creator: only external manifestations of religion or belief might be subject to legitimate limitations.¹

1. Bossuyt, *Op. Cit.*, p. 355.

Presumably one's deviant or intolerant inner thought or moral consciousness would not endanger peace until one attempts to convert other citizens or acts intolerantly against them.

Although inner thought of a purely scientific or intellectual kind may be clearly distinguishable from its external manifestations, religious conviction and moral consciousness include a motive to do what is right and refrain from wrong action together with a sense of guilt when one fails to do so. Thus, even before the liberty to have or adopt a religion or belief actually damages peace by being manifested in action, it constitutes a threat to peace.

How serious is this threat to peace? It does not become serious until there is widespread divergence from the established religion or adoption of some set of intolerant beliefs. W. Cole Durham, Jr. observes that "Until some measure of divergence in fundamental belief systems emerges in a society, the question of religious liberty does not even arise."¹ And he believes that experience has demonstrated that full scale religious liberty in the context of a pluralistic society results in much greater stability than can be achieved by favoring the dominant group.² The political history of Western Europe and the United States seems to confirm his conclusion. But one cannot be confident that the same would be true in other parts of the world with very different cultural and political histories, and at best religiously and morally pluralistic societies often reveal hostile attitudes that do produce civil unrest when they are manifested in public conduct. I conclude that the unlimited liberty to have or adopt a religion or belief would, if respected, pose a real but modest threat to peace.

Would this threat to peace be offset by the way that respect for the human right of freedom to have or adopt a religion or belief would promote peace? Respect for this right as a right in international law would consist primarily in State Parties refraining from attempting by coercive measures to prevent individuals from having or adopting any objectionable religion or belief. Thomas Hobbes and John Locke believed that the experience of England during the Seventeenth Century showed that such attempts were ineffective in maintaining the peace and, on the contrary, precipitated civil disorder. Alan Ryan asserts that:

There are many pragmatic reasons why governments might be ill advised to impose any great degree of religious orthodoxy—the

1. Durham, *Op. Cit.*, p. 13.

2. *Ibid.*, pp. 8-9.

most obvious is that the attempt secures no genuine uniformity of conviction but creates endless irritation and resentment. This is Hobbes's contention in *Behemoth* and in his essay on heresy.¹

And Richard Tuck reports that Locke came to a very similar conclusion.

But if sincere believers cannot be forced into uniformity, then an attempt to do so may produce more civil strife than simply leaving them alone (and Locke began to suspect that religious uniformity has often been used as a cloak for the dominance of one interest group in the population over the others).²

Even granting the accuracy of their interpretation of English history, one would like scientific evidence that their conclusions are applicable to all societies at all times. Although I lack such evidence, I find their reasoning highly plausible and grounded on psychological and political assumptions of a very general nature. Hence, I believe that the failure to respect the human right of freedom to have or adopt a religion would be far more damaging to civil peace, and given the increasing globalization of our contemporary world, to international peace than would be the unrestricted exercise of its defining liberty. Therefore, on balance respect for this religious human right would be conducive to peace.

(2) Would the human right of freedom to manifest one's religion and belief also be conducive to peace if it were respected? Although it may be true that peace is an ideal of every world religion, both history and contemporary events suggest that in practice the freedom to act on one's religious convictions is inimical to peace. The Christian Crusades of the 11th and later Centuries and analogous Muslim conquests in Eastern Europe and across North Africa even into Spain illustrate one large-scale threat to international peace. European history records religious wars both within and between nation states motivated by conflicting the Christian beliefs of Roman Catholics and Protestants. More recently:

Even a cursory survey of matters considered by the United Nations in the past twenty-five years demonstrates the extent to which religious differences continue to contribute to major and minor problems of world order. Such a list might include the following

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1. Alan Ryan, "A more tolerant Hobbes?" in S. Mendus (ed.), *Justifying Toleration: Conceptual and Historical Perspectives*, Cambridge: Cambridge University Press, 1988, p. 40.
 2. Richard Tuck, "Scepticism and toleration in the seventeenth century," in S. Mendus (ed.), *Justifying Toleration: Conceptual and Historical Perspectives*, Cambridge: Cambridge University Press, 1988, p. 34.

items: religious persecutions in Bulgaria, Hungary, and Rumania, 1949; the Kashmir dispute between India and Pakistan: the treatment of Buddhists in South Vietnam, 1963; the actions of the People's Republic of China in Tibet, 1959-61; the Cyprus problem; the continuing Middle East crisis; and the current situation in Northern Ireland. In all of these cases the religious factor has operated in varying degrees either to precipitate or to exacerbate an international crisis; in most violence has been a component.¹

Today terrorism and responses to it, both military and by coercive applications of the criminal law, are fueled to a considerable degree by conflicting religious beliefs. Clearly, the freedom to manifest one's religion or belief is infinitely more dangerous to international or domestic peace than the freedom to have or adopt a religion or belief.

However, in international law the core liberty to manifest one's religion or belief is limited by Article 5.1 of the *International Covenant on Civil and Political Rights*. This denies the right of any person to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized in this treaty. Because many, probably most, abuses of the religious freedom to manifest one's religion or belief violate the human rights to life, liberty or bodily security, if the right-holders respected this limitation, they would threaten peace much less often and in much less serious ways.

Moreover, Article 20 requires State Parties to prohibit any propaganda for war and any advocacy of religious hatred. And Article 18.3 permits State Parties to limit by law the liberty to manifest one's religion or belief when necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others. Hence, if State Parties respected these provisions they could and in most cases would limit the legal liberty of their citizens to manifest their religion or belief in a way that would exclude at least the most serious threats to peace. I do not allege that in practice the human right to manifest one's religion or belief would never result in hostile actions or even war. But it would constitute only a limited, although significant, threat to national or international peace.

Would this threat to peace be overbalanced by the way in which respect for the human right to manifest one's religion or belief would promote peace? This would consist primarily in States Parties refraining

1. Quoted in McDougal, *Op. Cit.*, p. 655.

from attempting to limit the exercise of this right by impermissible coercive measures. The Human Rights Committee explains that:

Limitations may be applied only for those purposes for which they are prescribed and must be directly related and proportionate to the specific need on which they are predicated. Restrictions may not be imposed for discriminatory purposes or applied in a discriminatory manner.¹

Thus, a State Party could fail to respect this human right either by using impermissible coercion in the attempt to prevent persons from manifesting their religion or belief in worship, observance, practice and teaching or by discriminating against those individuals who do so in what are taken to be objectionable ways. Such measures would surely result in resentment, resistance and even conscientious disobedience that would threaten civil peace. If imposed on religious groups in any serious way, they would also threaten international peace. McDougal et. al. assert that:

The history of international protection of Minorities in the early part of the 20th Century is that of the international protection of religious Minorities. If not all, the greater part of the history of humanitarian intervention is the history of intervention on behalf of persecuted religious minorities. These interventions were as a rule initiated by states whose people were linked by ties of religious belief to the persecuted minorities of the state intervened against.²

More recently events in Bosnia and Lebanon have shown how greatly the failure to respect the human right to manifest one's religion or belief damages both internal and international peace. Therefore, I believe that on balance the respect for the human right to manifest one's religion or belief would promote peace now and in the future.

I conclude that there are two very important relations between religious human rights and peace. Both the human right to have or adopt a religion or belief and the human right to manifest one's religion or belief are on balance conducive to civil and international peace. And this fact is one of the moral grounds for recognizing and maintaining these religious human rights in international and national law.

1. Human Rights Committee, General Comment No. 22 (48), paragraph 8.

2. McDougal, *Op. Cit.*, p. 670.