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# The Image of God: Rights, Reason, and Order

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*The image of God: rights, reason, and order**Jeremy Waldron*

And God said, "Let us make man in our image, after our likeness." So God created man in his own image, in the image of God created he him; male and female created he them."  
(Gen. 1:26–7)

*Imago Dei* – the doctrine that men and women are created in the image of God – is enormously attractive for those of us who are open to the idea of religious foundations for human rights. It offers a powerful account of the sanctity of the human person, and it seems to give theological substance to a conviction that informs all foundational thinking about human rights – that there is something about our sheer humanity that commands respect and is to be treated as inviolable, irrespective of or prior to any positive law or social convention.

In this chapter I want to do three things. First, I want to survey some of the difficulties that might stand in the way of treating *imago Dei* as a foundation for human rights. Some of these have to do with the specifically religious character of the doctrine; the fact that this might disqualify the doctrine in the eyes of secular political liberals. But I shall argue that this objection is perhaps less telling than objections that might arise *within* the tradition of Judeo-Christian thought. We must not assume that a doctrine that seems, at first glance, attractive as a foundation for human rights is actually capable (in light of its specific theological character and the controversies that surround it) of doing the work that a given human rights theorist wants it to do. It may not be appropriate as a ground for rights at all, or if it is looked to as a ground, it may make a considerable difference to the character of the rights theory we erect on its foundation.

Second, assuming that we think it is appropriate to persevere with *imago Dei* in this context, there is the further question of what work it can do in human rights theory. Is it just an abstract all-purpose premise, a general religious foundation on which rights of all sorts may be erected? Or is it congenial in spirit to some rights rather than others? I shall argue

that human rights theory can avail itself of deep insights generated by the idea of *imago Dei* in a number of different ways, and I shall set out what these are.

The third part pursues one possibility in particular. If *imago Dei* is relevant to rights at all, it may be thought especially relevant to our assessment of *political* rights – the right to participate in various ways as a citizen in the governance of one's society. Humans may be regarded as bearing the image of their Creator in their ability to apprehend and participate in an intelligible order. Such a conception puts front and center the rational and moral capacities of the human being and their role in personal, social, and political life. The conclusion of the first part of my inquiry is that the choice of a specific religious foundation cannot be expected to leave everything as it is so far as the rights theory that is built on the foundation is concerned. At the end of the chapter, I shall make good on this point, by tracing some differences that *imago Dei* may make in our conception of participatory rights.

#### IMAGO DEI AS A PROBLEMATIC FOUNDATION

The importance of *imago Dei* for religious, social, and political thought is best known from Roman Catholic teaching. But it is not peculiarly Catholic. American evangelical Protestants, white and black, invoke the doctrine, and of course because of its scriptural provenance it extends beyond Christianity. The doctrine that man is created in the image of God and that this makes a difference to how it is permissible to treat us is first stated in the Torah, and it is a mainstay of Jewish as well as Christian social thought.

Though it is attractive to those who are open to religious foundations of human rights, the doctrine excites considerable anxiety among those who reject a religious worldview or who are, for other reasons, committed to an approach to rights that can sustain itself in a multi-faith society. The idea of grounding the dignity and the rights of man on *imago Dei* may have broad appeal among followers of the Abrahamic religions. But its appeal is far from universal. While its adherents will say that it provides exactly the foundation that a universalist approach to rights requires, others will object that the requisite universalism is not just a matter of the logic of a particular set of foundations. It is a matter of the broad appeal of such foundations, so that the reasons the foundation provides can plausibly be regarded as reasons *for* everyone whose conduct is supposed to be affected. We know that those who formulated some of the most important human

rights documents took this view: a proposal to include a reference to man's creation in the image of God in the Universal Declaration of Human Rights was considered and rejected on the ground that this would undermine the Declaration's broader appeal.<sup>1</sup>

Many object to the political use of any deep doctrine of this kind. For some, this is a special case of a Rawlsian commitment to standards of public reason generally: "In discussing constitutional essentials and matters of basic justice we are not to appeal to comprehensive religious or philosophical doctrines – to what we as individuals or members of associations see as the whole truth." According to John Rawls, any such appeal would problematize the legitimacy of individual rights in the eyes of many citizens: their legitimacy is much better secured if it rests on "plain truths now widely accepted, and available, to citizens generally."<sup>2</sup> Not all liberals share Rawls's general view, however, and the grounds he has adduced for his "political liberalism" have attracted some criticism.<sup>3</sup> But even those who embrace some form of foundationalism are likely to be uneasy about using foundations that seem bewildering or worse to atheists or followers of other traditions. After all, *imago Dei* is a highly specific and recondite theological doctrine. It is not just a vague expression of respect and concern, and it is not at all clear that it can be given anything remotely resembling a secular translation.

For others the misgivings about *imago Dei* reflect a pragmatic confidence in a shared aversion to human rights abuses that has nothing to do with deep philosophical foundations. Anthony Appiah says that "[w]e do not need to agree that we are all created in the image of God ... to agree that we do not want to be tortured by government officials."<sup>4</sup> But should this be a reason for *denying* the relevance of *imago Dei* (as opposed to not obsessing about it)? Appiah acknowledges "the reason why we do not need to ground human rights in any particular metaphysics is that they are

<sup>1</sup> This is based on the Summary Records of Meetings of the Third Committee Sept. 21–Dec. 8, 1948, Official Records of the Third Session of the General Assembly, Part I, at 55, UN Doc. (A/C.3/SR.) 84–180 (1948), cited in Courtney W. Howland, "The Challenge of Religious Fundamentalism to the Liberty and Equality Rights of Women: An Analysis under the United Nations Charter," *Columbia Journal of Transnational Law* 35 (1997): 271, 341.

<sup>2</sup> John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993), 224–5.

<sup>3</sup> See, for example, Ronald Dworkin, "Rawls and the Law," *Fordham Law Review* 72 (2004): 1387, 1396–9; Joseph Raz, "Facing Diversity: The Case of Epistemic Abstinence," *Philosophy and Public Affairs* 19 (1990): 3–46; Jeremy Waldron, "Public Reason and 'Justification' in the Courtroom," *Journal of Law, Philosophy and Culture* 1 (2007): 107–34.

<sup>4</sup> K. Anthony Appiah, "Grounding Human Rights," in Michael Ignatieff, Anthony Appiah, and Amy Gutmann, eds., *Human Rights as Politics and Idolatry* (Princeton: Princeton University Press, 2003), 101, 106.

already grounded in many metaphysics.” One might infer from this that in the context of overlapping consensus, there is nothing wrong with some people holding fiercely to this deeper idea or even in their believing (for their part) that this is a more satisfactory foundation than the shallow commitments of their more pragmatic fellow-travelers.

Another set of misgivings about the use of this idea might arise from within the Jewish and Christian traditions themselves. *Imago Dei* is far from a straightforward or uncontroversial theological doctrine. Scripturally, it is presented first in the form of a doctrine of creation, and there we find a variety of possible meanings. Humans are said to have been created in the likeness of God and created in the image of God. Also some Jewish rabbinical sources suggest that there might have been two phases of the creation of human being, with the image of God playing a different role in each.<sup>5</sup> Do human rights theorists have to take sides in these exegetical debates?

Second, there are questions about what *imago Dei* means in the light of doctrine of the fall into sin. What is the relation between *imago Dei* and our fallen sinful nature? What can human rights theory do with Calvin’s doctrine that the image of God in us is now but a “relic” or Martin Luther’s teaching that since the Fall we are more “like” the devil than “like” or “in the image of” God?<sup>6</sup> When we use this doctrine in the context of human rights, are we committing ourselves to saying that Luther and Calvin were wrong?

Third, there are specifically Christian questions about the meaning of *imago Dei* in light of the Incarnation. Is the sense in which Christ is the image of the Father (John 14: 8–9; 2 Cor. 4:4; Col. 1:15; and Heb. 1:3) the same as or different from the sense in which mere mortals are created in the image of God?<sup>7</sup>

I have neither space nor wit to address these questions. But it is surely worth pausing to ask whether we should be associating human rights with this degree of theological controversy. And this is to say nothing about whether we should expect the theologians to be happy about having the waters of controversy which lap around the doctrine of *imago Dei* muddied by the opportunistic enthusiasm of human rights advocates, casting

<sup>5</sup> See also George P. Fletcher, “In God’s Image: The Religious Imperative of Equality Under Law,” *Columbia Law Review* 99 (1999): 1608, 1615–17.

<sup>6</sup> See the discussions of the image of God in fallen man in David Cairns, *The Image of God in Man* (London: SCM Press, 1953), 131–2 (on Luther) and 137–41 (on Calvin).

<sup>7</sup> There is useful discussion of this in Claus Westermann, *Genesis 1–11: A Continental Commentary* (Minneapolis: Fortress Press, 1994), 155.

around for something that can serve as a religious foundation (to substantiate their claim that they have the resources to do what their secular brothers and sisters cannot do).

I put these forward as genuine questions about the relation between the theological agenda and the human rights agenda. It is not my intention to refute the interest of *imago Dei* for human rights theory. But I want to insist on due caution and counsel against just grabbing at the doctrine because it seems like an impressive bauble to produce as a distinctive religious foundation.

We should remember, too, that this is far from the only theological doctrine that might ground human rights. There are many ways in which “theology plumbs the depths of what it means to be human as a basis for supporting and providing a continuing critique of existing human rights declarations and debates.”<sup>8</sup> One is the idea – less formal and abstruse than *imago Dei* – that we are all God’s children, and we are required to mirror in our dealings with each other the same concern that He has in His love for us. Or consider John Locke’s theory of natural rights. The doctrine of *imago Dei* was not unknown to Locke; he used it in some parts of his political philosophy.<sup>9</sup> But he did not cite it as a foundation for his doctrine of natural rights. He based that, instead, on the premise that we are God’s workmanship and created by Him for a purpose:

Men being all the Workmanship of one Omnipotent, and infinitely wise Maker; All the Servants of one Sovereign Master, sent into the World by his order, and about his business; they are his Property, whose Workmanship they are, made to last during his, not one another’s Pleasure. And being furnished with like Faculties, sharing all in one Community of Nature, there cannot be supposed any such *Subordination* among us, that may Authorize us to destroy one another, as if we were made for one another’s uses, as the inferior ranks of Creatures are for ours.<sup>10</sup>

On this account, what distinguishes us from other creatures, which are also God’s workmanship, is not that we bear the image of God but that it is plausible to suppose that we have been sent into the world on God’s business and are entitled to protection and respect on that account. I am not saying that this is a better foundation for a rights theory than the doctrine of *imago Dei*. But it is important to be aware of the alternatives.

<sup>8</sup> Charles Villa-Vicencio, “Christianity and Human Rights,” *Journal of Law and Religion* 14 (1999–2000): 579, 594.

<sup>9</sup> John Locke, *Two Treatises of Government*, ed. Peter Laslett (Cambridge: Cambridge University Press, 1988), I, §30.

<sup>10</sup> *Ibid.*, II, §6

Another possible foundational idea, this one specifically Christian, is the premise that there is something of Christ in every needy person with a claim on us:

For I was an hungered, and ye gave me no meat: I was thirsty, and ye gave me no drink: I was a stranger, and ye took me not in: naked, and ye clothed me not: sick, and in prison, and ye visited me not. Then shall they also answer him, saying, Lord, when saw we thee an hungred, or athirst, or a stranger, or naked, or sick, or in prison, and did not minister unto thee? Then shall he answer them, saying, Verily I say unto you, Inasmuch as ye did it not to one of the least of these, ye did it not to me. (Matt. 25:42–5)

This imagery is commonly associated with *imago Dei*, but the relation is by no means straightforward. It is capable at any rate of being grasped independently. Certainly it is more directly normative in its tendency than *imago Dei*, for it can be seen as a direct presentation of the sort of moral duties that human rights are supposed to involve.

As we sound these various notes of caution, we should also observe that *imago Dei* may play a role in Christian social thought which is not necessarily associated with human rights (as human rights lawyers understand them). In Roman Catholic social thought, there is a very strong link between *imago Dei* and the idea of human dignity.<sup>11</sup> Now it is true that many human rights advocates – and many Catholics, too – regard dignity as having foundational importance for human rights. But, as I understand it, not all Catholic thinkers who associate *imago Dei* with dignity are happy about this next step. Conservative Catholics are suspicious of contemporary human rights rhetoric.<sup>12</sup> They prefer to give dignity its own normative significance – a significance that (to their mind) points in a rather different direction. So, for example, they will use the idea of human dignity, associated as it is with *imago Dei*, to oppose stem-cell research or abortion. They might express this in terms of the “rights” of fetuses and embryos or they might not; but they will have considerable difficulty with the idea that dignity, so understood, might also lie at the basis of demands for women’s autonomy or their reproductive freedom. Though the papacy has committed itself to the human rights idea in recent years,<sup>13</sup> still human

<sup>11</sup> Cf. John Paul II, *Original Unity of Man and Woman: Catechesis on the Book of Genesis* (1981), cited in John J. Coughlin, “Pope John Paul II and the Dignity of the Human Being,” *Harvard Journal of Law & Public Policy* 27 (2003): 65, 72–4.

<sup>12</sup> See the discussion in Roger Ruston, *Human Rights and the Image of God* (London: SCM Press, 2004), 10–12.

<sup>13</sup> For example, John XIII, *Pacem in Terris*, §11, and John Paul II, *Redemptor Hominis*, §17. See further the chapter by J. Bryan Hehir herein.

rights doctrine and theory often move in directions that are incompatible with Catholic religious thought: in their insistence on radical individualism, for example, or in the dogma that rights can be identified without any objective doctrine of the human good or any form of tradition and authority (save perhaps the authority of recent positive law). There might also be some more generalized discomfort at the association of something as deep and distinctive as *imago Dei* (or human dignity founded on *imago Dei*) with what many regard as the grab-bag of items – due process, freedom of the press, language rights, holidays with pay – that one finds in modern human rights conventions.

I say again that awareness of these various objections and these various alternative possibilities is not fatal to regarding *imago Dei* as a foundation for human rights. My arguments at this point are intended just to slow us down, in a way that is consonant with what we all acknowledge is the seriousness with which the foundational question should be approached.

If we do decide to explore further the possibility that *imago Dei* provides a grounding for rights, we have to consider the exact shape of its normativity. One idea behind human rights is an emphasis on the value to be accorded each person. This seems straightforward enough in the light of *imago Dei*. That doctrine seems to imply that there is something precious, even sacred, in each human being – something which commands respect of the kind that is commanded by the very being of God. I hope it is not pedantic, however, to point out that even this may move too quickly. It is not entirely clear that *imago Dei* is a conception of worth or value at all. And certainly the idea that the image of God commands anything like the same respect that *God* commands is not self-evident; on the contrary, it sounds idolatrous at first hearing (though of course that impression may be dispelled in various ways).

Once one moves beyond the idea that each human is precious, there are further questions about the deontic structure and the specific normativity of rights. Rights are supposed to be correlative to duties incumbent on persons other than the right-bearer. But I can imagine a strongly pietistic conception of *imago Dei* that holds that respect for the divine image in each person is a matter primarily for that person, as he or she endeavors (with God's grace) to live a life more faithful to that image. The one use of the image idea in the Gospels (an indirect but an unmistakable use, as David Cairns points out)<sup>14</sup> emphasizes wholly its use in generating duties of man to God, to render oneself unto God just as one renders coins stamped with

<sup>14</sup> Cairns, *The Image of God in Man*, 38. See Matt. 22:21, Mark 12:17, and Luke 20:25.

the image of Caesar unto Caesar. Admittedly, this may show only that *imago Dei* cannot generate rights against God. One could say that, while still insisting “that human dignity ... makes every man an object of reverence to other men, and gives him right over against them.”<sup>15</sup>

Here is another difficulty. It might be thought that *imago Dei* is incapable of supporting the sort of radical individualization of moral demands that human rights theory presupposes. In liberal political philosophy, an emphasis on individual rights is at odds with community or at least with communitarian concerns; but is the same true of *imago Dei*? Some theologians place great emphasis on the plural formulations used in the biblical texts: “Then God said: ‘Let us make human beings in our image, after our likeness.’”<sup>16</sup> On this account, the image of God may inhere not in every individual as such but in the love between or other relationality among individuals. Now it is true that human rights, too, are conceived in relational terms – in the correlativity and reciprocity of rights and duties, for example. It is true, too, that rights can be attributed to collectivities not just to individuals. Even so, the question of parsing the relation between the normativity of *imago Dei* and the normativity of human rights will be a delicate one. We know that one of the distinctive things about rights-discourse is the endeavor to identify for each right a specific right-bearer (mostly individual, sometimes a group) and distinguish it both from a specific duty-bearer (sometimes individuals, sometimes entities like governments, sometimes both) and from other members of the same moral community (whose interests may have to be subordinated from time to time to a trumping right). Will this answer to the relationality associated with *imago Dei* by the sort of theological accounts I mentioned at the beginning of this paragraph? I am not sure. We might try to force some sort of fit, but it is not clear that it can be done without doing violence to human rights or *imago Dei* or both.

A further feature of human rights which may not sit comfortably with *imago Dei* is the litigiousness that human rights involve. We are told in the Sermon on the Mount that “if any man will sue thee at the law, and take away thy coat, let him have thy cloak also ... Give to him that asketh thee, and from him that would borrow of thee turn not thou away” (Matt. 5:38–42). The image of the rights-bearer is more self-assertive than this. But when we contrast the self-assertiveness of the right-bearer with the self-abnegation recommended by Jesus, to which side should we assign

<sup>15</sup> Cairns, *The Image of God in Man*, 283.

<sup>16</sup> See the discussion of Barth’s *Dogmatik* in Cairns, *The Image of God in Man*, 24 and 167ff.

the doctrine of *imago Dei*? Or think of Jesus's response to the abuse, perjury, violence, and injustice in his own trial and execution: "Father, forgive them for they know not what they do" (Luke 23:34). Again: if there is a contrast between sticking up for one's rights and forgiving one's enemies, to which side should we assign *imago Dei*?

These questions are not supposed to settle anything, just to make us a little less comfortable than we might be with *imago Dei* as a ground of rights. On the other hand, there may be resonances of the doctrine that do accord with some aspects of liberal rights ideology. *Imago Dei* is associated in the original Genesis passage with dominion (Gen. 1:26) – God's giving those created in his image dominion over the earth – and of course dominion is an active juridical idea strongly connected with rights in later jurisprudence.<sup>17</sup> More generally, that *imago Dei* is not altogether out of place in a legalistic context is indicated by its use later in Genesis to expound the Noahide laws regarding homicide: "Whoso sheddeth man's blood, by man shall his blood be shed: for in the image of God made he man" (Gen. 9:8).

#### CONTRIBUTIONS TO HUMAN RIGHTS THEORY

Having considered all these difficulties, if we are still convinced that *imago Dei* has something to offer human rights theory, how should we think about its contribution?

*Imago Dei* is a doctrine pertaining to our ontological status (our relation to God and the particular nature of our creation and redemption). As such it presents many aspects – as an image can relate to what it is an image of in a variety of ways.<sup>18</sup> And of course human rights is also a multifaceted idea: it embraces moral and legal claims of various kinds (e.g. rights differentiated by subject-matter as liberty rights, protective rights, legal process rights, political rights, socio-economic rights, etc.) as well as moral and legal claims made at various levels (fundamental claims about dignity or autonomy versus quite specific claims about particular freedoms or protections). And human rights are surrounded by almost as much controversy as *imago Dei*; so there is a further question about the ways in which its association with human rights will bear upon those controversies.

<sup>17</sup> See Richard Tuck, *Natural Rights Theories: Their Origin and Development* (Cambridge: Cambridge University Press, 1979), 86ff.

<sup>18</sup> See Ruston, *Human Rights and the Image of God*, 283. Also Fletcher, "In God's Image," 1619–20 (reminding us that the idea of an image is not the idea of a single-property similarity; it is more holistic than that, more of a *gestalt*).

If *imago Dei* does relate to human rights, it probably does so at a foundational rather than at a derivative level. It might be seen as the basis of our dignity, in the sense that “dignity” means the rank that we hold in creation. We are of higher rank than the animals, “for God created man for incorruption, and made him in the image of his own eternity” (Wisd. 2:23). We are “like” God in our capacity for immortality. And it also contributes to a sense of our equality as the bearers of rights. Now, the proposition that we are each of us created in the image of God is, not strictly speaking, an egalitarian idea. It expresses something momentous about each of us. Still, it has an equalizing tendency, particularly when it is asserted of those who historically have been treated as inferiors. So, for example, in the momentous case of *Dred Scott v. Sanford* (1856), dissenting Justice McLean thought it necessary to remind his colleagues on the United States Supreme Court that “[a] slave is not a mere chattel. He bears the impress of his Maker, and ... he is destined to an endless existence.”<sup>19</sup>

More recently, in a 2005 decision of the Supreme Court of Israel, which considered the Israeli government’s policy of preventive strikes aimed at killing members of terrorist organizations in the West Bank and the Gaza Strip even when they were not immediately engaged in terrorist activities, President (Emeritus) Aaron Barak prefaced his opinion with this observation:

Needless to say, unlawful combatants are not beyond the law. They are not “out-laws.” God created them as well in his image; their human dignity as well is to be honored; they as well enjoy and are entitled to protection ... by customary international law.<sup>20</sup>

The reference here to the image of God is intended to pull us up short and remind us that, although we are dealing with someone who will kill and maim scores of innocent people given the opportunity and one who is justly liable through his actions and intentions to deadly force, still we are not just talking about a wild beast or something that may be killed as though its life did not matter. The unlawful combatant is also *man-created-in-the-image-of-God* and the status associated with that characterization imposes radical limits on how we must treat the question of what is to be done with him.

<sup>19</sup> McLean J., dissenting in *Dred Scot v. Sanford*, 60 US 393, at 550 (1856). Also citation to Frederick Douglass in Ruston, *Human Rights and the Image of God*, 269.

<sup>20</sup> *The Public Committee against Torture in Israel and Palestinian Society for the Protection of Human Rights and the Environment v. The Government of Israel and others* (HCJ 769/02) Dec. 11, 2005, §25.

The foundational work that *imago Dei* does for dignity is, in my opinion, indispensable for generating the sort of strong moral constraint associated with rights – and for overriding the temptation to demonize or bestialize “the worst of the worst.” This temptation is so natural that it can only be answered by something that goes beyond our attitudes, even beyond “our” morality, something commanded from the depths of the pre-political and pre-social foundation of the being of those we are tempted to treat in this way. *Imago Dei* presents the respect that humans as such are entitled to as something grounded, not in what we happen to care about or in what we happen to have committed ourselves to, but in facts about what humans are actually like, or, more accurately, what they have been made by the Creator to be like – like unto Himself and by virtue of that likeness sacred and inviolable. We are not just clever animals, and the evil-doers among us are not just good animals gone bad: our dignity is associated with a specifically high rank in creation accorded to us by our creator and reflecting our likeness to the creator. Our status even as wrong-doers is to be understood in relation to this.

Besides this vital work in regard to human dignity in general, *imago Dei* may also be used in connection with certain particular rights or particular kinds of rights. I want to briefly summarize three such uses, before turning at greater length in my final section to a fourth.

The first and most obvious relation between *imago Dei* and particular human rights derives from the doctrine’s use in the Noahide law to express the basic right to life – the sacredness of human life – and the seriousness with which the taboo on killing must be taken. (No doubt, modern human rights advocates will be uneasy with the connection intimated in this passage to capital punishment. Maybe this can be explained away by various interpretive contortions.<sup>21</sup> But I guess it indicates a further reason for saying that when we go looking for a rights-foundation, we should be careful what we wish for.)

Second, *imago Dei* may be used to bolster the case that is made with regard to welfare rights – the most elementary requirements of concern for one another’s subsistence. I said earlier that the Gospel account of the presence of Christ in every needy or vulnerable person can, in theory, be understood independently of *imago Dei*. But the two doctrines can also be used together, with the account in Matthew’s Gospel moving us from the

<sup>21</sup> For an interpretation of *imago Dei* that is severely restrictive of capital punishment, see Yair Lorberbaum, “Blood and the Image of God: On the Sanctity of Life in Biblical and Early Rabbinic Law, Myth and Ritual” in Kretzmer and Klein, eds., *The Concept of Human Dignity in Human Rights Discourse*, 55, 58, 82.

rather abstract idea of the image of God in Genesis to the awfully concrete sense of the incarnate presence of Christ in the Gospel, and in Christ's insistence that in responding in various ways to humanity as it presents itself, it is as though we are responding to Him.

Third, the doctrine has a use in regard to rights not to be subject to degrading treatment. There is an old Talmudic story, known as "The Parable of the Twins," used to illuminate Deuteronomy 21:23:

Two twin brothers dwelt in one city. One was appointed king and the other took to banditry. The king gave an order and they hanged the bandit. But all who saw the bandit said: "The king is hanged!" So the king gave an order and they took his twin down.<sup>22</sup>

The implication of the parable – indeed the implication of *imago Dei* – is that when we treat humans in certain ways, for example when we torture them or mutilate their bodies, we present the image of God within us in a certain ugly light. We do so not only in our own self-presentation of how we think it is appropriate for beings like us to behave, but also in the presentation of the tortured body of our victim. Like the mutilation of a valued painting, our actions not only degrade the art object but mock the person whom it portrays.

All these resonances are important. Still, there may be more to the implications of *imago Dei* for human rights even than this.

#### RIGHTS AND REASON

Consistently, for almost the whole of the Christian era, *imago Dei* has been associated with man's capacity for practical reason, using God-given powers of reason and understanding to apprehend something of God Himself and His order and purpose in the world. According to Augustine, the human soul "is made after the image of God in respect to this, that it is able to use reason and intellect in order to understand and behold God."<sup>23</sup> And Thomas Aquinas says something similar when he observes that "man is united to God by his reason or mind, in which is God's image."<sup>24</sup> Christian thinkers who take this view associate it also with our freedom of will: our reason, in respect of which we resemble God, is not just theoretical but practical reason. It is not only the capacity for rational

<sup>22</sup> Babylonian Talmud, Sanhedrin 46b. I am grateful to Moshe Halbertal for this reference.

<sup>23</sup> Augustine, *De Trinitate*, XIV, 4 (cited by Cairns, *The Image of God in Man*, 117).

<sup>24</sup> Aquinas, *Summa Theologica*, 2a, Q100, 2.

apprehension of God's order in the world; it involves also the ability to shape our lives and actions in according with that apprehension.

Associating this conception of *imago Dei* with human rights gives a particular cast to our understanding of what our rights amount to. Certainly the idea that we have rights in virtue of our reason and our normative agency is a familiar one.<sup>25</sup> But *imago Dei* seems to privilege not reason as such, but a particular form and orientation of reason. Roger Ruston warns that “[w]hat is not intended is ... ‘reason’ in the modern sense of the dry, calculative activity of our minds abstracted from everything else that makes life worth living.” Instead, he says, “[i]t is a passionate reason, ordered to our ultimate end in the presence of God.”<sup>26</sup> The idea that we resemble God in the sheer ability to reason and understand – with or without regard to ethical good – is rejected by most theorists of *imago Dei*. So this conception is going to sit uncomfortably with any understanding of human rights that privileges the free decision of the subject simply on account of that decision's representing an exercise of will. It consorts more comfortably with a conception of rights that understands them partially as responsibilities, so that P's right to do X or receive Y is connected with some responsibility in relation to God's order that it is incumbent on P to discharge. It will, in other words, tend to favor an objective rather than a subjective conception of rights.

It is sometimes thought that human rights ideas could not have emerged from the discourse of natural rights, if the objective understanding of rights as responsibilities had not been superseded by a more subjective conception. But actually that may be a mistake.<sup>27</sup> Early modern ideas of inalienable rights and the Lockean understanding of natural rights as individualized responsibilities for our own flourishing according to God's purpose, a responsibility with which others are not entitled to interfere, represented a resurgence of something like an objective theory of rights. And this is reflected in the content of many modern human rights claims, which are oriented not just to individual freedom but to responsibilities – like rights of family – in which individuals must be assisted and protected. These responsibilities are not just duties, in the sense of specific actions that we must or must not do. They call upon resources of thought and practical reason as they require continual exercises of intelligence to discern what is necessary for ordering the area of human life committed to one's care.

<sup>25</sup> Cf. James Griffin, *On Human Rights* (Oxford: Oxford University Press, 2008).

<sup>26</sup> Ruston, *Human Rights and the Image of God*, 56. See also *ibid.*, 112 and 279.

<sup>27</sup> There is an excellent discussion in Tuck, *Natural Rights Theories*, 143ff.

Much the same can be said about those conceptions that use Genesis 1:26 to identify *imago Dei* with man's being given dominion over the earth. It is true that subjective rights have, historically, been associated with rights as *dominium*. But it is evident that man's dominion is given for a purpose and conditioned by that purpose. Again, however, the fact that our dominion over the earth is understood as a responsibility does not imply that it is purely a matter of submission to an order that one apprehends only well enough to fall into line with it. There is a political aspect to *imago Dei* which amounts, as Hoekema has indicated, to something active, something approaching the exercise of rulership. The award of dominion gives man "an exalted position on the earth," making him in effect "God's viceregent, who rules over nature as God's representative."<sup>28</sup>

The theme of rulership seems inseparable from *imago Dei*. Even apart from our lording it over the animals, there is a political aspect to the powers that *imago Dei* suggests for ourselves. *Imago Dei* connotes powers of self-mastery and autonomy (in the literal sense: our ability to give law to ourselves). The dominion over nature which is given to us includes dominion over our animal natures, if only we will exercise it.

What are the implications for rights of taking this power seriously? One immediate consequence is a connection between *imago Dei* and rights of religious freedom. Our lives need to be ruled in respect of faith and worship; our natural impulse to neglect our Creator in favor of mundane concerns needs to be mastered and suppressed. But *imago Dei* implies that we are actually the sort of beings that can master themselves in this way. We can be trusted in these matters. We are capable of the appropriate kind of self-regarding dominion in respect of these momentous matters. We do not need rule imposed from the outside.

There may also be a broader implication for how we think about rights more generally. The attribution of rights to individuals is an act of faith in the capacity for moral thinking of each individual right-bearer. Rights involve choices; and their exercise requires the agent to select which of a number of options he would like to realize in his life and in his dealings with others. Of course, rights may be abused; indeed a right may be exercised wrongly. But we are the sort of beings who can exercise rights responsibly, and who can discern the moral order in whose context particular exercises of rights count as responsible.

Self-mastery includes an ability to discern a moral relation between what can be claimed for oneself and what is claimed for others. This is an

<sup>28</sup> Anthony A. Hoekema, *Created in God's Image* (Grand Rapids, MI: Wm. B. Eerdmanns, 1994), 78–9, 85. See also Westermann, *Genesis I–II*, 151.

old natural rights idea. In the hands of John Locke and others, the idea of natural rights connoted not just the objective existence of certain entitlements that people held and certain constraints on the actions of others, but also an ability in all the persons concerned to figure this out responsibly for themselves. Yet again it was a point about trust: individuals have what it takes to figure out a system of rights in the state of nature. Indeed Lockean natural rights theory holds that it is safer to entrust such decisions to ordinary individuals, safer than trusting to statesmen or philosophers or those whose powers of moral reasoning have been corrupted by the “artificial Ignorance, and learned Gibberish” of legal scholasticism.<sup>29</sup> This tends to be downplayed a little in modern notions of human rights, which are given as positive law rather than as products of reasoning available to every man. But positive law does not come out of the air; bills and charters of rights are typically founded (even if indirectly) upon popular sovereignty, so that there is a theoretical commitment to the proposition that those who are to have the rights in question are also in principle capable of thinking them properly through.

This brings us to the question of politics and government and the implications of *imago Dei* for our understanding of political rights. Here there seems to be a divide in modern understandings of *imago Dei* – a division in the canon of theology between those who pursue the intellectual conception of *imago Dei* in a political direction and those who do not. Aquinas does not see any wider political consequences; and Catholic reasoning tends to follow him in this regard.<sup>30</sup> But in modern Protestant thought, *imago Dei* has been associated with participation in politics. The National Association of Evangelicals affirms, in its statement on civic responsibility, that

We engage in public life because God created our first parents in his image and gave them dominion over the earth (Gen. 1:27–8) ... The responsibilities that emerge from that mandate are many, and in a modern society those responsibilities rightly flow to many different institutions, including governments, families, churches, schools, businesses, and labor unions. Just governance is part of our calling in creation.<sup>31</sup>

<sup>29</sup> See Locke, *An Essay Concerning Human Understanding*, Bk. III, Ch. x, para. 9, p. 495. See also the discussion in Jeremy Waldron, *God, Locke and Equality: Christian Foundations in Locke's Political Thought* (Cambridge: Cambridge University Press, 2002), 83ff.

<sup>30</sup> See Ruston, *Human Rights and the Image of God*, 54.

<sup>31</sup> National Association of Evangelicals (NAE), *For the Health of the Nation: An Evangelical Call to Civic Responsibility* (available at [www.nae.net/images/civic\\_responsibility.pdf](http://www.nae.net/images/civic_responsibility.pdf)), 2. See also David P. Gushee, “Evangelicals and Politics: A Rethinking,” *Journal of Law and Religion* 23 (2007–8): 101–14.

The variety of institutions and organizations cited here connects pretty clearly the implications of *imago Dei* for governance of our own lives and its implications for governance in general. The immediate consequence is a connection between our accounts of what humans are like (in light of *imago Dei*) and human rights of conscience and association:

Because God created human beings in his image, we are endowed with rights and responsibilities. In order to carry out these responsibilities, human beings need the freedom to form associations, formulate and express beliefs, and act on conscientiously held commitments.<sup>32</sup>

Beyond that, however, we look also to specifically political rights: the rights associated with democratic participation and enfranchisement – the right to take part in the government of one’s country, directly or through freely chosen representatives – and the broader rights-based conviction that the will of the people (the will of those created in the image of God) shall be the basis of government. Seen in this light, *imago Dei* sponsors a healthy correction of perspective on the nature and function of human rights. Rights are not just rights against government, born of what Judith Shklar called a “liberalism of fear,” a panic about the worst that governments can do.<sup>33</sup> They make government possible by empowering the governed to participate in forging the very order they will live by.

We noted in the first section of this chapter that some theologians attribute significance to the fact that the image of God is associated biblically with human plurality. One can imagine a tension between the claim that each human is created in the image of God and the claim that humans are collectively (or in their relationship with one another) created in the image of God. Equally, we know that political philosophers have sometimes discerned a tension between rights that are attributable to isolated individuals and those whose attribution makes sense only in respect of people acting together. Karl Marx, for example, said that the rights of man (in the 1789 *Declaration of the Rights of Man and the Citizen*) emphasize “egoistic man ... an individual withdrawn behind his private interests and whims and separated from the community,” whereas the rights of the citizen, which are “rights that are only exercised in community with other men,” value man “as a communal being” and “as a moral person.”<sup>34</sup> Now, we

<sup>32</sup> NAE, *For the Health of the Nation*, 10.

<sup>33</sup> Judith Shklar, “The Liberalism of Fear,” in Nancy Rosenblum, ed., *Liberalism and the Moral Life* (Cambridge, MA: Harvard University Press, 1989), 21.

<sup>34</sup> Karl Marx, “On the Jewish Question,” in Jeremy Waldron, ed., *Nonsense Upon Stilts: Bentham, Burke and Marx on the Rights of Man* (London: Methuen, 1987), 137, 140, 144, 147, and 150.

might not want to accept that a human can be counted as a moral person only when he is exercising rights “in community with other men.” There are important moral dimensions to the exercise of solitary conscience in religious and other matters; and we have already seen that, in the natural rights tradition, even the individual right-bearer is conceived as one who is morally conscious not only of his own entitlements but of others’ rights and the limits on what he is entitled to demand from others. Still, when we are talking about something as momentous as *imago Dei*, we have to maintain a careful balance between the privileges of individual judgment and conscience and the modes of action – some morally assertive, some morally deferential to the judgments of others – that are required for responsible political participation.

Some may understand the individualistic attribution of *imago Dei* as licensing something like an unqualified right of conscience, even in matters political. Elisha Williams, a New England Protestant minister and legislator, wrote this in 1744:

To submit our Consciences to the Guidance of any Man, or Order of Men is not to reason and act according to our own Understanding ... And in every Instance wherein we thus submit ourselves to the Direction of any humane Authority, so far we set aside and renounce all other Authority, our own Light and Reason, and even the Word of God and Christ ... And therefore if our Consciences are under the Direction of any humane Authority as to religious Matters; they cease to be under the Direction of Christ.<sup>35</sup>

But *imago Dei* is not a doctrine of special revelation, by conscience or otherwise. There is no reason to suppose that persons created in the image of God are incapable of succumbing to mistaken or wicked convictions (through the agency of “conscience”) when they cut themselves off from the sort of reasoned interactions with others that have always characterized the proper use of our moral capabilities. Reasoning is something we do mostly together – in the context of organized and disciplined inquiry – and it is not clear at all that *imago Dei* privileges individual reasoning when it is deliberately cut loose from these moorings. Not that there is any guarantee that collective or consensual conclusions are wise or good: the point is that we are all fallible, collectively and individually.

<sup>35</sup> Elisha Williams, *A Seasonable Plea for the Liberty of Conscience and the Right of Private Judgment in Matters of Religion, Without any Controul from Human Authority* 12–13 (Boston: S. Kneeland and T. Green, 1744), cited in Steven D. Smith, “The Promise and Perils of Conscience,” *Brigham Young University Law Review* 3 (2003): 1057, 1063–4.

In any case, when we are talking about the doctrine's implications so far as civic participation is concerned, there is no question of individual hegemony. Some biblical scholars note that the Genesis account of *imago Dei* turned its back deliberately on the ancient Babylonian proposition that the king alone was created in the image of God and that this status underwrote his exercise of regal power.<sup>36</sup> We now see this regal image in every man. So, to the extent that it is exercised politically, the image of God is necessarily represented by the participation of *millions* in a polity not just one person. This means it has to associate itself with the logic of political action: (1) the need in some circumstances for a common line of action, even when there is disagreement as to what it should be;<sup>37</sup> (2) the need for decision-procedures which respect everyone in their inputs, but which nevertheless yield determinate decisions, even in circumstances of controversy; and (3) the importance of our accepting that the order we discern individually or together is also an order for us to live by and, in some sense, submit to. (One way of thinking about this is through the Aristotelian conception of citizenship: "The citizen ... is the person who has a share in ruling and being ruled; in the best system of government a citizen is both able and willing to rule and be ruled in accordance with a life lived with excellence as its aim."<sup>38</sup>) Playing one's part politically is not just a matter of voicing one's opinion; it is also a matter of responsible submission to, participation in, and self-application of the norms that emerge from collective involvement in government. Philippians 2:5–8 teaches us that there is nothing incompatible with *imago Dei* in such submission and that humility as well as the confident exercise of one's moral capabilities are bound up together in the doctrine.

#### CONCLUSIONS

Foundations matter; they are not just nailed on to the underside of a theory or a body of law as an after-thought. If we are looking for foundations for our convictions about human rights, we are looking for something that may well make a difference to what it is that we believe about rights. This is particularly true if we say we are looking for religious foundations. It is not their function simply to reassure us or strengthen us in our preexisting

<sup>36</sup> See, for example, Westermann, *Genesis 1–11*, 151–4. I am grateful to Nigel Biggar for this reference. For the "democratization" of this idea, see Lorberbaum, "Blood and the Image of God," 55.

<sup>37</sup> See Jeremy Waldron, *Law and Disagreement* (Oxford: Oxford University Press, 1999), 114–17, on "the circumstances of politics."

<sup>38</sup> Aristotle, *Politics* 1283b42–284a4.

convictions. As I said at the outset, we cannot assume that a religious foundation – let alone a difficult and controversial doctrine such as *imago Dei* – will leave everything as it is. I believe that if we build a conception of human rights on the basis that humans are created in the image of God, we must expect to find some differences between our conception and conceptions erected on other foundations or conceptions arrived at pragmatically with no foundations at all. Some of these changes we may find congenial: I think, for example, it is much easier to defend certain rights (like the right not to be tortured) as moral absolutes in the light of the doctrine we have been considering;<sup>39</sup> and I also argued that *imago Dei* will license a more insistent emphasis on the humanity and rights of those we have good reasons (good *moral* reasons) to fear and despise than secular conceptions of rights which answer only to our considered judgments in reflective equilibrium. Other changes we may find disconcerting: a greater emphasis on those rights that can be seen also as responsibilities and a greater emphasis on the responsible rather than the willful or disordered exercise of our rights.

I hope I have shown, finally, that *imago Dei* is above all an empowering idea, validating and affirming our powers of reason when they are oriented not just to discerning God's order in the world, but participating with others in its realization, both in the modest tasks of ordinary politics and in the broader anticipation of Christ's kingdom. True, as I have emphasized, political rights should not be conceived in this light as a triumph of conscience or as an anarchy of individual conviction. But they are an empowerment, an empowerment of those, created in His image, to whom Jesus can say: "Henceforth I call you not servants; for the servant knoweth not what his lord doeth: but I have called you friends; for all things that I have heard of my Father I have made known unto you" (John 15:15).

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<sup>39</sup> See Jeremy Waldron, "What Can Christian Teaching Add to the Debate about Torture?" *Theology Today* 63 (2006): 330.

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