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Religious Human Rights in Global Perspective

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RELIGIOUS HUMAN RIGHTS IN GLOBAL PERSPECTIVE

Johan van der Vyver and John Witte, Jr.
2 vol., Martinus Nijhoff, The Hague, 1996

As the second millennium, or more accurately, as the second Christian millennium (Judaism and Islam each have separate calendars which ignore the existence of a historical Jesus as a calendrical threshold event and commence with the creation of the world for the Jews and the birth of Mohammed for the Muslims) approaches, publishers' lists and bookstore shelves contain an outpouring of volumes which might be called "retrospective specials." These timely texts of varying sophistication locate and articulate our shame in the horrors and pride in the accomplishments of humans during the past thousand years as well as our anxieties, fears and hopes for ourselves and our extended progeny in the next millennium. Religion, a means for transcending time for us mere mortals, marks time at important passages not only in the course of an individual believer's life span, but also in a collective dimension for societies and cultures.

Psychologists and historians inform us that such behavior is not coincidental. At the end of the first millennium, people in the Christian West, lacking the printing press and a local Barnes and Noble, engaged in a wide range of practices designed to fend off impending doom, or at least, to save one's own soul from the fires of hell vividly portrayed by the Catholic Church.

Given the array and complexity of the impulses and emotions, it is not surprising that serious scholars and thinkers have joined the second Christian millennial evaluation to recast religion in a global (read pluralistic) context. Religion is the core subject of the two volumes addressed in this review. Such scrutiny at its best, when neither markedly defensive nor unrealistically upbeat, can be thought provoking. It allows for visiting old issues and their attendant tensions, and contradictions with new insights. The two volumes reviewed in this essay are a praiseworthy effort to do so - taking as their task the complex relationship among the three major Western religions (Judaism, Christianity and Islam) and the expanding

contemporary corpus of human rights norms and doctrines.

As any editor will tell you, hard decisions have to be made when the subject matter is intrinsically unwieldy and has blurred boundaries. These two volumes, "religious perspectives" in Volume one and "legal perspectives" in Volume two, are admirable efforts to contain the topics and their many possible meanderings. A close read of the essays confirms that the editors have chosen with care. The tenor of the individual contributions is informative and, reflects judicious editorial and intellectual considerations as well as a focused intellectual agenda.

The editors' answer to the crucial initial choice "which religions?" is all too easy a mark for an armchair reader to quarrel. Their focus is on Christianity, Islam and Judaism which are said to "lend themselves readily to comparative analysis."¹ More particularly, the religions are sequential in time; they acknowledge and build upon, as well as repudiate, their predecessors in doctrine and practice; they have shed blood and continue to do so over many of the same places and spaces; they are some of the most profound sources of inspiration and fear, of generosity and genocide in Western culture. In effect, they have been in a trialogue of sorts, however vindictive and brutal, for all of the centuries of the second millennium of Christianity.

The major insight gained from the first volume which spells out the parameters of each religion's theology, doctrines and practices as they apply to religious human rights is that, despite their shared foundational basis of versions of the golden rule, the three religions are comparative latecomers to the secular norms of human rights and "are not necessarily easy allies to engage."² Here the tensions within belief systems regarding non-believers as well as contestations between religion and state emerge, not surprisingly, for each religion. To their credit, the authors of these particular efforts do not minimize these profound difficulties.

Interestingly, there is a separate essay devoted to the status of

¹ JOHAN VAN DER VYVER & JOHN WITTE JR., RELIGIOUS HUMAN RIGHTS IN GLOBAL PERSPECTIVE 20 (1996).

² *Id.* at 18.

women in each religion and an evaluation of the applicability of broader human rights doctrines to their status. This welcome inclusion is an acknowledgment that within each religion there are essentially recognitions of "difference" between women and men which can be found in doctrine and are operationalized and reinforced through practices. Not surprisingly, there are controversial, volatile issues of religion and culture for each religion, which are often used as a shield to prevent the application of specific human rights concerns to women's human rights.

The second volume focuses on legal perspectives. Here, the task is to identify and discuss the function of the state with respect to religion and religious institutions or communities. Several general essays on the contributions to religious human rights, generated by the many years of discussions on various human rights issues and the documents produced under the aegis of the United Nations, lack the foundation for an ensuing illuminating discussion and analysis of activities and pressures generated by non-governmental organizations concerned with religious freedoms and human rights - one of the most challenging and interesting developments to occur within the comparatively short period of the past 50 years - at the very end of the millennium. Informative essays on the state of religious human rights and liberties in specific countries or regions (Germany, the United Kingdom, Eastern Europe, the Balkans, Russia, the Middle East, Israel, Africa, in particular, Latin America, Central America and the United States) comprise most of the rest of the volume. The penultimate essay, "A Draft Model Law on Freedom of Religion with Commentary," provides the opportunity to consider the relationship between speech and conduct and legitimate claims of harm, in the context of religious orthodoxy or standards of decency, confronted by ideas or conduct considered blasphemous in a society.

Readers rejoice! These two volumes are an ambitious and thoughtful undertaking. In "a world torn by crisis and tumult - by a moral Armageddon, if not a military one,"³ the contributors turn our

³ JOHAN VAN DER VYVER & JOHN WITTE JR., *LEGAL HUMAN RIGHTS IN GLOBAL PERSPECTIVE* 17 (1996).

attention to issues which demand awareness, reflection and tolerance despite the impulse of many to forego all three.

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