Introduction

THE DISCOURSE OF HUMAN RIGHTS HAS EMERGED as the dominant moral discourse of our time. Reflecting on this often contentious discourse, with both its enthusiasts and detractors, led me to consider the following questions: What constitutes an intelligible definition of human rights? What place should this discourse occupy within ethics? Can theology acknowledge human rights discourse? How is theological engagement with human rights justified? What are the implications of the convergence of what are two potentially universalizable discourses?

I came to this research with a worldview that has been profoundly enriched by living and working in the Caribbean and in Samoa, learning something of cultural differences and what I will refer to as "situated universalism." Involvement in the campaign against the death penalty in Trinidad and Tobago raised important questions about justice, punishment, the rights of victims and of perpetrators, and the brutalizing effect of capital punishment on society as a whole. The campaign also pointed to complex religious-secular allegiances leading to intellectual and practical solidarity in the *saeculum* where Augustine's two cities, the *Civitas Dei* and the *Civitas terrene*, overlap.[1] But if there is one experience that has been the touchstone of this book, it is involvement in the work of Credo Centre with children who live and work on the streets of Port of Spain. The "street children" of our world are one of our most vulnerable human groups. Working with them taught me that the denial of basic rights to food, shelter, safety, and education, and the various kinds of exploitation that this denial exposes children to, both undermines their human dignity and damages their capacity to develop their potential. The resulting impoverishment both diminishes their flourishing as human beings and denies the human community the gifts of those who never reach their potential.

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This book defines human rights as a "dialectical boundary discourse" of human flourishing, attributing to rights the position of protective marginality in ethics; rights are necessarily "marginal" in that they are not ends in themselves, but in this marginal position they play a crucial protective role. Rights do not simply guard the limits below which we should not fall in terms of ethical conduct but are protective of the conditions in which the "more" of ethics—love, virtue, community—can flourish.

I do not hold with the view that rights "trump" all other considerations in ethics or with what could be described as "inverse trumping," which invokes a more "authentic" tradition of virtue and community to triumph over the fiction of human rights. Human rights discourse has an intrinsic communitarian dimension, and there must also be concern for the conditions in which the capacity to be virtuous flourishes. Although the concept of *eudaimonia*, human flourishing, is implicit in this work, a positive exposition of such flourishing is not outlined in detail. Instead it is approached by way of absence, negation, and darkness: a *via negativa* exposition of that which prevents, distorts, and damages the capacity to flourish as individuals and as communities. However, this *via negativa* also makes implicit claims about what is necessary for human flourishing and challenges a simple juxtaposition of *eudaimonia* and human rights.

This book does not attempt to construct a theology of human rights, nor a theological foundation for human rights but to justify and explore theological engagement with the discourse of human rights. A broad understanding of theological engagement with human rights discourse is proposed that includes (a) explicit engagement with rights discourse in terms of both foundational questions and historical implementation; and (b) implicit engagement in areas of shared concern for both discourses, concerns about the human person and community, about human dignity and freedom, about justice and politics. It highlights where the themes and concerns of key modern theologians converge with the themes and concerns of those committed to the advancement of human rights. It also aims to counter some of the "disdain" for rights discourse that is found in postliberal theological and philosophical currents.

In the light of some common objections to human rights discourse, chapter 1 briefly explores two examples of its use in public discourse: in the foundational documents of the United Nations and, in more detail, in modern Roman Catholic social teaching, just one example of religious use of human rights discourse. It is argued that, despite their apparent "groundlessness," the foundational documents of the United Nations—seminal for subsequent human

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rights documents worldwide—are forged out of the particular historical crucible of twentieth-century totalitarianism and are examples of the fragile and negotiated consensus that marks the human rights project. Roman Catholic engagement with human rights discourse is marked by significant movement from hostility to nuanced acceptance and active promotion of human rights. Both of these examples of public discourse about human rights are bruised by failures of implementation, notably the failure of the United Nations to prevent genocidal acts in Srebrenica and Rwanda and the failure of the Catholic Church in the face of extensive child abuse. Although religious and secular human rights discourse differ in their foundational suppositions, their commonality is more than simply pragmatic; both can be enriched by reciprocity of critique.

Theological engagement with human rights is ecumenical, complex, and diverse; four examples of this engagement are explored at the beginning of chapter 2. The most common theological justification for human rights is the doctrine of *Imago Dei*. This doctrine underpins discussion about the dignity of the human person and the role of human rights in the protection of that dignity. Karl Rahner, a theologian who did not use the language of human rights, is not someone whose work is normally appealed to in the engagement between theology and human rights, but Rahner's concentration on the human develops a transcendental Thomist version of the doctrine of *Imago Dei*. Some aspects of his theological anthropology are discussed, including the supernatural existential, the oft-misunderstood concept of the "anonymous Christian," and his reflections on human dignity, freedom, and suffering. Rahner's theological anthropology points to the necessity of taking human rights discourse seriously and of understanding rights not as the foundation of a minimalist anthropology but as protective of the ultimate luminosity of the human person. However, I also argue that Rahner's theology is characterized by a kind of idealism: it does not sufficiently acknowledge what might damage the human capacity for God, does not elucidate threats to human dignity and freedom, and does not adequately recognize the paradox of grace and dis-grace that constitutes human reality.

In a more "realistic" vein, chapter 3 engages with issues of human rights violations and their individual and communal impact. The memory of suffering was the catalyst for the formulation of the Universal Declaration of Human Rights in 1948. Societies and cultures are defined in terms of memory and the handling of memory, particularly the memory of suffering. Recent truth-seeking initiatives in postconflict situations, which point to the difficulties

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inherent both in the "excess" of remembering and in the obliteration of memory, are briefly explored. These pragmatic attempts to engage with the memory of suffering and the impact of damage mark a kind of travail toward developing what Paul Ricoeur calls a "culture of just memory."[2] The Recovery of Historical Memory Project of the Human Rights Office of the Archdiocese of Guatemala exemplifies, in its bleak narration of human rights violations, the praxis of an ethic toward just memory.

The question of a theology toward just memory is one that Johann Baptist Metz grappled with, a grappling that took him on a journey from silence to speech about the Holocaust. His theological response to the Holocaust is marked by a "haunted tardiness," and as he moves gradually from transcendental to political theology, a fissure emerges in his work born of this late explicit "interruption" by Auschwitz. I describe this movement in terms of "interruptive realism," not considering it a sufficient category but one that raises questions about the cultivation of a *habitus operativus bonus* of vigilance toward suffering, injustice, and violations of human dignity.

Chapter 4 turns to liberation theology, a theology born of ethical indignation in the face of poverty and oppression in Latin America. Whether or not one considers liberation theology to be the most significant theological movement of the twentieth century—some would say since the Reformation—I contend that it has irretrievably changed the theological landscape. Its key theological principles—the preferential option for the poor and the primacy of praxis—remain as a persistent challenge to theology in the church and in the academy. This chapter outlines the initial rejection of and gradual engagement with the discourse of human rights within liberation theology, drawing from Catholic, Marxist, and liberal approaches to human rights. Human rights discourse becomes increasingly associated with the preferential option for the poor, and the focus of liberation theology is on the rights of the poor. It is argued here that the emphasis on the rights of the poor unveils the paradoxical question of partiality in human rights, a partiality that does not negate the universality but rather points toward authentic universality in the form of historical and concrete realization. A focus on the rights of the poor as the key issue in human rights discourse is not only the preoccupation of liberation theologians. The philosopher Thomas Pogge holds that "the great human rights deficits persisting today are heavily concentrated" among the global poor.[3]

Chapter 5 explores theologians who think differently about theological engagement with secular discourse. It responds to the postliberal critique of

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John Milbank and Stanley Hauerwas, challenging Milbank's attempts to build a comprehensive system on the ruins of secular reason and Hauerwas's views on political theology and human rights. Hauerwas and Milbank represent a particular kind of postliberal theology united in their engagement with an Augustinian view of theological politics and their opposition to human rights, liberal democracy, and politics as "statecraft." This chapter also offers a critical reading of Daniel M. Bell's critique of liberation theology, specifically addressing Bell's contention that liberation theology reduces justice to the position of guarantor of rights and his dismissal of the classical conception of justice as *suum cuique* in favor of the gift of forgiveness.

I argue that although the streams in this postliberal theology are not homogeneous, three common characteristics can be identified: (a) a disdain for the secular, including human rights; (b) a preference for a theological politics over political theology; and (c) an impatience with the provisional. I suggest that these characteristics lead this postliberal current to an overextended ecclesiology. Their engagement with an Augustinian view of theological politics neglects Augustine's own ambiguity about the relationship between the *Civitas Dei* and the *Civitas terrena* and also his conclusion that the question of distinction between the cities is ultimately an eschatological one. The result is that they neglect the ethical possibilities within the overlapping space shared by the "sacred" of the *Civitas Dei* and the "profane" of the *Civitas terrena*.

I conclude that it is precisely within this overlap of cities that theological engagement with human rights—with its positive discourse and with the reality of violations—takes place. Human rights is a discourse for the provisional time, in the overlapping space of the intermediate realm, an effort to make the best city possible, knowing it is not a lasting city. Human rights, in this context, could be interpreted as a boundary discourse of *vera iustitia*.

Notes

1. Augustine, *The City of God against the Pagans*, edited and translated by R. W. Dyson (Cambridge: Cambridge University Press, 2003).
2. Paul Ricoeur, "Memory and Forgetting," in *Questioning Ethics: Contemporary Debates in Philosophy*, edited by Richard Kearney and Mark Dooley (London: Routledge, 1999), 5–11.
3. Thomas Pogge, "Recognized and Violated by International Law: The Human Rights of the Global Poor," *Leiden Journal of International Law*, 18 (2005): 717–45.

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