

## **Biblical Spirituality and Human Rights**

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### **ABSTRACT**

*After delineating the central concepts of this paper—the Bible, Spirituality, Biblical Spirituality and human rights—the contribution of Eckart Otto to the current understanding of ancient Jerusalemite origins of one central aspect of modern human rights culture is highlighted. Two Pentateuch texts are discussed in this light: Genesis 1:26-27 and Deuteronomy 13:2-10. Insights from these deliberations may assist people today in considering two recent developments relating to religion in the modern world: court decisions in Canada and South Africa on religion as a secular matter (drawing on the work of I. Benson), and the debate on the wearing of Muslim headscarves in France (drawing on the work of Gerrit Brand).*

### **A TRIP/LE TROUBLE**

Not the Bible, not spirituality, and not the church<sup>1</sup>—three focal aspects to my deliberations here—have unambiguous reputations when it comes to human rights. Neither are the meanings of any of the concepts referred to in this first sentence and the title of this presentation always entirely clear. For the sake of taking my opening line further without tripping in the argumentation below over too much ambivalence, let me therefore first delineate somewhat four central constructs in these pages: Bible, spirituality, Biblical Spirituality, and human rights. Once a somewhat more delineated map of understanding has been established, not in any essentialist sense but just for the time being, the rest of the intellectual journey below may become, hopefully, a more meaningful trip.

#### **1 Circling the Bible**

Although the idea of what the *Bible* is seems clear to most people when they use the word/Word, in history and in practice this Holy Library shows less stability than is often assumed. During the period when the books of the Old Testament/Hebrew Bible/First Testament<sup>2</sup> were (unsuspectingly, by the group of

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<sup>1</sup> By "church" I mean in this article the body of Christian believers across denominational lines, and not a specific denomination.

<sup>2</sup> The diversity of current formulations with which to describe this collection of books is, in itself, telling. For a deliberation regarding this terminological choice, cf. Erich Zenger, *Einleitung in das Alte Testament* (3<sup>rd</sup> ed. Stuttgart: W. Kohlhammer, 1995), 14-16.

scribes involved, over a span of more than half a millennium) a canon-in-development, the at times clearly noticeable,<sup>3</sup> but at times surreptitious<sup>4</sup> taking over,<sup>5</sup> editing and reframing<sup>6</sup> of texts in order rhetorically to cast a contemporary issue in a new light, shows no concept of the text as being unalterable. The different versions of the Jeremiah book in the Masoretic text and in the Septuagint, with the former at times and the latter at other instances preserving an older version,<sup>7</sup> shows a sociologically-related fluidity<sup>8</sup> with regard to the Bible text that traditional Christian Dogmatics have not been reflecting.<sup>9</sup> The historical reality that the same Septuagint was the Bible of the early Christians is rather at odds with our notions of the Bible consisting of a Hebrew first two-thirds (including some Aramaic) and a Greek last third. The differences not only in contents, but also in the order of the books of the Hebrew first two-thirds of the Bible, within its different textual family editions,<sup>10</sup> and then in the Jewish, Roman Catholic, Orthodox, Coptic and Protestant canon constructions, again show different historically and theologically actualised conceptions, namely of *what* the Word of God is and *how* that Word addresses its readers.

<sup>3</sup> The most conspicuous case in point here remains the three "my wife–my sister" texts of Genesis 12:10-20, 20:1-18 and 26:1-11, with the latter being the oldest version, and the other two versions, placed earlier in the text but dating from later in history, laying claim to both the story and the geography implied—cf. e.g. Martin Noth, *Überlieferungsgeschichte des Pentateuch* (Stuttgart: W. Kohlhammer, 1948), 116.

<sup>4</sup> The re-casting of Moses as a prophet in Deuteronomy 34:10 is a good example of such "covert" editorial activity, with the priestly supporter group in post-exilic Jerusalem with this editorial insertion clinching victory in their debate with the prophetic supporter group on whether divine communication by law or by vision ought to be regarded as the supreme revelation by God. Cf. e.g. Konrad Schmid, "Late Persian Formation of the Torah: Observations on Deuteronomy 34," in *Judah and the Judeans in the fourth Century B.C.E.* (eds. Oded Lipschits, Gary N. Knoppers and Rainer Albertz, Winona Lake: Eisenbrauns, 2007), 245-247.

<sup>5</sup> See again Footnote 3 for the most apt example.

<sup>6</sup> Genesis 22:1-19 gives an instance of both editing and framing, respectively with the insertion of verses 15-18 and with the addition of verse 1a giving a new, and to this day highly influential, pious slant to an otherwise disturbing tale. Cf. Christo Lombaard, "Isaac Multiplex: Genesis 22 in a New Historical Representation," *HTS Theological Studies* 64/2 (2008): 907-919.

<sup>7</sup> See Eckart Otto, "Der Pentateuch im Jeremiabuch. Überlegungen zur Pentateuchrezeption im Jeremiabuch anhand neuerer Jeremia-Literatur," *Zeitschrift für Altorientalische und Biblische Rechtsgeschichte* 12 (2006): 249-250.

<sup>8</sup> I take over this concept from Robert R. Wilson, *Genealogy and history in the biblical world* (New Haven: Yale University Press, 1977).

<sup>9</sup> Danie Veldsman, "The Impossibility of Speaking about God: Sharing with OT Scholars the Importance of the Phenomenological-Theological Approach of Jean-Luc Marion" (paper presented at the annual Pro Pent conference, Bass Lake, Pretoria, 28-30 August 2010).

<sup>10</sup> Ferdinand E. Deist, *Witnesses to the Old Testament* (Pretoria: NG Kerkboekhandel, 1988).

Within these streams of Bible understanding, the varied emphases on some texts more than on others<sup>11</sup> leads in practice, in each case, to a canon within the canon. Where this is acknowledged forcefully, attempts at curtailing or reconstituting the canon are found, such as that by Marcion<sup>12</sup> in the early church and, closer to home, that of Banana.<sup>13</sup>

At times when this less than written-in-stone nature of the/a canon is pointed out, it is meant to destabilise the authority that the Bible has a book of faith, or faith itself. That is not the intention here.<sup>14</sup> The point is, rather to appreciate again that the Bible is itself no god, supra-historical and non-human. In unquantifiable measures, the Scriptures are at once Holy and earthly. To choose the one descriptive quality above the other in relation to the Bible, which in religious circles would always amount to downplaying the earthly, is to believe in a book that never existed. Much more faithful is to accept the Bible as a text through which, clearly, God has spoken through many ages, from the time of Nehemiah 9 onwards also as a part of an active Bible reading faith,<sup>15</sup> and never in un-human terms.

## 2 Circling spirituality

Such an "unsettled" Bible is not far removed from *spirituality* as a human, and at once holy phenomenon, which itself is a construct that can hardly be captured in words.<sup>16</sup> Important is that spirituality, and the academic study of this phenomenon (called Spirituality,<sup>17</sup> capitalised), is not mainly about an elevated "otherworldliness," or principally a pietistic "innerworldliness," but has mostly

<sup>11</sup> Within Christianity, the New Testament always over the Old; within the Bible, for instance: Paul always over John in the New Testament, and Genesis always over Song of Songs in the Old Testament.

<sup>12</sup> See e.g. Jurie H. Le Roux, "Von Harnack, Marcion en die Ou Testament," *Verbum et Ecclesia* 24/1 (2003): 124-136.

<sup>13</sup> Canaan S. Banana, "The case for a New Bible," in "Rewriting" *the Bible: The Real Issues. Perspectives from within Biblical and Religious Studies in Zimbabwe* (eds. Isabel Mukonyora, James L. Cox and Frans J. Verstraelle; Gweru: Mambo Press, 1993), 17-32.

<sup>14</sup> All such attempts in reality destabilise are their own notions of security around Bible, God and faith; not Bible, God and faith themselves.

<sup>15</sup> See Christo Lombaard, "Biblical Spirituality and Interdisciplinarity" (*paper presented at the conference Claiming Conceptual Space: Reimagining the Study of Religion and Theology: Changing Contexts and Social Discourses*, Huguenot College, Wellington, 6-10 April 2010, 6-8). Too be published in *Religion & Theology*, 2011.

<sup>16</sup> See Christo Lombaard, "Spirituality: Sense and Gist: On Meaning, God and Being," in *The spirit that empowers: perspectives on spirituality* (eds. Pieter de Villiers, Celia Kourie and Christo Lombaard; Bloemfontein: University of the Free State Press, 2008), 94-107.

<sup>17</sup> For an excellent, concise overview of the discipline, see Celia Kourie, "Spirituality and the University," *Verbum et Ecclesia* 30/1 (2009): 148-173.

to do with a wholly immanent "thisworldliness," namely the way/s in which the Divine is experienced and the way/s in which this experience is concretely given expression to (namely in attitudes and acts engaged in, and those declined). It is this concrete sense of being in a relation with an Other ("Wezer," in the leading spirituality scholar Waaijman's deliberately imprecise language<sup>18</sup>) that stands not in contrast to either biblical creation theology or the dominant theory of evolution among the natural sciences, but which is of equal significance to other capacities such as language and technical abilities that have ensured the evolutionary success of species *homo sapiens*.<sup>19</sup> Spirituality thus relates as much to the "big questions" of life<sup>20</sup>—life after death; the existence of God/a god/gods; the meaning of life—as it relates to the ordinary<sup>21</sup> matters of living, including food,<sup>22</sup> sex,<sup>23</sup> politics,<sup>24</sup> sport,<sup>25</sup> wellbeing,<sup>26</sup> *et cetera*.

### 3 Circling Biblical Spirituality

Combining these two aspects, *Biblical Spirituality* thus relates in the developing models of the new discipline,<sup>27</sup> usually, to two aspects: the ideas and acts of

<sup>18</sup> Kees Waaijman, *Spiritualiteit: Vormen, Grondslagen, Patronen* (Gent: Carmelitana, 2000).

<sup>19</sup> J. Wentzel van Huyssteen, *Alone in the World? Human Uniqueness in Science and Theology* (Grand Rapids: William B. Eerdmans Publishing Company, 2006). For a less developed argument, see, John M. Anderson, "Humanity and the sixth extinction of life on earth," in *Secular spirituality as a contextual critique of religion* (eds. Cornel W. du Toit and Cedric P. Mayson; Pretoria: Research Institute for Theology and Religion, University of South Africa, 2006), 25-47, here 38.

<sup>20</sup> Lombaard, "Spirituality: Sense and Gist," 94-96.

<sup>21</sup> This makes entirely possible a "spirituality of the ordinary"—see Celia Kourie, "Towards a Spirituality of the Ordinary" (paper presented a meeting of the *Ecumenical Pastoral Institute in Cape Town* (EPIC), University of Pretoria, 23 March 2001).

<sup>22</sup> Cf. e.g. Martin Versfeld, *Food for Thought: A Philosopher's Cookbook* (3<sup>rd</sup> ed. Cape Town: Double Storey Books, 2004).

<sup>23</sup> Christo Lombaard, "Orgasms and Hallelujahs, or, Christian Spirituality and Sexuality: A Missionary Position," *Missionalia* 37/1 (April 2009): 103-123.

<sup>24</sup> Christo Lombaard, "Translating Human Rights between the Secular and the Spiritual: Two Recent Attempts", in *Discontinuities and Displacements: Studies in Comparative Literature* (ed. Eduardo F. Coutinho; Rio de Janeiro: Aeroplano Editora, 2009), 334-347.

<sup>25</sup> Andreas Merkt, *Fußballgott. Elf Entwürfe* (Köln: Kiepenheuer & Witsch, 2006).

<sup>26</sup> Esmari van de Vyfer, "Spirituality as an Aspect of Wellbeing among a Select Group of Cape Town Christians: A Qualitative Study" (MTh diss., University of South Africa), 2009.

<sup>27</sup> Cf. Sandra Schneiders, "Biblical Foundations of Spirituality," in *Scripture as the Soul of Theology* (ed. Edward J. Mahoney; Collegeville: Liturgical Press, 2005), 1-22, and Christo Lombaard, "What is Biblical Spirituality?—Perspectives from a Minor Genre of Old Testament Scholarship," in *Seeing the Seeker. Explorations in the Dis-*

faith as found in the biblical texts, and the ideas and acts of faith encountered with people in their reaction on/to the Bible. This discipline thus includes historical exegesis of the ancient texts<sup>28</sup> and, broadly, phenomenological analyses of lives of faith in relation to these texts.<sup>29</sup> From the perspective of the philosophy of science, it is not entirely possible to separate these two parts of the discipline of Biblical Spirituality, since

exegesis is, firstly,

- i) interpretatively speaking, a hermeneutical circle in which one's preconceptions on the meaning of the text, contrary to modernist/positivist/objectivist assumptions, do not detract from understanding a text, but in reality enables such understanding,<sup>30</sup> and
- ii) theologically speaking, an interactive process where one finds not only that one understands meaning in/from a biblical text, but also where one finds oneself understood, existentially, by/in the light of that text,<sup>31</sup>

and secondly, the phenomenological analysis indicated above is

- i) as much, on the perspective of the latter-day readers of the text, understanding the reception of the text, and
- ii) as it is, from the perspective of the text, understanding its ongoing effects history (*Wirkungsgeschichte*).

Although the phrase "Biblical Spirituality" may thus, at first glance, seem to involve simply living from the text,<sup>32</sup> it is clear already at these early

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*cipline of Spirituality. Festschrift for Kees Waaijman; Studies in Spirituality Supplement 19* (ed. Hein Blommestijn, Louvain: Peeters, 2008), 139-153. For the methodological difficulties of combining the methodologically exacting exegetical approaches within Old and New Testament Studies with the less developed, broader approaches of Spirituality, see Lombaard, "Biblical Spirituality and Interdisciplinarity," 2010/2011.

<sup>28</sup> Cf. e.g. Christo Lombaard, "Genealogies and Spiritualities in Genesis 4:17-22, 4:25-26, 5:1-32," in *The Spirit that Moves. Orientation and Issues in Spirituality. Acta Theologica Supplementum 8* (eds. Pieter de Villiers, Celia Kourie and Christo Lombaard, Bloemfontein: University of the Free State Press, 2006), 146-164.

<sup>29</sup> Cf. e.g. Christo Lombaard, "Betwixt Text and Nature, God and Evolution. Biblical Reception and Creationism at the Creation Museum in Cultural-anthropological Perspective," *Tydskrif vir Semiotiek/Journal for Semitics* 19/1 (2010): 263-283.

<sup>30</sup> Cf. Jurie H. Le Roux, "No Theory, No Science (or: Abraham is only Known through a Theory)," *Old Testament Essays* 14/3 (2001): 444-457.

<sup>31</sup> See Lombaard, "Biblical Spirituality and interdisciplinarity," 2010/2011, drawing on Rossouw, Hendrik W. *Klaarheid en interpretasie. Enkele probleemhistoriese gesigspunte in verband met die leer van die duidelikheid van die Heilige Skrif* (Amsterdam: Drukkerij en uitgeverij Jacob van Campen N.V. 1963).

stages of the discipline's existence that a highly complex matrix of features are involved, drawing as it does from both the theological and the social-scientific libraries of insights and methodologies.

It is thus entirely fitting, as indicated below, that a concept such as human rights may be studied from within the parameters of Biblical Spirituality, as this discipline takes up in its range of interpretative tools enough of both Religion and the Humanities to be able to make contributions to our understanding of human rights.

#### 4 Circling human rights

Although a formal date may be put to the beginnings of the current *human rights* culture, namely with *The Universal Declaration of Human Rights* by the United Nations in 1948,<sup>33</sup> there were of course substantial developments both towards that point, and from it.<sup>34</sup> The religious dimensions related to the concept of human rights, historically and theoretically, have been most thoroughly worked out in a voluminous work by a Dutch and two South African colleagues, titled *Is there a God of human rights? The complex relationship between human rights and religion*.<sup>35</sup>

Suffice it to summarise for purposes of the argument below that human rights, given that its most pronounced modern impetus had been the events that transpired prior to and during World War II, centre around *human dignity*,<sup>36</sup> which may be divided into two (broadly conceived) constituent parts: freedom of choice and protection against the state. Both of these aspects find their context of origination in pre-modern world capitals. Whereas freedom of choice finds its home in ancient Athens, protection of the citizenry against an all-powerful state has its birthplace in the Jerusalem of antiquity. This leads me therefore directly towards our theme of human rights and the Bible, more particularly, the Old Testament, during the very early stages of the development of both.

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<sup>32</sup> See the criticism in Lombaard, "What is Biblical Spirituality?", 145-147 of this kind of approach in the special Biblical Spirituality edition of *The Southern Baptist Journal of Theology* 10/4 (Winter 2006).

<sup>33</sup> *The Universal Declaration of Human Rights*, <http://www.un.org/en/documents/udhr/index.shtml> [last visited on 20 September 2010].

<sup>34</sup> Cf. e.g. Samuel Moyn, *The Last Utopia: Human Rights in History* (Cambridge, Mass.: Harvard University Press, 2010); Carole R. Fontaine, *With Eyes of Flesh: The Bible, Gender and Human Rights* (Sheffield: Sheffield Phoenix Press, 2008), 9.

<sup>35</sup> Hans A. van der Ven, Jaco S. Dreyer, and Hennie J. C. Pieterse, *Is There a God of Human Rights? The Complex Relationship between Human Rights and Religion: A South African Case* (Leiden: Brill, 2004). See also Van der Ven, Hans, *Human rights or religious rules?* (Leiden: Brill, 2010).

<sup>36</sup> Cf. Fontaine, *With Eyes of Flesh*.

First, though, I return briefly to the opening statement of this essay: "Not the Bible, not spirituality, and not the church ... have unambiguous reputations when it comes to human rights."

## **B NOT THE BIBLE, NOT SPIRITUALITY, AND NOT THE CHURCH?**

Human rights, it was pointed out above, were borne most evidently mid-20<sup>th</sup> century, from a period of intense human wrongs. Naturally, "human wrongs" have been with humanity as long as we have existed. For many of these wrongs, religion has been blamed, to the point that it has, for many, become something of a socially correct point to make in informal discussions. Such superficial evaluations however conveniently forget, for instance, that the greatest human atrocities known from human history were committed within the formally atheist USSR during the previous century; that the very best movements in human history (such as the abolishment of slavery – a project still underway) were fought both for and against from the Bible; and that the very worst movements in human history (the previous century had more than enough such isms...) were fought both against and for from the very same Bible.

The last two statements may be applied just as much to the church too. *Ditto*, spirituality, with its complex composition of individual and societal spheres, theology and culture, history and contemporary developments, along with a host of other sources that place spirituality always in some relation—in some respects, appreciative; in others, critical—to the context within which it is found.

The conclusion cannot be escaped: faith, institutional or not, and non-faith, have historically been poor predictors of attitudes and actions in the midst of matters in serious dispute.<sup>37</sup> Believing or not is no guarantee of moral rectitude or of unethical conduct, of saintliness or of depravity. Religious observers waver on the very issue of human rights itself, dithering on a continuum between aversion and zealous support,<sup>38</sup> as do non-religious people. The Bible is brought to bear on both sides of many an issue,<sup>39</sup> and by equally poor exegetical means.<sup>40</sup> The views of the worth of humanity in the broad cultures of

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<sup>37</sup> Perhaps the clearest example of this at present is the homosexuality debate in the church.

<sup>38</sup> Christopher J. H. Wright, *Walking in the Ways of the Lord: The Ethical Authority of the Old Testament* (Leicester: Apollos, 1995), 246.

<sup>39</sup> Cf. e.g. Jurie H. Le Roux, *Whose Side is God on?/Aan Wie se Kant is God?* (Pretoria: CB Powell-Bybelsentrum, Unisa, 1992).

<sup>40</sup> Christo Lombaard, "The Bible in the Apartheid Debate," in *1948 + 50 Years: Theology, Apartheid and Church: Past, Present and Future* (eds. Johannes W. Hof-

antiquity that gave birth to the three Religions of the Book stand at odds with the complete equality attached to the concept of human rights that has developed in the modern Western(ised) world.<sup>41</sup> Not the Bible, not spirituality, and not the church are one-sidedly the champion of human value, or the enemy thereof. All three of these are—with apologies to Nietzsche<sup>42</sup>—human, all too human, for us to hold only angelic expectations of them.

Still, such humility should not be equated with despair. The worth that the very beginnings of the Pentateuch, for instance, has for the modern human rights culture lies much beyond what is often recognised, and would certainly have been unimaginable to the small handful of scribes some 27 centuries ago, when they had the task to convey in Jerusalem the imperial laws from Assur. This task they set about in a very specific way, which has a profound yet poorly recognised impact on the way in which understand our rights are understood today. Such is the history of ideas...

## C THE CONTRIBUTION OF ECKART OTTO

Apart from being a leading theorist on the historical composition of the Pentateuch (and the only one ever to have conceived of two Pentateuch theories<sup>43</sup>—one modern in the usual scholarly sense of a Pentateuch theory,<sup>44</sup> the other a complementary reconstruction of the Pentateuch's own understanding of its composition<sup>45</sup>), and a specialist on the Sociology of Religion of Max Weber,<sup>46</sup> the Munich<sup>47</sup> Old Testament scholar Eckart Otto has also made a highly impor-

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meyr, Christo J. S. Lombaard and P. J. Maritz, Pretoria: IMER/Institute for Missiological and Ecumenical Research, University of Pretoria, 2001), 69-87.

<sup>41</sup> Fontaine, *With Eyes of Flesh*, 15-26.

<sup>42</sup> Friedrich W. Nietzsche, *Human, All too Human: A Book for Free Spirits* (Lincoln: University of Nebraska Press, 1984).

<sup>43</sup> Cf. Christo Lombaard, "Of Serpents, Reeds, Understanding, and Turns: Some Perspectives on Implied Apologetics and Pentateuch Theory," *Studia Historiae Ecclesiasticae* XXXIII/1 (May 2007), 351-365.

<sup>44</sup> Eckart Otto, *Das Deuteronomium im Pentateuch und Hexateuch. Studien zur Literaturgeschichte von Pentateuch und Hexateuch im Lichte des Deuteronomiumrahmens* (Tübingen: J.C.B. Mohr (Paul Siebeck), 2000).

<sup>45</sup> Eckart Otto, "A Hidden Truth behind the Text or the Truth of the Text: At a Turning Point of Biblical Scholarship two Hundred Years after De Wette's *Dissertatio Critico-Exegetica*," in *South African Perspectives on the Pentateuch between Synchrony and Diachrony* (eds. Jurie le Roux and Eckart Otto; New York: T&T Clark International, 2007), 19-28.

<sup>46</sup> Eckart Otto, *Weber, Max: Die Wirtschaftsethik der Weltreligionen. Das Antike Judentum. Schriften und Reden 1911-1920. Max Weber-Gesamtausgabe, Band I/21,1 & 2.* (Tübingen: Mohr Siebeck, 2005).

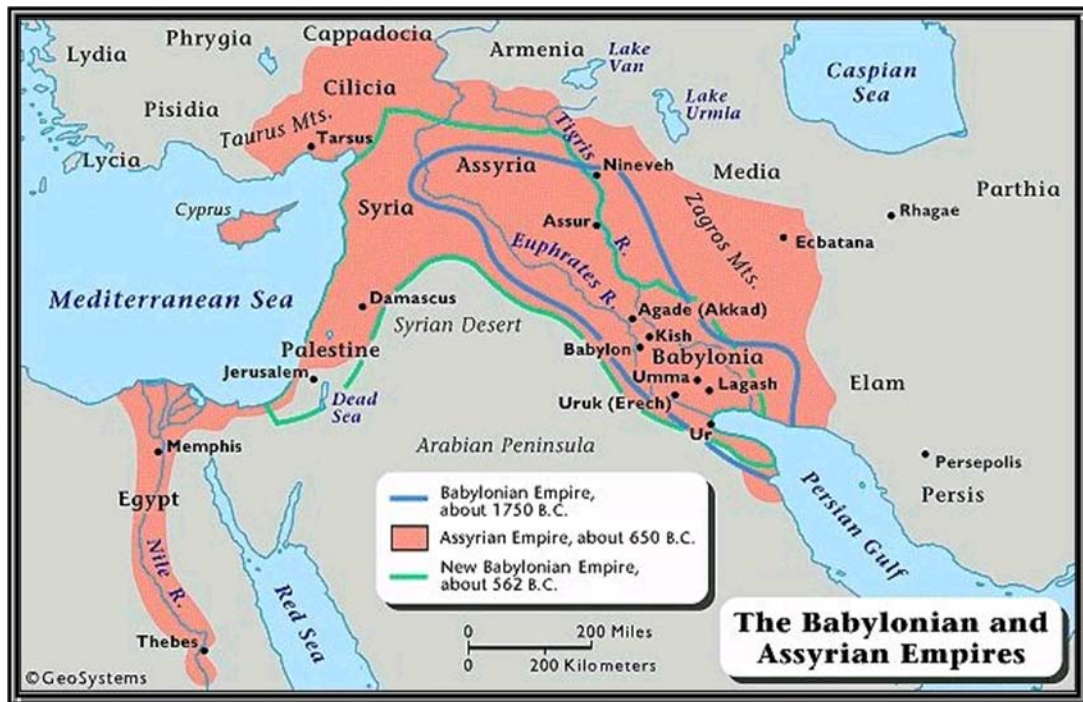
<sup>47</sup> He has for the past years also been an honorary professor of Theology at the University of Pretoria.



tant contribution to the theme here by detecting in antiquity one of the first moves towards what is now known as human rights.<sup>48</sup>

Whereas the Western(ised) world gets its philosophy from the ancient Greeks, and its laws from the ancient Romans, some of the fundamental impulses in our broader society spring from the Ancient Near East. The latter remains true for English law, for instance, too, which stems from a different legal tradition.<sup>49</sup> The seventh century B.C.E. Palestinian society was namely under firm control of the neo-Assyrian empire, which had an interest in the region because of the trade routes that ran through it. After the fall and destruction in of the of the Northern Kingdom by the brute force of Assur, in 722 B.C.E., the small Southern Kingdom, Juda,<sup>50</sup> had little chance of independence from such a dominant power.

The stretch of that neo-Assyrian empire can be seen here:



*The neo-Assyrian Empire, 650 B.C.E., is indicated in the darker shade.*<sup>51</sup>

<sup>48</sup> The following is a summary of Otto's contribution in e.g. Eckart Otto, *Gottes Recht als Menschenrecht. Rechts- und literaturhistorische Studien zum Deuteronomium*. Beihefte zur Zeitschrift für altorientalische und biblische Rechtsgeschichte, Band 2 (Wiesbaden: Harrassowitz Verlag, 2002).

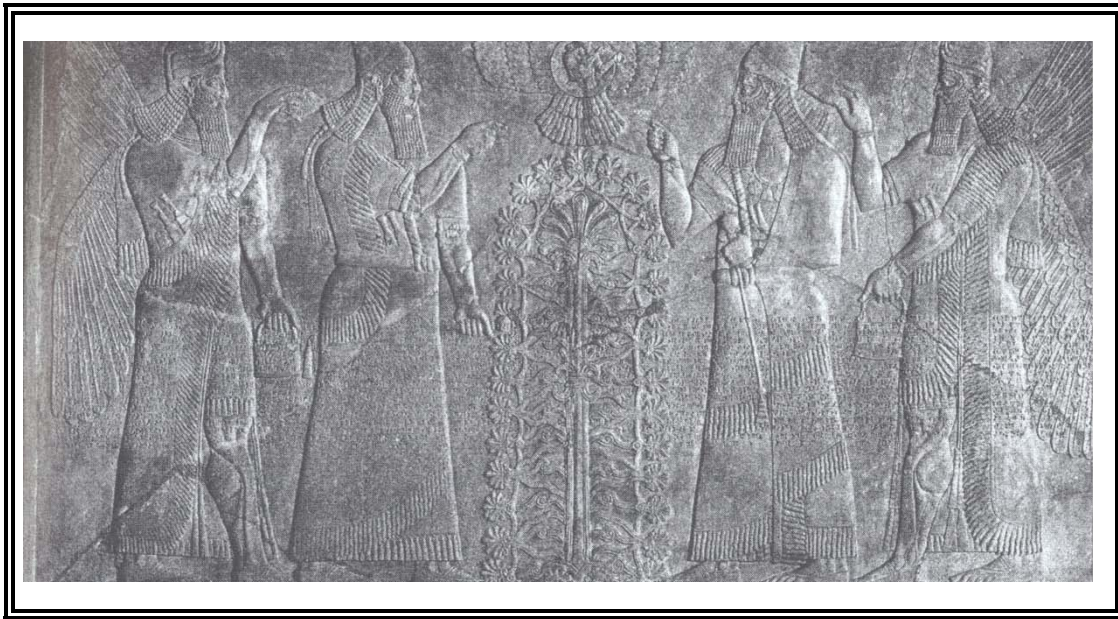
<sup>49</sup> Fontaine, *With Eyes of Flesh*, 9-11.

<sup>50</sup> Cf. e.g. James M. Miller and John H. Hayes, *A history of ancient Israel and Judah* (Philadelphia: The Westminster Press, 1986), 340-376.

<sup>51</sup> Assyrian International News Agency, [www.aina.org/maps/historic/650bc.htm](http://www.aina.org/maps/historic/650bc.htm) [Last viewed 10 Sept. 2010]. Published with permission.

The neo-Assyrian policy was to allow relative freedom to outlying parts of the empire, as long as they remained politically and economically compliant to central dictates. This policy allowed religious and cultural activity to flourish in for instance Jerusalem.<sup>52</sup> The laws of the imperial authorities had to be kept to, but could be received in own context. It is precisely at this point that a small group of Jerusalem intellectuals encribed the received Assyrian legal material in such a way that it would in fact subvert the power of the Assyrian empire, and from then on, up to our time, of the state as such over against the citizenry.

In the regional powers surrounding Juda, the royal ideologies included that the king indeed became divine (Egypt), or was the direct representative of the divinity on earth (Mesopotamia). The latter was taken to the point that, when the king was depicted in art works, he is at times placed only just in front of the god, and but for some accoutrements, king and god are identical,<sup>53</sup> so that the ruler indeed becomes the image, the likeness (Genesis 1:26) of the deity:<sup>54</sup>



Within this royal ideology of an intimate, exclusive connection between king and god, any uprising against a ruler is immediately equated with revolt

<sup>52</sup> For descriptions of the broadly enabling neo-Assyrian non-interference policy on regional Palestinian affairs, cf. e.g. Coenraad L. van W. Scheepers, "The Effect of the Neo-Assyrian Non-interference Policy on the Southern Levant: An Archaeological Investigation," *Old Testament Essays* 23/2 (2010), 350-366 and Simo Parpola, "National and Ethnic Identity in the Neo-Assyrian Empire and Assyrian Identity in Post-empire Times," *Journal of Assyrian Academic Studies* 18/2 (2004), 5-22.

<sup>53</sup> Cf. John Barton and Julia Bowden, *The Original Story: God, Israel and the World* (London: Darton, Longman & Todd, 2004), 63.

<sup>54</sup> Photograph from Barton and Bowden, *The Original Story*, 63. Published with permission.

against the gods, so that the stability of the whole of creation and history, thus of existence, comes under threat. To prevent such an occurrence, the king has to have the power over the life and death of his subjects, in order to preserve the universal order of life, according to their conception of it. It is thus the moral duty of the ruler of Assyria to destroy, for the sake of all, the few who rebel (such as Israel had done, in the events leading up to 722 B.C.E.). Ordinary humans are not in such a direct relationship with the divine: they are merely, and precisely, *subject/s to* the intimate duo of king-and-god:

Theirs not to make reply,  
Theirs not to reason why,  
Theirs but to do & die

—to misappropriate for a moment three lines from the Alfred, Lord Tennyson poem "The Charge of the Light Brigade."

This fatalistic view of life (from the point of view of the ordinary citizen) is received radically differently within the Old Testament, in Genesis 1:26a & 27 (literally translated):<sup>55</sup>

<sup>26</sup> And He said, God, let Us make man, in Our image, in Our likeness...

<sup>27</sup> And He created, God, man in His image; in the image of God He created him; man and woman He created them.

A free translation reads as follows:

<sup>26</sup> God considered: "Let Me make a man, in the image of a god, in the likeness of a god"...

<sup>27</sup> And God created the man in His image; in the image of a god He created him; man and woman He created them.

In a very positive anthropology,<sup>56</sup> the relationship between the divine and humanity is in these verses no longer conceived of as being mediated via the political authority, the king, who requires absolute power to preserve the order of creation. The rhetorical, theological and anthropological move made by the priestly writers here, is to place humanity in a direct relationship with God—a move which is wholly subversive, in a political sense.<sup>57</sup> With the privileged position of the ruler *vis-à-vis* the divine in these two verses removed, and

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<sup>55</sup> These translations are taken over from Lombaard, "Translating human rights," 334-347.

<sup>56</sup> Cf. John Barton, John. *Understanding Old Testament Ethics: Approaches and Explorations* (Louisville: Westminster John Knox Press, 2003), 169.

<sup>57</sup> It should not be lost sight of, though, that here it is the Priestly writer at the same time with this formulation removing a possible source of legitimacy for the royal ideology within post-exilic Juda, which was experiencing a rising popular tide of Davidic/Zion theology.

placed with the citizenry, the altered focus of divine attention has the direct implication that the ruler now has to exercise special care, rather than assertive power, towards the ruled. This entails on the side of the citizenry, as the idea later found expression in the language of the New Testament (in Acts 5:29), that God ought first to be obeyed, and then people; on the side of the rulers this, in modern parlance, calls for servant leadership.

Although earlier research had already developed a feeling for the connection between the worth of humans as they relate to ruler and divinity, this more democratic sense<sup>58</sup> was to come only with the insights of Otto. This realisation of the politically subversive nature of these verses means that we can no longer speak in the same way from Genesis 1:26-27 about the nature of humanity in essentialist terms (as is the case in much of Western Christianity's Dogmatics), or in the same manner about humanity's inherent freedom (as is the case in liberation theologies<sup>59</sup>—although this does come closest of the modern popular ideas to the original sense), or about humanity's dual natures (animal or holy).<sup>60</sup> Genesis 1:26-27 has now attained a new interpretative status: a demonstration of early religious subversion of authority to the benefit of humanity, and a key towards the continuation of that influence.

Coming from quite a different school of thought on the relationship between ancient text and ancient world, Ska<sup>61</sup> nevertheless finds good grounds for supporting the trajectory of Otto's thoughts:

To be sure, it is not possible to find something similar to modern democracy in the Bible. Free elections, parliament, constitutional law, separation of legislative, executive and juridical functions within a "state," and the very notion of "state" are foreign to ancient Israel. But we can find in the Bible something like "principles" of democracy...—and this is important: "...if we take the word *principle* in its etymological meaning (from the Latin word *principium*, "beginning," "foundation," "origin," "first constituent"). In other words, the Bible contains "seminal ideas" that later developed and became constitutive of Western democracy."<sup>62</sup>

<sup>58</sup> As expressed by Barton and Bowden, *The Original Story*, 64.

<sup>59</sup> Mark Engler, "Toward the 'Rights of the Poor': Human Rights in Liberation Theology," *The Journal of Religious Ethics* 28/3 (2000), 339-365 gives an interesting overview of the phases of acceptance of human rights language within liberation theology.

<sup>60</sup> E.g. Wright, *Walking in the Ways of the Lord*, 247.

<sup>61</sup> Jean L. Ska, "Biblical Law and the Origins of Democracy," in *The Ten Commandments: The Reciprocity of Faithfulness* (ed. William P. Brown, Louisville: Westminster John Knox Press, 2004), 146.

<sup>62</sup> On how this process plays out, see Eckart Otto, "'Wer wenig im Leben hat, soll viel im Recht haben': Die kulturhistorische Bedeutung der Hebräischen Bibel für eine

Among the prime problems with the interpretation of Genesis 1:26-27 is not only that modern understanding often wants to load too many current ideas onto these few ancient words, but also that these synonyms—"image" and "likeness"—are noticeably absent in their meaning here from the rest of the Old Testament. The Old Testament itself makes nothing more of this terminology. Apart from the warning this sounds, not to overload these verses with great modern expectations, also for Otto's interpretation to be successful, further instances of such subversive reception of neo-Assyrian legislation will have to be proven. He finds that in one of the most violent texts of the Old Testament (which will be used as the second and last instance from his work)—Deuteronomy 13:2-10:<sup>63</sup>

<sup>2</sup> If a prophet or a dreamer of dreams arises among you...

<sup>3</sup> [saying:]... "Let us follow other gods ... and serve them,"

<sup>4</sup> you must not listen to that prophet's words or to that dreamer's dreams...

<sup>6</sup> That prophet or that dreamer of dreams must be put to death, since he has preached apostasy from Yahweh your God ...

<sup>7</sup> If your brother, the son of your father or of your mother, or your son or daughter, or the spouse whom you embrace, or your most intimate friend, tries secretly to seduce you, saying, "Let us go and serve other gods,"...

<sup>9</sup> you must not consent, you must not listen to him; you must show him no pity, you must not spare him or conceal his guilt.

<sup>10</sup> No, you must kill him...

This is not a text any modern sense of religious tolerance could easily relate to. However, if one compares this ancient text to the Assyrian loyalty oath dating from roughly 680 B.C.E. it had been based on,<sup>64</sup> which included frequent word for word translations, again the politically subversive reception of neo-Assyrian royal ideology becomes apparent here. Namely: not to the king, the verse states in its ancient context, nor to the king's patron deity, as was the case in Mesopotamian royal ideology, but *to YHWH* the royal loyalty oath is due. Again here, as was the case in Genesis 1:26-27, the direct bond between God and citizen is established—a radical political concept for its times, subversive of the idea of an

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moderne Sozialethik," in *Recht und Ethik im Alten Testament*. Altes Testament und Moderne 13 (eds. Bernard M. Levinson and Eckart Otto, Münster: LIT Verlag, 2004), 181-188 and Eckart Otto, "Gerechtigkeit in der orientalischen und okzidentalen Antike: Aspekte für den ethischen Diskurs in der Moderne im Spannungsfeld zwischen Max Weber und Ernst Troeltsch," in *Die Aktualität der Antike: das ethische Gedächtnis des Abendlandes* (ed. Christoph Gestrinch, Berlin: Wichern, 2002), 44–60.

<sup>63</sup> New Jerusalem Bible translation, here edited according to Eckart Otto, "Gerechtigkeit in der orientalischen und okzidentalen Antike," 175.

<sup>64</sup> Cf. Simo Parpola and Kazuko Watanabe, *Neo-Assyrian Treaties and Loyalty Oaths*. State Archives of Assyria II (Helsinki: University of Helsinki Press, 1988), 33-34.

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absolute monarch, albeit in language difficult to accept for modern readers<sup>65</sup> uninformed about such ancient-contextual rhetorics, with all the theological, anthropological, and political implications carried within it.

This impulse that is found, from both these Pentateuch texts, have the implication—in modern language—that the authority of state regarding unrestricted actions taken against its citizens is delegitimised. God is not on the side of the ruler, who can do no wrong. In the recreated universe of the Pentateuch scribes, subverted from that of the neo-Assyrian colonial masters, political authorities no longer rule for the sake of rule, or for the sake of the divine, or for the sake of power. The state has been desacralised; the separation of church and state, of which we have a few current models in our time, has for the first time been effected. The individual or group is now, as a matter of foundational principle, not at the mercy of government, because the ruler's powers have been curtailed. Inherent to the created universe of the Pentateuch scribes is that the citizenry is protected against the powers of state.

This is the one constituent part of the human rights culture at present: the Jerusalem impulse, namely of the protection of citizens against the state (no matter whether that state understands itself as legitimated by popular vote or by divine appointment). The other constituent part of our human rights culture, the Athens impulse, entails the right to choose political leadership, along with all the other freedoms implied with that. Together, these two parts form the impulses from antiquity that still inform fundamentally our modern concepts of what human rights consist of. The long cultural-historical routes these influences have travelled in order to form our understanding of the good and just life, are historically traceable, namely through the institutions and literatures of our broad cultural stream. The point for our theme here has however been made: "Die Hebräische Bible ist in der Moderne wirksam weit jenseits noch der engen Kirchenmauern."<sup>66</sup>

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<sup>65</sup> As Schneiders, "Biblical foundations of Spirituality," 20-21 summarises the problems: "The Bible's glorification of war, the permission of genocide, the degradation of women, mass murder of enemies, expendability of children, racism, anti-Semitism, and 'divinely sanctioned' capital punishment are some of the issues in the Bible that are problematic today." This certainly makes many forms of personal engagement with the Bible difficult—cf. Peter Zimmerling, *Evangelische Spiritualität: Wurzeln und Zugänge* (Göttingen: Vandenhoeck & Ruprecht, 2003), 208-211.

<sup>66</sup> Otto, "'Wer wenig im Leben hat,'" 183.

## **D TWO NEW EXAMPLES TO PONDER**

The human world will never be without difficult issues to resolve around people, politics and religion. This intersection will remain busy.<sup>67</sup> The challenge, of course, is to find for a time a workable solution within which, according to contemporary wisdom, people may be treated with dignity, while the state executes its duties. In seeking such equilibrium, faith often remains a sustenance to the former and, in our times, a bother for the latter.<sup>68</sup>

Two recent developments challenge one to apply one's mind, drawing on the argumentation above. The two developments are the case of religion as a secular matter, which comes from Canada, and a case from France, namely the wearing of Muslim headscarves. Each of these two cases are simply outlined below, very briefly, in order to stimulate thought, rather than to give answers.

### **1 Religion is secular?**

In an important recent article, Benson<sup>69</sup> argues that the dominant modern-Western understanding of "secular" as "non-religious" serves only one kind of liberal thinking, which seeks to converge different views into one. In the background of this approach lies fear of religion as a source of violence in society, so that neutrality as solution is then understood as the state, for instance, taking its leave of all matters religious. Liberalism and neutrality thus imply non-religion. Rather, however, and drawing on British Columbia (Canada) Court of Appeal and South African Constitutional Court pronouncements, a fuller freedom could, better, be said to include religion too, so that the non-religious is no longer privileged as being, somehow, more free. This approach renders a kind of liberalism that allows for plurality, which also includes religion. The term "secular" thus comes to refer to religion too, inclusively; "liberalism" thus comes to be understood, more fully, as pluralism.

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<sup>67</sup> Difficult, for instance, is to balance the acknowledgement of the Europe-centredness of the dominant Human Rights discourse of our time with an acceptance of the relativity implied by cultural contextualisation, which may however include honour killings, which immediately elicits a sense in favour of absolute rights—cf. Fontaine, *With Eyes of Flesh*, 11-13.

<sup>68</sup> For a plea for the continuation of subversive politics as indicated above, see Christo Lombaard, "Wie behoort die gespreksgenote te wees van Ou Testament Etiek as 'n onderafdeling van die Ou-Testamentiese Wetenskap?" *LitNet Akademies* Jaargang 8/1 (Maart 2011), [www.litnet.co.za/cgi-bin/giga.cgi?cmd=cause\\_dir\\_news\\_item&cause\\_id=1270&news\\_id=99939&cat\\_id=1905](http://www.litnet.co.za/cgi-bin/giga.cgi?cmd=cause_dir_news_item&cause_id=1270&news_id=99939&cat_id=1905).

<sup>69</sup> Iain T. Benson, "The Case for Religious Inclusivism and the Judicial Recognition of Religious Associational Rights: A Response to Lenta," *Constitutional Court Review* 2008/1, 297-312.

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These underlying ideas are, on the local scene, taken up in the *South African Charter of Religious Rights and Freedoms*<sup>70</sup> recently accepted by representatives of most religious orientations during an official signing ceremony at the University of Johannesburg.

This is a first current matter that could be considered in the light of the above-discussed impulse from the Jerusalem of antiquity, namely whether this charter will, amongst other concerns, also further the protection of the citizenry from the coalition of powers of state-and-religion (or, as it may be, state-and-non-religion).

## 2 Hat trick?

A second matter, which is referred to by Benson too, is the French understanding of public society, which ought in French political conceptualisation to be religionless in order to promote freedom and harmony. This matter has reached a particular and controversial focal point around the tradition of Muslim women to wear headscarves that cover all or most of their faces, and to do so in public. For the French conception of public space as religionless, such habits are *anathema*. In a highly influential local blog, however, the Stellenbosch theologian Gerrit Brand<sup>71</sup> has described a ban on the wearing of such scarves, based on the French concept of *laïcité*, as an infringement of the wearer's religious rights, and thus as no less than a human rights abuse.

If the above-discussed ancient impulse on the protection of the citizenry from the state is taken as a criterion, then – irrespective of whether that state is democratically elected, and believes itself to be fully just in executing such a headscarf ban—is it at all possible to disagree with that valuation by Brand?

## E CONCLUSION

Once the way the faith of the Pentateuch authors had been construed is realised, namely in their subversive interpretation of the imperial laws of the time, in favour of humanity being not the subject of the state's whim, but an object over against the state, with inherent dignity which requires respect, the possibilities of advancing such freedom are surprising. This is particularly the case on matters religious, of which our time is seeing interesting developments. Based on the assumption underlying all of Otto's work referred to above, namely that there is nothing more powerful than an idea, the challenge remains to take the present idea further, to seek its possibilities in promoting greater freedom, and

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<sup>70</sup> *South African Charter of Religious Rights and Freedoms*. Edited by Pieter Coertzen. Johannesburg: Continuation Committee, *South African Charter of Religious Rights and Freedoms*, 2010.

<sup>71</sup> Gerrit Brand, "'n Menseregteskending ontsluit." *DinkNet*-blog: <http://blogs.litnet.co.za/gerritbrand/frankryk-se-menseregteskending-ontsluier> [Last viewed on 20 Sept 2010], 2010.



in finding its boundaries—socially, politically, religiously, in philosophy, and in law—with respect to our human rights. This too is part of the unfathomable (id)entity of Bible-spirituality-church...

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