

NATURE AND RIGHTS:  
THE MEANING OF A UNIVERSAL AGREEMENT ON HUMAN RIGHTS

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In 1948, the Universal Declaration of Human Rights (UDHR) was proclaimed by the General Assembly of the United Nations.<sup>1</sup> Jacques Maritain played a role in the writing of this declaration, which he believed to be a worthwhile endeavor and a significant achievement in international relations.<sup>2</sup> A few years after the proclamation of the UDHR, Maritain reflected:

How is an agreement conceivable among men assembled for the purpose of jointly accomplishing a task dealing with the future of the mind, who come from the four corners of the earth and who belong not only to different cultures and civilizations, but to different spiritual families and antagonistic schools of thought? Since the aim of UNESCO [United Nations Educational, Scientific and Cultural Organization] is a practical aim, agreement among its members can be spontaneously achieved, not on common speculative notions, but on common practical notions, not on the affirmation of the same conception of the world, man, and knowledge, but on the affirmation of the same set of convictions concerning action. This is doubtless very little, it is the last refuge of intellectual agreement among men. It is, however, enough to undertake a great work; and it would mean a great deal to become aware of this body of common practical convictions.<sup>3</sup>

The signers of the UDHR came from “extremely different, or even basically opposed, theoretical conceptions,” but were nonetheless able

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<sup>1</sup> United Nations General Assembly, 183rd session. “Resolution 217 (1948) Universal Declaration of Human Rights” (A/RES/183/217). 10 December 1948. Available online: <http://www.un.org/en/documents/udhr>.

<sup>2</sup> Jacques Maritain, *Man and the State* (Chicago: University of Chicago Press, 1951), 77.

<sup>3</sup> *Ibid.*, 77-78.

to agree to a description of universal rights far more extensive than the eighteenth-century Declaration of the Rights of Man.<sup>4</sup> Maritain says that this agreement was possible because the representatives were agreeing on practical conclusions about morality, and not on a philosophical or religious justification for those conclusions.

In this essay, I address a philosophical concern about the notion of universal human rights, relying in part on a critique made by Alasdair MacIntyre. I argue that a list of rights such as those found in the UDHR is not a list of practical conclusions, as Maritain supposes, but of abstract principles. This agreement on abstract principles, however, obscures fundamental disagreements about human nature. Without foundational agreement about human nature, abstract principles cannot sufficiently guide practice, as MacIntyre argues, and are open to both reinterpretation and outright rejection.

#### I. HUMAN RIGHTS AND PRACTICAL CONCLUSIONS

In his study of the “origins, drafting, and intent” of the UDHR, Johannes Morsink notes that “[w]hen the United Nations was founded in San Francisco in 1945 there was tremendous pressure on the delegates to that founding conference to include an international bill of rights in the Charter of the United Nations. The national and international pressure for such a bill had been steadily building throughout World War II.”<sup>5</sup> Although bills of rights were proposed to the UN in 1945 by individual nations and non-governmental organizations, none made it into the Charter, which does, however, show the founders’ intent to pursue the subject. For instance, Article 13 of the Charter calls for “studies for the purpose of ... assisting in the realization of human rights...”<sup>6</sup> In 1946, UNESCO appointed a committee to investigate the possibility of a universal statement of human rights. Jacques Maritain was a vocal member of this international committee.<sup>7</sup> In 1947, the Economic and Social Council of the UN established a commission on human rights, which was to draft an international bill

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<sup>4</sup> Ibid., 76.

<sup>5</sup> Johannes Morsink, *The Universal Declaration of Human Rights: Origins, Drafting, and Intent* (Philadelphia: University of Pennsylvania Press, 1999), 1.

<sup>6</sup> Quoted in Morsink, 3. Morsink finds seven explicit references to human rights in the Charter (Articles 1, 13, 55, 62, 68, 73, and 76).

<sup>7</sup> Mary Ann Glendon, “Reflections on the UDHR,” *First Things* 82 (April 1998): 23.

of rights. The commission assigned to three of its members the task of writing the draft: Chairman Eleanor Roosevelt, Vice-Chairman Peng-chun Chang of China, and Rapporteur Charles Habib Malik of Lebanon. The first and only meeting of this group of three occurred on February 17, 1947. John P. Humphrey, the Director of the UN Division on Human Rights, also attended the meeting, and was asked to compose the draft. Humphrey's draft, completed in mid-March, 1947, became the first draft of the Declaration (E/CN.4/AC.1/3/June 4, 1947).<sup>8</sup> In April, 1947, in response to the dissatisfaction of UN delegates from the USSR and other nations to the drafting of the document by "a small group of experts" (AC.1/2/p.2), the Drafting Committee was expanded to eight members, appointed by Mrs. Roosevelt. This committee met twice, and after each meeting, the revised and annotated document was submitted to the Commission on Human Rights for review, before it went to the Third Committee of the General Assembly (the Social and Humanitarian Committee) in September, 1948, and finally to the Plenary Session of the General Assembly in December, 1948. The UDHR was adopted by the Third General Assembly on December 10, 1948.<sup>9</sup>

Maritain describes the agreement embodied in the UDHR as an agreement on certain practical conclusions about morality. He says that the declaration shows "it is possible to establish a common formulation of such practical conclusions, or in other words, of the various rights possessed by man in his personal and social existence."<sup>10</sup> The first question I wish to pose to Maritain's position on universal rights is whether these rights are in fact practical conclusions. Why is this significant? The advantage of practical conclusions, according to Maritain, is that they can elicit agreement from parties with different philosophical perspectives. Persons may arrive at the same practical conclusions from very different premises, making these conclusions metaphysically neutral. If, on the other hand, rights are not practical conclusions, but theoretical judgments, then they are not metaphysically neutral.

I take Maritain's "practical conclusions" to be equivalent to Thomas Aquinas's "proper conclusions of the practical reason," which he

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<sup>8</sup> Morsink, *The Universal Declaration of Human Rights*, 5.

<sup>9</sup> *Ibid.*, 4-12.

<sup>10</sup> Maritain, *Man and the State*, 76.

discusses in his treatise on law.<sup>11</sup> In the speculative reason, conclusions follow from propositions. Thomas suggests that practical reason also uses syllogisms, with universal practical propositions leading to practical conclusions:

And since also the practical reason makes use of a syllogism in respect of the work to be done ... hence we find in the practical reason something that holds the same position in regard to operations, as, in the speculative intellect, the proposition holds in regard to conclusions. Such like universal propositions of the practical intellect that are directed to actions have the nature of law.<sup>12</sup>

Universal practical propositions are moral laws, the most general of which is that good is to be done and pursued and evil avoided, and practical conclusions are conclusions about something to be done. A conclusion of practical reason, the endpoint of an exercise in practical reasoning, is the application of a universal practical law to specific situation.

The following example from the *Summa Theologiae* illustrates the relation between a general principle and a practical conclusion.<sup>13</sup> The general principle, "It is right and true for all to act according to reason," is both known by all and applies to all situations. The proper conclusion, "goods entrusted to another should be restored to their owner," follows closely from this principle, but it does not have the same universality as the principle that it is right to act according to reason. There are cases in which the conclusion would be false—that is, in which the operation in question, the restoration of a particular good, would not be right. So, for example, it would not be right to restore weapons to a man who would use them to fight against his country.

The question, then, is whether the universal human rights of the UDHR, such as the right not to be enslaved or tortured, the right to a fair trial, and the right to an education, are conclusions of practical

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<sup>11</sup> See *Summa Theologiae* (ST) I-II, q. 90, a. 1; q. 94, a. 4.

<sup>12</sup> ST I-II, q. 90, a. 1, ad 2. All quotations of the *Summa Theologiae* are taken from St. Thomas Aquinas, *Summa Theologica: Complete English Edition in Five Volumes*, translated by the Fathers of the English Dominican Province (Westminster, Maryland: Christian Classics, 1981).

<sup>13</sup> See ST I-II, q. 94, a. 4, the source of this example.

reason. It is true that the articles of the UDHR deal mostly with things on the level of practical conclusions, rather than on the level of general principles. Yet the rights themselves differ in an important way from the example cited above. Practical conclusions, such as “goods entrusted to another should be restored to their owner,” command (or forbid) specific actions, but are not universally applicable. The more specific the conclusion, the less universally it can be applied.<sup>14</sup> Human rights, on the other hand, do not prescribe specific actions. For example, to claim a right to free speech is not to assert that any particular thing ought to be done, or that any particular thing ought not to be done. Although such practical conclusions may *follow* from a right, the right itself is not a specific conclusion about something to be done or not to be done. Rather, the right is claimed as the ground for making specific conclusions. This is evident in the Preamble to the UDHR, which begins:

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world....

One might cite the right to freedom of speech as grounds for the practical conclusion, “editorials should not be censored,” or the right to a living wage as grounds for the practical conclusion, “the government ought to raise the minimum wage.” Yet the rights are not identical with the conclusions. One who asserts a right to free speech or a right to a living wage does not so much reach a conclusion about what is to be done, as express what he believes to be the foundation for making such conclusions. In fact, the very appeal of universal human rights is in their universality, which is not a feature of practical conclusions, but of general principles, on which practical conclusions are based.

In referring to the UDHR as an agreement on practical conclusions, Maritain may not have meant that the rights themselves were practical conclusions, but only that practical conclusions were what made the agreement possible. That is, the reason so many could agree on those rights was that they had reached practical conclusions from their own philosophical or religious principles, which they believed to be consonant with the rights expressed in the declaration. Yet the

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<sup>14</sup> See ST I-II, q. 94, a. 5.

expression of those conclusions as rights imparts to them (rightly or wrongly) the character of universality. So, for example, instead of saying, “no one shall perform medical experimentation on unwilling subjects,” something Nazi physicians routinely did, the UDHR says, “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”<sup>15</sup> The latter statement could be used more broadly than the former; it could be used to prevent the use of tear gas on crowds of people, the practice of sleep deprivation and other interrogation techniques, or even the spanking of a child. As this example indicates, the broad statement of a right requires more interpretation than the narrower statement of a prohibition. It is a fairly straightforward matter to determine whether a doctor is performing operations on patients against their will. It is much more difficult to determine what exactly constitutes “cruel, inhuman, or degrading treatment or punishment.”

In light of the origin of rights-based theories, it is not surprising to find that human rights do not have the character of practical conclusions. The Enlightenment thinkers who first articulated the “rights of man” meant rights to be abstract universal claims, claims that were evident to anyone reflecting on human nature. In *After Virtue*, Alasdair MacIntyre explains universal rights as one of several Enlightenment attempts to find a purely rational justification for morality.<sup>16</sup> Having rejected traditional philosophical and theological underpinnings, philosophers of the Enlightenment sought a new foundation for the moral precepts they still acknowledged as true. The concept of natural rights has advantages in this respect. It is not derived from divine revelation or by reference to the end or perfection of man. Instead, rights are evident to anyone who rationally reflects on man, and may be affirmed by men of any creed. That, at least, is the hope contained in appeals to “the rights of man” or “universal human rights.”

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<sup>15</sup> UDHR, Article 5.

<sup>16</sup> Alasdair MacIntyre, *After Virtue*, 2nd edition (Notre Dame, Indiana: University of Notre Dame Press, 1951), 50.

## II. UNITY OUT OF DIVERSITY? THE CONNECTION BETWEEN RIGHTS AND HUMAN NATURE

The concept of abstract, universal human rights is an appealing possibility in a pluralistic world. Nations (or individuals) who hold vastly different views of human nature and of reality in general are brought together in agreeing that all have certain rights. They do not seek to explain the origin of these rights, for this would be to delve into those areas where the parties are in deep disagreement. So, it is hoped, human rights are able to create a unity out of the diversity of world-views. Yet human rights, I have argued, are not practical conclusions, but universal claims. So, either the countries who signed the UDHR agreed to a list of groundless universal claims, or they did share a common metaphysical view, of which they were unaware. Maritain takes the latter position. He understands the affirmation of human rights by UN member nations as evidence of a natural law written in the human heart.

Maritain is confident that there is a single correct philosophical foundation for the rights articulated in the declaration. Human rights are grounded in natural law and can only be understood from a philosophical standpoint that accepts natural law. A positivistic or materialistic philosophy cannot establish the existence of human rights, he says, and "logically, the concept of rights can seem only a superstition to these philosophies."<sup>17</sup> A right presupposes an order according to the nature of things, or "what things are in their intelligible type."<sup>18</sup> Therefore, rights can be rationally upheld only if man has a nature. It follows that those who agreed to the declaration of rights from a secular liberal standpoint did not reach their conclusions rationally. Yet Maritain does not think this makes their agreement irrational or arbitrary. For not only the content of the declaration, but the fact of agreement among the participating nations, is explained by natural law.

While Maritain believes that human rights have a definite ontological foundation, he also believes that men who reject that foundation can still know those rights. Rational defense of human rights presupposes metaphysics; simple consensus on human rights

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<sup>17</sup> Maritain, *Man and the State*, 96.

<sup>18</sup> *Ibid.*

does not. Maritain justifies this point by distinguishing between the ontological element of natural law, and the natural law as known. The term “ontological element” refers to the natural law of a being as its “normality of functioning.” It is the natural law of a tree to grow from a seed to a sapling to a fully-developed tree, to take in water and air, and to release oxygen. It is the natural law of man to seek the preservation of his being and the being of the species by eating, working, begetting and raising children, and by acting in accord with reason. In following these natural inclinations, including the inclination to act rationally, man is obeying natural law. This does not, however, imply that he understands its character as law (i.e., as given by a lawgiver). This pertains to the natural law as known.<sup>19</sup>

According to Maritain, the more general precepts of natural law are known, not by reasoning, but by inclination; not through concepts and conceptual judgments, but by a certain connaturality. While the more particular rules of natural law, determined by reason from the basic precepts, vary greatly from culture to culture, the precepts known by inclination are universal.<sup>20</sup> This knowledge by inclination allows Maritain to say that the agreement on human rights was not arbitrary, but was based on a true knowledge of reality. On account of their natural inclinations, men can affirm these rights, even without knowing the philosophical ground of such rights, for human inclinations are prior to the formulation of precepts about human actions. While this type of knowledge is obscure and unsystematic, Maritain says, it is true knowledge. And as St. Thomas says, some kinds of knowledge—the general precepts of the natural law—cannot be abolished from the heart of man.<sup>21</sup> Thus, it is not surprising to find that secular humanists, Communists, and Christians reacted similarly to atrocities perpetrated in Nazi concentration camps. Nor is it surprising

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<sup>19</sup> A different view of natural law can be found in the works of Francisco Suarez, the sixteenth century Jesuit theologian: “Suarez reasoned [that] there must reside in the concept of a moral precept a certain *signum*, or sign, that bespeaks a divine lawgiver” (Russell Hittinger, *The First Grace: Rediscovering the Natural Law in a Post-Christian World* [Wilmington, Delaware: ISI Books, 2003], 52). Suarez thus denies any distinction between the natural law as ontological and the natural law as known.

<sup>20</sup> Maritain, *Man and the State*, 90-93.

<sup>21</sup> ST I-II, q. 94, a. 6.



that the UDHR reflects some of the general precepts of natural law, even if many of its signers did not believe there was a natural law.

Yet, as Thomas tells us, secondary precepts of the natural law, even precepts as basic as those against theft and unnatural vice,<sup>22</sup> can be blotted out from man's heart by evil persuasions, vicious customs, or corrupt habits. Many of the items in the UDHR pertain to secondary precepts, and their presence there suggests a continuing hold on the hearts of men. Yet they are expressed as universal claims, which must then be interpreted and specified. This interpretation includes resolving conflict between various rights. All the rights mentioned are said to belong equally to all, and one of these rights is the right to liberty.<sup>23</sup> In exercising one's right to liberty, one may violate some right of another (to life, security of person, freedom of movement, etc.). Conflict can occur even within the implementation of a single right. For example, Article 26 affirms the right to education, specifically an education that promotes understanding and tolerance among different nations, races, and religious groups. In the same article, we find that parents have "a prior right to choose the kind of education that shall be given to their children." Parents who exercise this right may do so by educating their children in ways that violate the children's right to the kind of education mentioned in the same article.

In order to resolve such conflicts, human rights need somehow to be ordered. Assuming the proponents of these rights do not want them to be interpreted in a purely subjective way—for then they would cease to be useful in guiding human action—they need to refer to some understanding of human nature. I can say in the case of education, for example, that education is the duty of parents, and that children are obliged to obey their parents, and that therefore I have no right to prevent a parent from educating his children in intolerance. Or, on the other hand, if I understand man primarily as an autonomous individual and the family as a purely arbitrary institution, I can say that the parents' right is subordinate to the freedom of the child, for which freedom an education in tolerance is necessary. In examples such as this, our metaphysically neutral human rights begin to break down. If these rights are cut off from any conception of human nature, it is impossible to order them or resolve disputes between them.

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<sup>22</sup> ST I-II, q. 94, a. 6.

<sup>23</sup> ST I-II, q. 94 a. 3.

Alasdair MacIntyre provides insight into this problem in his 1990 address, "The Privatization of the Good." There, MacIntyre says that the right can only be understood in reference to the good, for "rational agreement on moral rules always presupposes rational agreement on the nature of the human good."<sup>24</sup> Human rights are moral rules, in that they are taken as principles to direct human conduct. Human rights, therefore, must be understood in reference to some good. Without a shared rational foundation, an agreement on moral statements, however exalted, is "a consensus of moral platitudes." That is, while on the surface there seems to be agreement, there is no true harmony underlying the words. Such a consensus is insufficient to guide action, for when one moral rule conflicts (or seems to conflict) with another, there is nothing against which the rules can be measured.<sup>25</sup> Agreements about what we are to do, which are agnostic about the human good, essentially seek to privatize the good, for they leave the discussion of what is good for man to individuals, removing it from the public sphere.<sup>26</sup>

### III. PROBLEMS OF INTERPRETATION AND REJECTION

Not only is an agreement on universal rights insufficient to guide action (the problem of implementation), but it is also subject to abuse (the problem of interpretation). Vastly conflicting agendas can be supported by reference to the rights found in the UDHR. For example, Planned Parenthood claims the right to obtain an abortion as a basic human right,<sup>27</sup> while others claim that abortion violates the basic human rights of the unborn. Others simply deny that universal rights exist. For practical examples of this denial, we might look at Joseph Stalin, Benito Mussolini, or Slobodan Milosevic. We will focus rather on

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<sup>24</sup> Alasdair MacIntyre, "The Privatization of the Good," *Review of Politics* 52, no. 3 (1990): 345.

<sup>25</sup> *Ibid.*, 349.

<sup>26</sup> MacIntyre goes further than this in his critique of universal rights and of Maritain's support of this project, arguing that universal rights are in fact moral fictions. See *After Virtue*, 69.

<sup>27</sup> See, for example, "Statement by International Planned Parenthood Federation, Ms. Ingar Brueggemann (EN)," UN General Assembly, Fourth World Conference on Women, 9<sup>th</sup> session (A/CONF.177/9/NGO/1995-09-08): 8 September 1995. Available online: <http://www.un.org/esa/gopherdata/conf/fwcw/conf/ngo/11174337.txt>.

a theoretical denial of universal rights, that found in the work of Friedrich Nietzsche. Nietzsche, in his *Genealogy of Morals*, refers to the “rights of the majority” articulated during the French Revolution as a “lying shibboleth.”<sup>28</sup> In opposition to this fictitious idea of rights, he presents Napoleon as the last great instance of the classical ideal of the noble man, the “terrible yet exhilarating shibboleth of the prerogative of the few.”<sup>29</sup> It was by no means evident to Nietzsche that all men possess certain rights. For him, the rights of man are the rights of the majority: rights asserted by those who lack power, against the few who would use that power against them.

Nietzsche goes on to say that the good of the many, with the corresponding virtues of self-denial, compassion, and self-sacrifice, is in conflict with the good of the few, with the virtues of strength and independence. We have been trained, Nietzsche says, to prefer the “non-egotistical instincts,” but this is a dangerous preference:

It was here, precisely, that I sensed the greatest danger for humanity, its sublimest delusion and temptation—leading it whither? into nothingness? Here I sensed the beginning of the end, stagnation, nostalgic fatigue, a will that had turned against life. I began to understand that the constantly spreading ethics of pity, which had tainted and debilitated even the philosophers, was the most sinister symptom of our sinister European civilization.<sup>30</sup>

For centuries, the intrinsic value of “goodness” has been taken for granted, Nietzsche says. But “what if the ‘good’ man represents not merely a retrogression but even a danger, a temptation, a narcotic drug enabling the present to live at the expense of the future?”<sup>31</sup>

The non-egotistical instincts that Nietzsche finds so repulsive are the same inclinations which in Maritain’s view allowed the UDHR to be written: inclinations of compassion, regard for the weak, and self-sacrifice. Nietzsche provides a powerful illustration of the fact that man, being rational, can question his inclinations. And he has a valid

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<sup>28</sup> Friedrich Nietzsche, *The Birth of Tragedy and The Genealogy of Morals*, translated by Francis Golffing (New York: Doubleday, 1990), 187.

<sup>29</sup> *Ibid.*, 187.

<sup>30</sup> *Ibid.*, 153-54.

<sup>31</sup> *Ibid.*, 155.

point: we seem to have both egotistical and non-egotistical inclinations. When one's egotistical inclination conflicts with one's benevolent inclination, what determines the outcome?

Take, for example, the action of Michael Monsoor, a U.S. Navy SEAL, who died at the age of twenty-five while serving in Iraq. Monsoor threw himself on a live grenade in order to spare the lives of two comrades.<sup>32</sup> If self-sacrifice is indeed an inclination, what determined Monsoor to act on this particular inclination rather than the inclination to self-preservation? If inclinations are all we have to guide our moral decisions, then Nietzsche's attitude is at least coherent. For, if the egotistical inclinations like self-preservation are usually the strongest and the most consistent, why not give them priority? It may be that another man's inclination for self-denial is stronger than his "selfish" instincts, but why should I be obliged to adapt my conduct to another's inclinations? Universal rights, for Nietzsche, are simply a cover for the suppression of the egotistical inclinations of the strong by the weak. There is no doubt that Nietzsche would have found the UDHR particularly repulsive, a capitulation of the European mind to weakness, stagnation, to a life-sapping "ethics of pity," and an attempt to communicate this disease to the entire world.

Nations may refer to agreements like the UDHR as a way of justifying recourse to force. But such agreements fail to save them from the charge that they are simply asserting their will over others by force.<sup>33</sup> Nietzsche's critique stands: the bald assertion of human rights by itself has no power to convince. Appeals to such rights will only resonate with those whose subjective experience supports them.

Even if human rights were to be accepted universally, there would still be the question of how to interpret them. The UDHR has been a

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<sup>32</sup> Monsoor was stationed in Iraq; he was twenty-five years old at the time of his death. President George W. Bush posthumously awarded him the Medal of Honor on April 8, 2008. *Medal of Honor—MA2 Michael A. Monsoor, USN*: <http://www.navy.mil/moh/monsoor>.

<sup>33</sup> That force may be military, but it may also be economic pressure, or the pressure of public shame. On its website, the organization Human Rights Watch cites the policy of "naming and shaming" governments that violate human rights. Unfortunately, embarrassment is an effective tool only when the government in question cares about the opinion of organizations like Human Rights Watch.

reference point for other international agreements on human rights, some of which are binding on the participant nations.<sup>34</sup> One example is the International Covenant on Civil and Political Rights, adopted by the United Nations General Assembly in 1966. Some 161 countries have ratified this covenant. Many of these countries, however, have made important exceptions, by which they absolve themselves from certain aspects of the treaty. Wherever the human rights expressed in the treaty conflict with national law, the latter takes precedence over the former. This need not be an example of Machiavellian diplomacy. The human rights of the declaration cannot stand by themselves. They demand interpretation and qualification. Each nation will interpret those rights according to its own philosophical or religious perspective, which will lead it to value some rights above others. Having agreed to a list of human rights, nations still must interpret those rights, which they do according to their own philosophical, religious, and legal perspectives.

#### IV. CONCLUSION

By describing the UDHR as an agreement on practical conclusions, Maritain seems to avoid endorsing a “consensus of platitudes.” Yet these rights are expressed as universal claims, in spite of disagreement about what would constitute a valid universal claim. Of course, Maritain does not think that human rights could or ought to function independently, and he acknowledges that agreement on a “set of convictions concerning action” is less satisfactory than agreement on “common speculative notions.”<sup>35</sup> Yet, although the former is “very little,” he thought it enough to begin a great and necessary work, the work of international unity.<sup>36</sup> Perhaps in finding that one’s inclinations were in agreement with the inclinations of others, one might be drawn to seek a common foundation for those inclinations. This seems to be Maritain’s hope, but we may rightly question whether, 60 years later, the agreement *has* led to greater international unity on questions of

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<sup>34</sup> The UDHR itself does not have the binding force of a treaty, and so no country is legally obliged to follow it or to justify its interpretation of the rights contained within it.

<sup>35</sup> Maritain, *Man and the State*, 77.

<sup>36</sup> *Ibid.*, 77, 205-11.

human nature, or even to greater clarity about where and why we disagree.

While talk of human rights has come to occupy a great portion of public debate, there is little evidence of greater agreement on foundations or greater clarity of discourse. If anything, the split between secularists and Christians has widened, not to mention the tension between the Arab world and the West. This is no more than we should expect, since discussion of the foundations of universal rights seems not only impossible (given the fact of the plurality of philosophical and religious viewpoints), but unnecessary (given the fact that agreement already has been reached). Thus, the agreement on universal human rights is more likely to discourage us from striving for greater unity than to encourage it. Rights claims do not serve to foster greater agreement or to clarify the debate about human nature. The surface agreement hides the deeper disagreement, while this agreement remains insufficient to guide moral decision-making, and to defend it against detractors. MacIntyre seems to be right in saying that superficial rights-agreements privatize the good, diminishing the possibility of greater public unity or clarity about morality.

Despite this failure of universal human rights, it is difficult not to sympathize with the impetus behind the UDHR. One hopes that in spite of philosophical ambiguity and an agnostic approach to morality, the agreement may be an aid to those who strive for greater international justice. Some claim the declaration has served as an effective tool against gross abuses of human rights.<sup>37</sup> Yet the abuses continue, and questions of how to prevent them and how to punish the perpetrators are unresolved.<sup>38</sup> So long as we put aside the question of foundations, our use of human rights instruments will remain fraught with such difficulties.

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<sup>37</sup> See for example Elliott Abrams, "Reflections on the UDHR," *First Things* 82 (1998): 27.

<sup>38</sup> Prominent recent examples include the conflicts in the Balkans and in Rwanda. In both cases, there was a failure to intervene by the West, and subsequent trials for crimes of genocide are on-going.