

Building a Human Rights Culture
South African and
Swedish Perspectives

Karin Sporre &
H Russel Botman [eds.]

OFFPRINT 2018

HÖGSKOLAN DALARNA

REPORT 2003:11

ARTS & EDUCATION

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Karin Sporre and H Russel Botman for selection;

Karin Sporre for editorial material;

individual contributors for their contribution

Report from Arts & Education,

Högskolan Dalarna, 2003:11

ISSN 1403-6878

Second edition, electronic version 2018

ISBN 978-91-88679-19-2

The report is financially supported by SIDA,

Swedish International Development Cooperation Agency,

Department for Democracy and Social Development, Education Division

Graphic design Eva Kvarnström, Oform

Printed by Strållins 2003

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FREEDOM OF RELIGION AND THE EQUALITY AND DIGNITY OF WOMEN

A CHRISTIAN FEMINIST PERSPECTIVE

BY DENISE M. ACKERMANN

Posing the question

As a South African I am guaranteed “equality before the law”, “freedom of religion” and respect for my “human dignity” as rights. The Bill of Rights in our 1996 Constitution says so in chapter two (The Constitution of the Republic of South Africa, 1996). This constitution followed on the interim Constitution of 1994 that laid the foundation for the new democratic order in South Africa. Section 9 (1) of the Constitution states unequivocally that everyone “is equal before the law and has the right to equal protection and benefit of the law” and is entitled to the “full protection and equal enjoyment of all rights and freedoms”. Section 15 (1) affirms the fact that “Everyone has the right to freedom of conscience, religion, thought, belief and opinion”. Furthermore, Section 31 (1) emphasises the associational nature and protection of these rights:

Persons belonging to a cultural, religious or linguistic community may not be denied the right with other members of that community –

- (a) to enjoy their culture, practice their religion and use their language; and
- (b) to form, join and maintain cultural, religious and linguistic associations and other organs of civil society.

Lastly, Section 10 provides: “Everyone has inherent dignity and the right to have their dignity respected and protected”. Not only are dignity, equality and freedom individually protected in the Bill of Rights, but they also constitute the founding values of the democratic South African state as proclaimed in Section 1 of the Constitution. All provisions relating to equality are mutually interdependent provisions of the equality guarantee. Moreover, the Bill of Rights is not merely a defensive mechanism for protecting the individual against the state, but it constitutes an objective normative value system influencing the interpretation of all statute law and the development of the common law.

South Africa’s past and present emphasise the need to embrace the right of human dignity as essential to the healing of our wounds. Apartheid was in-

humane precisely because it denied human dignity to the majority of South Africans on grounds of race and of their related rights to equality and freedom. As Archbishop *emeritus* Desmond Tutu (see Ackermann 2002, p. 538) says:

Apartheid claimed that what imbued anyone with worth was actually a biological irrelevance – the colour of one's skin....

The present blight of HIV/AIDS, greatly exacerbated by denial and stigma, calls for the vigorous affirmation of the dignity of all sufferers. Dire poverty is dehumanising as it strips people of their dignity, of the ability to determine the course of their lives and to respect and protect the inherent dignity of all. It does so precisely because dignity, equality and freedom are the rights that have suffered so much in our recent past and still continue to do so.

As a woman I ask: "*What does equality, religious freedom and respect for human dignity mean for women who belong to religious institutions?*" I am not a lawyer. I am a Christian feminist theologian who lives and works in South Africa. This paper will look at these three fundamental human rights, how they relate to one another, their limitations when applied to the Christian tradition and will conclude with a few suggestions for further debate. I am aware of the fact that some of my questions apply equally to women in the Muslim and Jewish traditions. I shall, however, confine myself to Christianity in the hope of contributing to the debate on rights and religious institutions.

At the outset let me acknowledge the question of difference. We women may be equal before the law, but in reality we are not equal or alike. Women everywhere differ in terms of class, race, economic status, sexual preference, nationality, ethnicity, culture and so on. Universal sisterhood is a myth. In the words of Caroline Ramazanoglu (1989, p. 44), women

...are not simply a mass of people, comparable to the Italian working class of Gramsci's day, but millions upon millions of people living in very diverse circumstances and cultures, with no common language or concepts. Materially, women's situations vary from extreme affluence to destitution and starvation. Some women have considerable power over the lives of others; some have no power even over their own lives.

Thus our contexts and understandings of our religious traditions differ. Many women are contented participatory members in their religious and cultural traditions and affiliations. I am not. Neither are a growing band of women in the world's religions who are restive, critical and seeking change. Hence the question posed above. In order to get to grips with it, it is necessary to look first

at the human rights of women and their implications for women's membership of specific cultures and religions.

By way of a final introductory comment, I would point out that the relationship between human rights and religion, although complex and contradictory, cannot be ignored. On the one hand, religions have often been the instruments of awakening concepts such as self-worth and dignity of people which form the corner-stone of human rights. On the other hand, religions have sanctioned wars, persecution, tyranny and oppression, as well as racial and gender discrimination, all of which conspire to destroy human worth and dignity.

This point is tellingly made in two ancient stories. The first is the story of Jephthah (Judges 11:26–40) the “valiant warrior” who sacrificed his daughter Mizpah as a burnt offering in terms of a vow made to God. The second story tells of Agamemnon's sacrifice of his daughter Iphigenia to appease Artemis and enable him to sail to Troy to recapture Helen. In both cases, a human being dies as a religious offering for the good, or perceived good of a community. (It is significant that in both cases the innocent victims were women!). Obviously these stories are not meant to be case studies in human rights; in both human life is destroyed because of religious belief. The clash between human rights of individuals and religious beliefs of communities is clear. It would be easy to dismiss these tales as belonging to the myths of the past. This would not only deny the power of their mythical meaning, but would ignore modern parallels. And, of course, Christian history itself is clouded by the Inquisition, witch-hunts, the justification of slavery, racism and sexism.

Returning to the point made above, religions have contributed to the foundations of our understanding of human rights, while at the same time violating what we commonly understand by such rights. The relationship between religion and human rights is a complex one. Religion is neither “for” nor “against” human rights. It is both.

The human rights of women

Towards the end of the twentieth century, the human rights of women emerged as a major focus of international advocacy. The Universal Declaration of Human Rights declares in Article 1 that all human beings are equal in dignity and rights “without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” Further covenants sought to entrench this right. “Yet despite these legal

guarantees, women have long experienced gross inequalities in the enjoyment of fundamental rights” (Henkin et al 1999, p. 359). Women, particularly on our continent, continue to remain subordinate in the home, in the family and in the political processes that govern their lives, as well as in social-sexual relations, property rights, matters of employment and the market place. It was therefore thought necessary to adopt a special treaty to deal specifically with gender-based discrimination. In 1979 the United Nations General Assembly adopted the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW). This instrument hoped to offer women greater protection against the violation of their basic right to freedom from discrimination. Article 1 clearly states that CEDAW wishes to counter “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.” Interestingly, despite the desire to ensure women’s enjoyment of rights in every sphere, CEDAW made no mention of violence against women or the relationship of women to their respective religions. The former was subsequently remedied in 1992 by the adoption of the General Recommendation no 19 entitled “Violence against Women”, (U.N. Doc. A/47/38 at 1, 1992).

To date CEDAW has been ratified by 166 countries (Tamale 2001, pp. 97–104). Its reservations are legion. Reservations limit the extent to which the Convention is applicable to the ratifying country. Rebecca Cook (1990, pp. 643–716) points out that the “Women’s Convention is amongst the most heavily reserved of the international human rights conventions”. A great many of these reservations emerge from the Islamic world. This fact can be explained by the close relationship between Islamic law and religion. An example is the government of Egypt which made the following reservation upon accession to CEDAW:

The Arab Republic of Egypt is willing to comply with the content of [Article 2], provided that such compliance does not run counter to the Islamic Sharia (see Henkin et al 1999, p. 295).

Clearly the issue of women’s rights is a culturally sensitive matter. What emerges from debates of feminist international human rights scholars is the fact that modern international law rests on and reproduces various dichotomies between the

public and private spheres (Charlesworth et al 1999, p. 384 and Oloka-Onyango and Tamale 1995, p. 17)). Traditionally international law is regarded as operating only in the public sphere, governing the relations between nation states. But when bills of rights are applied to the relations between citizens in particular states, do these relations belong exclusively to the public sphere?

Is the male-dominated Christian church a public or a private institution? Where is the line drawn between the public and the private and to what extent is freedom of religion regarded merely as a private right, similar to the joining of a social club? In the South African Constitution freedom of religion is protected not only on an individual basis but also by protecting the associational individual right to practise religion in community with others. How far does equality stretch into the non-state domain? It would seem that the heart of the legal problem under our Constitution is where one draws the line between the scope of influence of the Constitution's equality provisions and the right to privacy and autonomy enjoyed both by individuals and institutions. While acknowledging this legal conundrum, it remains clear that male voices dominate the public sphere and that the public/private distinction has both normative as well as descriptive dimensions. Women's 'place' in society and religious institutions is culturally and religiously defined – often in such a way that to speak of women's human rights can be a contradiction in terms.

Women, equality, freedom of religion and the Christian church

A further issue which emerges from the issue of the human rights of women is the question of conflicting rights. Freedom from discrimination and the right to human dignity can collide with the right to religious freedom when restrictions on freedom of religion for the purpose of protecting the rights of others are conceded. It is a universally accepted principle that rights, even constitutionally protected ones, are not absolute (see Ackermann 2002, pp. 177–184). Some limitation on rights is inevitable. This is apparent when rights are conflicting. The South African Constitutional Court has commented on the difficulty that arises in the area of religious rights when interests may conflict.

The most complex problem is that the competing interests to be balanced belong to completely different conceptual and existential orders. Religious conviction and practice are generally based on faith. Countervailing public or private concerns are usually not and are evaluated mainly according to their reasonableness. To the extent

that the two orders can be separated, with the religious being sovereign in its domain and the State sovereign in its domain, the need to balance one interest against the other is avoided. However religion is not always merely a matter of private individual conscience or communal sectarian practice. ...Many major religions regard it as part of their spiritual vocation to be active in the broader society. ...Religion is not just a question of belief or doctrine. It is part of a way of life, or a people's temper and culture (Ackermann 2002, p. 183).

The history of the Christian church itself highlights the problem of conflicting rights and conflicting beliefs. Freedom of religion is considered inalienable. The right to equal consideration for positions of authority, to preach or teach is too often another matter. Despite the affirmation of humanity's equal status before God, the centuries old stamp of patriarchy on the Christian church, often justified theologically and concretised in discriminatory practices, is frequently the norm. Patriarchy was *the* social construct inherited by Christianity from ancient Greece, from Roman law and from the practices of Israel. As American feminist theologian Rosemary Radford Ruether (1974, p. 151) explains:

Christianity, born in Jewish apocalyptic and nurtured in the world of Hellenistic syncretism, drew together all the streams of religious consciousness from antiquity, Greek, Jewish and Oriental, but precisely in their alienated, anticosmic stage of development. This alienated experience of reality was expressed in a dualistic doctrine of being.

This fundamental dualism appears repeatedly in the Christian church. For women it has meant that the cultural male-female dualism which was assimilated into a soul-body dualism defined us in terms of our subordination to the male in the order of nature, and our 'carnality' as resulting from the disorder of sin. The subject-object relationship became both culturally and religiously expressed. In modern times, the battles for women's suffrage, educational opportunities and ability to regulate women's reproductive lives, presented a concerted challenge to patriarchal culture, particularly in the west. The Christian church is a late-comer to these issues and it is still struggling to emerge from this centuries old patriarchal mould. No wonder the idea of human equality is often countered, always hastily, by the remark: "Rights are fine but we Christians like to speak about responsibilities!"

Inequality in religious institutions is now being challenged on our continent. African women are confronting sexism in the Christian church and theology from their cultural and historical perspectives. African woman theologian Mercy Amba Oduyoye (1995, p. 173) writes:

Faced with the vastly complicated, hydra-headed challenges of living in today's world, Africa finds little sustenance in the continuing importation of uncritical forms of Christianity with answers that were neatly packaged in another part of the world. These churches, which most often take the form of patriarchal hierarchies, accept the material services of women but do not listen to their voices, seek their leadership, or welcome their initiatives.

She continues later to point out that

Whatever is keeping subordination of women alive in the church cannot be the spirit of God. The church is intended to be the ecclesia of all people, women and men, across all social barriers. In the church we expect to experience "reciprocity and mutual respect, support and protection of each person's freedom in continuum with our freedom as the children of promise"... It seems that the sexist elements of Western culture have simply fuelled the cultural sexism of traditional African society (Oduyoye 1995, p. 182).

Patriarchal practices and traditions are long in dying. Sadly they are still part of the problem when women's equality and freedom of religion are considered. From a Christian perspective, the phrase "freedom of religion" has meaning for the church's relationship with the state but *not* for the rights of those within the church in terms of their relationships with and in the church. Religious freedom of a church and its members as well as their right not to be discriminated against by the State, should surely have its corollary within the church. The church's failure to acknowledge this within its own body must be addressed in order to do full justice to the idea of religious freedom. I am not arguing for sectarian license, or an "anything goes" approach, but rather for consistency and inclusiveness. The Christian church supports freedom of religion and equality in civil society. But as Ruether (1987, p. 18) comments,

It is hard to take an institution seriously when it defends religious liberty, freedom of dissent, the equality of persons before the law, just wages and fair political processes, when it refuses to apply these principles within its own institutional walls.

I return to my initial question: "What do the rights to equality and human dignity mean in the Christian church? Can there be freedom and equality of religion without freedom and equality *in* religion?"

Freedom of religion as freedom to leave your church

The questions I have raised are not intended to imply that freedom of religion is not a necessary, valuable or important human right. On the contrary. The freedom to practice one's religion without interference from the state is vital for religious pluralism and for the functioning of a democratic state. "History is cluttered with religious authoritarianism" (Villa-Vicencio 1992, p. 254). Religious people's rights must be protected against the state.

Neither am I implying that women are hapless, helpless victims, captive to religious and cultural norms. Women certainly can make choices. We are often confronted with the following suggestion: "If your church discriminates against you, leave it!" However, the choice to opt out of a religious institution or cultural affinity is not a simple choice at all. In some respects it is no choice. In the first place, belonging to a religious institution is a sociological fact that brings with it the existence of a community with its own practices and traditions many of which are sustaining and which provide solidarity and opportunities for social engagement. Second, belonging to a particular church provides members with stated theological understandings and spiritual and moral insights – all of which are important in helping people to live the life of faith and to shape their identities. It is not easy to walk away from the place that has nurtured an encounter with the divine. Third, there is also a powerful strand of prophetic, liberating thought within the Christian tradition and particularly in Christianity's source book, the bible, that has given courage and hope to believers throughout Christian history. This alternative voice in the scriptures has enabled many women not only to deal with discrimination and oppression but to use the bible to counter patriarchal traditions and practices effectively.

The situation is further compounded by the fact that many women, because of personal conviction, social and cultural mores or indoctrination, do not question religious theories or practices. It is well known that the internalization of oppressive images and practices is very pervasive and that ignorance and fear of isolation conspire to keep women quiet. The fact that reform is not foreign to the Christian church points to the fact that it can adapt to changes in society and that it is not wholly structured by immutable laws.

When some contend that the answer is simple: "If your religious community is oppressive leave it", I say: "Just a minute. It is not so simple." At the same time I concede that a number of women, particularly in the climate of liberal

individual freedoms in North America and Europe, have done exactly that and found their spiritual succour in alternative communities (see Ruether 1985). For the majority of Christian women the idea of simply quitting is unacceptable if not ingenuous. It is precisely in this very deeply entangled relationship of religion and culture that the majority of women find their identity as members of communities of meaning.

There are other ways. Challenging oppressive cultural and religious norms is one way of dealing with this dilemma. Once again Ruether (1987, p. 29), still a member of the Roman Catholic Church, hits the nail on its head when she asks

...whether a democratic polity would not be a more appropriate expression of the community of salvation, than one modelled after Roman imperialism, medieval feudalism and Renaissance absolutism.

I believe she is on the right track. All is not lost. Many women on the African continent are, through critical reflection combined with active participation in their churches, pursuing a similar course. Here I have in mind the challenging work of the Circle of Concerned African Women Theologians who has published a number of theological works over the last couple of decades exploring the relationship between women and their religious institutions.

I believe, however, that it is the right to human dignity that offers women in the church a powerful tool with which to challenge the church. My conviction rests on the fact that human dignity and the idea that all humanity is created in God's image, go hand in hand.

The right to human dignity and imago Dei

The phrase "image of God" is traditionally used in Christian theological anthropology that seeks to understand what it means to be human. It signifies the dignity and responsibility of human beings who are created in the image and likeness of God. This understanding is largely derived from a passage in the book of Genesis (1:26–27): "Then God said, 'Let us make humankind in our image, according to our likeness;... So God created humankind in his image, in the image of God he created them; male and female he created them'. Traditionally Christians understand the *imago Dei* as a gift of creation, which is marred by sin, restored by the grace of Christ and will come to fulfilment in the glory of heaven (Johnson 1996, p. 149). The precise meaning of image and likeness has been debated since the beginning of Christianity. More recent interpretations have linked the image of God with human creativity, human

community or human bodiliness and sexual differentiation as male and female (Johnson 1996, p. 149).

Human dignity is thus linked to the fact that every human being images and reflects God in some or other mysterious way. This understanding challenges Christians to demonstrate what the dignity of the human being means in practice and how such an understanding can contribute to the realization of human rights. The Synod of Bishops of the Roman Catholic Church declared: “The dignity of man [sic] has its roots in the fact that every human being is an image and reflection of God. As a result of this all men are equal with one another in their essence” (Moltmann 1984, p. 11). More comprehensively, the Reformed *Theological Basis of Human Rights* in a seven point document puts it as follows:

1. The image of God is the human being who co-responds to God. ... 4. The human being should co-respond to God in his or her relationship to himself or herself. The human being is in this respect a person, and thus he or she has essential rights to freedom. 5. The human being should co-respond to God in his or her relationship to other human beings. Persons are in this respect human beings and thus have essential community rights...(Moltmann 1984, p. 10).

These two approaches, one seeing the image of God as gift the other stressing a more responsive pattern, manifest different theological traditions, a comprehensive exploration of which is beyond the scope of this article. Suffice it to say that despite their different emphases these approaches do not exclude one another. While the Catholics come from a tradition that emphasises the relationship between nature and grace, and the Reformed tradition is based on the scheme of sin and grace, both traditions acknowledge that the “revelation of God in Christ through the gospel is the way to the knowledge of the dignity of all, and of every human being as the image of God” (Moltmann 1984, p. 11).

When Reformed German theologian Jürgen Moltmann (1984, p. 10) begins to tease out the meaning of human dignity, he states: “Human dignity lies in the fact that each particular human being and all human beings are, in common, human”. He then points out that if this statement is not to be a tautology, “... presupposes the difference between the existence and the essence of the human being. The human being is a human being, and ought to be a human being” (Moltmann 1984, p. 10). In short Moltmann’s understanding of human dignity is simple – human beings are human and should be human. “Their existence is both a gift and a task” (Moltmann 1984, p. 10). Our task is to actualize our-

selves, our very essence and so come into our truth – as human beings being fully human. Moltmann (1984, p. 17) continues as follows:

Human rights to life, freedom, community, and self-determination mirror God's right to the human being because the human being is destined to be God's image in all conditions and relationships of life.

Unfortunately Moltmann's understanding of the image of God is blind to the gender implications of simply being human. Feminist theologians have in their reflection on the *imago Dei* tradition brought to light powerful ambiguities. According to American feminist theologian Elizabeth Johnson (1996, p. 149)

On the one hand, women's full and equal inclusion in this religious bedrock of human dignity is deeply rooted in biblical and theological insight. On the other hand, traditional Christian theology accepted gender dualism in its strong Greek form, identifying men with the spiritual, rational principle of the world and women with the physical and sexual, irrational, and emotional principle. Consequently, women were projected as the lower part of human nature, and it became difficult to see how they could enjoy being fully human in the image of God, as God is understood in traditional theology.

Once fullness of humanity became identified with maleness it followed that women's reflection of the image of God came to be regarded as somehow defective and that their claim to dignity was either less valid than men's or subordinate to male claims.

Feminist theologians reject interpretations of women's subordination and the dualisms from which it comes and are set on retrieving the full image of God for women, and indeed for all who feel deprived of their dignity and freedom. Quite simply, women claim the critical principle of 'full humanity' for themselves (Ruether 1983, p. 19) in an inclusive manner which cuts across the injustices of race and class. The aim is a respect for and a celebration of differences among women as all endowed with inviolable dignity, all created in the image of God.

What would this in effect mean for the Christian church? First, the full humanity and dignity of a human being is exercised in human community. When we human beings are in mutual and affirming relationship with others, we truly begin to reflect the image of God. Obviously this means that a church community that discriminates against women fulfilling their rightful roles cannot be a community that reflects the image of God. Women's rights to dignity and equality can only be developed in a community that is just, and a community that is just can only be developed on the grounds of the rights

of the person. I agree with Moltmann (1984, p. 26) that “Human liberation is liberation of community and human community is community in freedom”. Quite simply – my dignity and freedom are related to yours. If you are burdened by poverty, sickness, marginalization or stigma, your burden becomes mine.

Second, the right to dignity and equality is inseparable from the right to freedom in religious communities. When these rights are separated I suspect that a private/public dichotomy is at work. What happens inside religious institutions is deemed private. The right to worship without interference from the state is deemed a public right. I would argue that it is ethically untenable to claim the right to freedom of religion while at the same time denying half the members of a church the right to have their dignity and equality affirmed in church teachings and practices.

Third, human dignity and equality determine the nature of our relationships. Relationships can be measured by the extent to which they are marked by “equality of power, mutuality of freedom and responsibility, love that is other-centred yet neither neglectful nor destructive of self, and fidelity” (Farley 1996, p. 239). Such relationships affirm the centrality of the theological claim that we are made in the image of God and therefore imbued with inviolable dignity.

Conclusion

Freedom of religion and the equality and dignity of women is a contentious subject in virtually all the world’s religions. The principle of freedom of religion is one to be jealously guarded and interference by the state in a people’s right to choose their religious affiliations is untenable. Equally so, the right to dignity lies at the bedrock not only of the South African

Constitution but also in the Christian understanding of what it means to be a human being. Sadly, we women find ourselves between a rock and hard place. We know that we cannot call on the state to interfere in religious institutions that discriminate against us in their teachings and practices, thus denying us our dignity and freedom, because these bodies have the freedom to make their own rules. At the same time we have to live with the contradiction that we have the constitutional right to claim equality, freedom and dignity outside religious institutions.

Rocks and hard places are obstacles but they are not immutable. Undergirded by the belief that women’s dignity and equality is as deeply vested in God’s

image as that of men, women are claiming their rightful place in their religious institutions with increasing determination. This arduous journey through often hostile and perplexing terrain, requires courage and the certainty that our cause is not only just but that it is an affirmation of what human community should be when it calls on God's name. Human dignity, equality and freedom are, in fact, as much religious dispositions as they are legal rights. Herein lies women's hope for their rightful place in their religious institutions.

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What societal processes contribute to a human rights culture? What violations are actually taking place? How can gender, ecological and global economic perspectives enlighten these issues?

These and other questions are discussed in this interdisciplinary collection of texts by sixteen scholars from South Africa and Sweden.



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