# Modern Orthodox Theology

*Behold, I Make All Things New (Rev 21:5)*

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**Preface by Andrew Louth**

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# Human rights

There is lively debate in Orthodox circles concerning human rights as enshrined in the Universal Declaration of Human Rights and in the constitutions and legal instruments of many Western countries. Orthodox were generally favourable towards human rights until the late twentieth century. Indeed, Orthodox benefited from early applications of human rights thinking in such key historic events as Greek independence and the dismembering of the Ottoman and Austro-Hungarian Empires after the First World War, which resulted in the independence of several countries of Orthodox tradition. A leading Orthodox philosopher, diplomat and statesman from Lebanon, Charles Habib Malik (1906–87) was closely associated with the development of the Universal Declaration of Human Rights, adopted in 1948. In a 1982 paper on human rights, Stanley Harakas (b. 1932) wrote enthusiastically that 'There is a natural and ready acceptance of human rights affirmations on the part of the Orthodox Church. … The Orthodox have accepted

with remarkable alacrity the 1948 Universal Declaration of Human Rights.'[111] But Harakas was too optimistic, as Orthodox philosophers, theologians and Orthodox churches subsequently advanced wide-ranging critiques of human rights. Prominent Orthodox critics are Christos Yannaras, Vigen Guroian (b. 1948) and the Russian Orthodox Church (ROC), while defenders of human rights include Archbishop Anastasios Yannoulatos of Albania (b. 1929), Stanley Harakas, John McGuckin (b. 1952), Pantelis Kalaitzidis (b. 1961) and Aristotle Papanikolaou.[112]

A common Orthodox criticism of human rights is that the notion originates in the Enlightenment, and is founded on a deistic, non-theistic or even atheistic philosophies, resulting from the alienation of church and state in Western Europe, the separation of 'sacred' and 'secular', of religion and society. The Enlightenment itself was a development of the Renaissance, with its revival of pre-Christian humanistic values derived from classical Greece and Rome. In the eyes of critics, the grounding of human rights in a non-theistic concept of 'natural right' rather than in theological or metaphysical notions results in the exaltation of an autonomous humanity which can attain its ultimate purpose without the need of a transcendent deity, a form of auto-deification. For Christos Yannaras and other critics of human rights, such a strictly humanistic pre-supposition to human rights is unacceptable in the light of the Orthodox tradition of divine creation and of humans as bearers of the divine image. Yannaras writes:

> The denial of metaphysics encouraged the absolute affirmation of nature (physics). The idea was that normative principles and rules of justice should not be deduced from the hypothetical 'law of God' which was arbitrarily handled by religious institutions, but by the logic of the laws of nature which was objective and controllable.[113]

In face of the secularization of modern industrial societies, the loss of a sense of the transcendental or 'metaphysical', human rights language replaces religious discourse. But it is thereby inadequate to combat ideologies and social and economic forces which threaten to subjugate and depersonalize human beings and constitutes a rejection of the Christian foundations of Western civilization.

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[111]Stanley Harakas, 'Human Rights: An Eastern Orthodox Perspective', *Journal of Ecumenical Studies*, 19, 3 (1982), 19; 20.

[112]Christos Yannaras: 'Human Rights and the Orthodox Church', in Emanuel Clapsis, ed., *The Orthodox Churches in a Pluralistic World* (Geneva: WCC publications, 2004), 84; 'The Inhuman Character of Human Rights (A Synopsis of the Homonymous Book of Prof. Christos Yannaras)' at www.academia.edu/3624303 (17 April 2015). Yannaras's book, with its telling title, was published in Athens in 1998. Vigen Guroian: 'Human Rights and Modern Western Faith: An Orthodox Christian Assessment', *Journal of Religious Ethics*, 26, 2 (1998). Russian Orthodox Church (ROC): 'Basic Teaching on Human Dignity, Freedom and Human Rights' (adopted in June 2008). https://mospat.ru/en/documents/dignity-freedom-rights (20 April 2015). Also Hilarion Alfeyev, 'A Blessing or a Curse? Tradition and Liberal Values in the Debate between Christianity and Secularism', Part IV in his *Orthodox Witness Today* (Geneva: WCC Publications, 2006). Anastasios Yannoulatos, 'Orthodoxy and Human Rights', Chapter 2 of his *Facing the World: Orthodox Christian Essays on Global Concerns* (Crestwood, NY: St Vladimir's Seminary Press, 2003). John McGuckin, 'The Issue of Human Rights in Byzantium and the Orthodox Christian Tradition', in John Witte and Frank Alexander, eds., *Christianity and Human Rights: An Introduction* (Cambridge: Cambridge University Press, 2011), 173–90; and *The Ascent of Christian Law: Byzantine and Patristic Formulations of a New Civilization* (Yonkers, NY: St Vladimir's Seminary Press, 2012). Aristotle Papanikolaou, 'Personhood and Human Rights', Chapter 3 of *The Mystical as Political: Democracy and Non-Radical Orthodoxy* (Notre Dame, IN: University of Notre Dame Press, 2012). Pantelis Kalaitzidis and Nikos Ntontos, eds., *Orthodoxía kai Neoterikótita Prolegómena* (Orthodoxy and Modernity: An Introduction) (Athens: Indiktos, 2007). Pantelis Kalaitzidis, 'Individual Versus Collective Rights: The Theological Foundation of Human Rights. An Eastern Orthodox Approach'. Proceedings of the International Consultation on 'Orthodoxy and Human Rights' (Louvain-la-Neuve, 26–27 April 2013).

[113]Yannaras, 'Human Rights and the Orthodox Church', 84.

The second line of critique argues that the denial of a theological or metaphysical basis for human rights derives from a secular or even materialistic view of human existence, which encourages egocentric individualism, by setting no limits on the satisfaction of human desires other than when their satisfaction enters into conflict with the rights of others: 'When the tyranny of metaphysics was rejected, the aim of individual metaphysical salvation was replaced by the aim of secularized (legal) protection,' writes Christos Yannaras. 'The "paradigm" of modernity was grounded on the egocentrism of "human rights".'[114] The notion of an inherent moral code which exists over and above the limited notion of human rights is absent in human rights codes and discourse. This is contrary, it is argued, to Christian notions of law founded on morality derived from revelation and theology, as well as the modern understanding of human personhood. The ROC declares that 'The weakness of the human rights institution lies in the fact that, while defending the freedom of choice, it tends to increasingly ignore the moral dimension of life and the freedom from sin.'[115]

Thirdly, the separation of rights from morality leads to appeals to human rights to justify practices, often enshrined in legislation, which are morally unacceptable in the Orthodox tradition. For the ROC, 'Human rights protection is often used as a plea to realize ideas which in essence radically disagree with Christian teaching,' citing 'sexual lechery and perversions, the worship of profit and violence …, abortion, euthanasia, use of human embryos in medicine, experiments changing a person's nature, and the like'.[116] Patriarch Kirill of Moscow adds to this list 'mockery of sacred things', and he specifies homosexuality.[117] Other specific add-ons would include single-sex marriage, trans-genderism and many artificial techniques of human reproduction.

Hilarion Alfeyev puts his finger on the limits of humanistic morality arising from the Enlightenment and representing the spirit behind modern conceptions of human rights:

> The idea of responsibility is also present in humanism, but with the absence of absolute moral norms this principle simply denotes the limitation of one person's freedom by the freedom of other people. From the standpoint of atheistic humanism, the realization of the potential of freedom is nothing other than the person's unhindered realization of all his desires and aspirations, except for those which hinder the realization of similar desires of other people.[118]

From this analysis, Alfeyev turns the notion of human rights on its head and leaps to catastrophic conclusions arising from the widespread adoption of human rights: 'Humanists refuse to admit that the humanization of morality through the rejection of religious norms was the main cause of the monstrosities of the French revolutionaries and later of the Communists and Nazis.'[119]

Fourthly, the individualistic nature of human rights disregards other types of rights, especially rights of collectivities and rights derived from historical experience. This argument is forcefully

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[114]Ibid., 87; 89.
[115]ROC, 'Basic Teaching on Human Dignity, Freedom and Human Rights', II:2.
[116]ROC, 'Basic Teaching on Human Dignity, Freedom and Human Rights', Introduction; III:3.
[117]Kirill (Patriarch of Moscow), *Freedom and Responsibility: A Search for Harmony – Human Rights and Personal Dignity* (London: Darton, Longman and Todd, 2011), 64.
[118]Alfeyev, 'A Blessing or a Curse?', 233.
[119]Ibid., 236.

advanced in countries of Orthodox tradition, such as Russia, Romania, Greece and Bulgaria. There, the national Orthodox churches, as the majority religious denominations and key agents in the formation of the nation, have had and expect to maintain privileged positions in society and political life not available to other Christian denominations and non-Christian religions. In Romania, this line of argument, associating the Orthodox Church with the formation of the Romanian people, evolves into an ethno-theology, as we saw in Chapter 7. A related conception of collective and historical rights also underpins the ROC's 'Basic Teaching on Human Dignity, Freedom and Human Rights.' This places the concept of 'one's homeland', together with the local community and the family, even above individual human rights: 'Human rights should not contradict love for one's homeland and neighbours. … One's human rights cannot be set against the values and interests of one's homeland, community and family.'[120] In this conception, collective rights are superior to individual rights.

Fifthly, declarations of human rights, it is argued, often define rights in isolation from obligations. The ROC links 'human dignity' (not entirely identical to human rights) to morality:

> 'In the Eastern Orthodox tradition, the notion of 'dignity' has first of all a moral meaning, while the ideas of what is dignified and what is not are bound up with the moral or amoral actions of a person and with the inner state of his soul. … The acknowledgement of individual rights should be balanced with the assertion of people's responsibility before one another.'[121]

Anastasios Yannoulatos, generally sympathetic to human rights, nonetheless makes a similar point: 'The separation of rights from their corresponding obligations threatens to destroy human rights themselves, because equilibrium has been lost … A one-sided emphasis on rights can result in an unhealthy individualism.'[122]

Sixthly, human rights, closely bound to Western philosophical and legal concepts of democracy, the neutrality of the state, the separation of church and state and the rule of law, contribute to the marginalization of religion in public life and the historical role of Christianity in developing the very foundations of Western civilization. In this context, religion and religious discourse become simply one political factor (and a progressively weaker one at that) among many others competing for attention in the public square.

A final critique is that human rights codes and legislation are of themselves inadequate and ineffective to prevent violations of human rights, even on a massive scale, such as in Nazi Germany, the Soviet Union and other communist regimes, and every other dictatorship imaginable. The nominal adherence of almost all members of the United Nations to the Universal Declaration of Human Rights is thus a patent travesty, since most countries, even Western democracies, routinely violate the human rights of their citizens. As we saw in the citation of Hilarion Alfeyev above, some critics even go so far as to suggest that the secular notion of human rights is responsible for violations of human rights.

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[120]ROC, 'Basic Teaching on Human Dignity, Freedom and Human Rights', III:4.
[121]Ibid., I.2; III:4.
[122]Yannoulatos, *Facing the World*, 55.

Faced with this broadside of criticisms, some Orthodox defenders of human rights concede that there is merit in certain arguments that the critics advance while pointing to the limits and weaknesses of the arguments. Several recognize that it is true that the modern concept of human rights, arising in the Enlightenment, sets out to establish rights without recourse to a divine referent. On the other hand, while the appellation 'human rights' is indeed modern and owes its origin to Enlightenment philosophies, the notions that human rights embody can be traced to the origins of Christianity, in the Gospels, the Epistles and patristic theology. As Aristotle Papanikolaou points out, in fact it is not possible to ground human rights on the basis of 'the inherent, inviolable, non-utilitarian worth of a human being' other than theistically[123]; or, as Anastasios Yannoulatos summarizes, 'human rights documents presuppose the Christian legacy.'[124] Similarly, for John McGuckin, the philosophical and theological notion of person originated in Eastern Christian thought and 'both the civil and the ecclesiastical law of the Orthodox Church … recognized the principle of human rights long before the deists of the Enlightenment era.'[125] Harakas is able to write bluntly that 'One has rights and duties not because one does or does not do certain things, but because of who or what one is. … Rights are due a person simply and uniquely because he or she is a human being.'[126] These assertions are sustained by a theology that recognizes the uniqueness, irreplaceability and infinite value of every human being created in the divine image by a deliberate act of the divine will. Harakas's statement corresponds with the notion of natural law and natural rights common in Western social and legal thought since the early Middle Ages,[127] but little developed in Orthodoxy. Yet natural law is founded on the cornerstone of patristic anthropology and modern Orthodox theology of the human person, the ontological equality of all humans, who share the divine gift of a personal mode of existence in the image of the Persons of the Trinity.

The basic strategy of defenders of human rights is thus to demonstrate that human rights discourse and codes are implicitly founded on Scripture, patristic thought, the Byzantine tradition and modern Orthodox thinking on human personhood and are compatible with Orthodox theologies of creation, humanity, theosis and community, even if they are deficient when measured against the full expression of Orthodox theology. Papanikolaou writes:

> Structuring relations between humans in terms of rights fall short of all that humans are created to be. … Political communities are by their very nature deficiently sacramental, put in place because humans have fallen short of relating to each other as God relates to each one of them, but not necessarily devoid of God's presence. Christians, thus, should never expect a fully sacramentalized form of political community, one in which the community exists in relations of love and freedom that constitute persons as unique and irreducible.[128]

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[123]Papanikolaou, *The Mystical as Political*, 116. Papanikolaou cites the work of Michael Perry and Nicholas Wolterstorff in support of this contention (see his notes 91–100 on pages 218–19).
[124]Yannoulatos, *Facing the World*, 53.
[125]McGuckin, 'The Issue of Human Rights in Byzantium', 179.
[126]Harakas, 'Human Rights: An Eastern Orthodox Perspective', 15.
[127]See Nicholas Wolterstorff, 'Christianity and Human Rights', in John Witte and Christian Green, eds., *Religion and Human Rights: An Introduction* (New York: Oxford University Press, 2012), 42; and 'Divine-Human Communion and the Common Good', ch. 4 of Papanikolaou's *The Mystical as Political*.
[128]Papanikolaou, *The Mystical as Political*, 125.

In this light, it is unrealistic in pluralistic societies and in the global context to expect that a universal expression of human dignity and rights will be explicitly grounded on overtly Christian notions such as the divine image, personhood, love and divine-human communion. Yannoulatos is keenly aware of this problem: 'In an era such as ours, in which there is a great diversity of ideological views, it will clearly be impossible to reach philosophical and religious agreement on these immense issues.'[129]

A secular expression of human rights is a second-best alternative for Christian theology. This became obvious in the post-Second World War negotiations leading to the adoption of the Universal Declaration of Human Rights. The commission which drafted the Declaration was chaired by Eleanor Roosevelt (1884–1962) (an American Episcopalian, wife of President Franklin D. Roosevelt), and included as members Jacques Maritain (1882–1973) (a French Thomist philosopher), René Cassin (1887–1976) (a French Jewish jurist), Peng-chun Chang (1892–1957) (a Chinese Confucian philosopher), John Humphrey (1905–95) (a Canadian jurist, who wrote the first draft of the Declaration) and Charles Malik from Lebanon. It proved impossible to reach agreement in the commission and with the member countries of the United Nations to ground the Declaration either in explicitly religious language or even in natural law. The final Declaration, affirming a broad range of rights, is thus an 'open-foundation document', 'amenable to any kind of substantiation, but [it] propounded no grounding of its own, either religious or non-religious.'[130]

Orthodox supporters of human rights such as Aristotle Papanikolaou and Anastasios Yannoulatos also consider human rights documents as incomplete because they do not regard society as 'an organic social whole made up of people who are complete personalities and whose relationships are based on love – not merely a form of coexistence shared by isolated individuals'.[131] While imperfect, often vague and ambiguous, declarations of human rights nonetheless 'constitute a starting point,' writes Yannoulatos; they 'reflect hope and express a moral judgement', even while failing to safeguard 'human dignity from becoming enslaved to human egotism … nor do they safeguard human dignity from the complex factors that operate in our modern technological society's multiform and impersonal structures.'[132]

Although Papanikolaou grounds his defence of human rights on Orthodox personalism,[133] he acknowledges the limits of human rights, supporting a short list of 'the right to life, the right to moral equality, and the right to religious freedom', and suggesting that other rights, basically in the social and economic spheres, are less consensual: health care, food, shelter, employment and protection of the environment.[134] In his discussion of human rights, Papanikolaou recognizes that inherited and contemporary human rights language falls short of Orthodox thinking on human existence: 'Rights language does not adequately indicate all that it possible for the human in

[129]Yannoulatos, *Facing the World*, 57.
[130]Johannes Van der Ven, 'The Religious Scope of Human Rights', in Alfons Brüning and Evert van des Zweerde, eds., *Orthodox Christianity and Human Rights* (Leuven: Peeters, 2012), 24.
[131]Yannoulatos, *Facing the World*, 22.
[132]Ibid., 57.
[133]Papanikolaou, *The Mystical as Political*, ch. 3, 'Personhood and Human Rights', 87–130.
[134]Papanikolaou, *The Mystical as Political*, 127.

relationship with God.'[135] Papanikolaou's point is that this inadequacy does not mean that human rights should be rejected, but rather that rights have to be understood in terms more compatible with Orthodox thought, such as the divine image and the uniqueness of each human person.

Stanley Harakas, upbeat in his early article on human rights in an Orthodox perspective, does well to remind his readers that human rights are 'the reciprocal side of duties or moral responsibilities' of Christians, the concern that they should have 'with defending and justifying the rights of the weak the poor and oppressed … based on the common, God-given humanity that all share'.[136] Such reflections are well grounded in Jesus' actions and teachings (such as the Beatitudes and the parable of the Last Judgement), those of Fathers of the Church such as Basil the Great and John Chrysostom, and of modern Orthodox social activists such as St Elizabeth of Russia and St Maria of Paris.

As we saw above, Stelios Ramfos challenges conventional Orthodox thinking on the relative merits of the notion of the human person in contrast with that of the individual. Ramfos's analysis clearly has implications for Orthodox attitudes towards human rights. Orthodox critics of human rights denounce what they perceive as the individualistic, egotistic basis of the modern conception of human rights – one individual against other individuals. Against this is set the notion of the person as existing in community, based on the model of the Holy Trinity. One difficulty with this schema is that it leaves those who for whatever reason do not have satisfactory interpersonal relations without a basis for protection against the community or the state, since they are not 'persons', only 'individuals'. This could include not only criminals and dictators of all sorts, but even mentally handicapped persons, many of whom do not have what is normally considered satisfactory interpersonal relations, or even infants and children. If human rights are ascribed only to 'persons' in this theological sense, rather than to 'individuals', rights then become a function of merit, something acquired, rather than being intrinsic to human existence. This is evident in the ambiguous statement in the ROC declaration on 'Human Dignity, Freedom and Human Rights', which affirms that 'dignity' (which the ROC prefers over human rights) 'has first of all a moral meaning'.[137] Lying behind such an approach is an attempt to deny rights to categories of persons – for example homosexuals and even unmarried heterosexual couples – who do not satisfy the criterion of morality, as judged by the church.

Making human rights contingent on merit is contrary to the mainstream of the thinking of the ancient Fathers on the difference between the divine image and the divine likeness: the former is inherent in human nature and cannot be lost, whereas the latter is acquired by collaboration with God in view of theosis. In this sense, human rights are based on the divine image in humans and a personal mode of existence, inherent to all humans from the moment of conception, rather than on likeness, which refers to a more developed stage of human existence, the complete fulfilment of human personhood.

Critics also often fail to recognize that human rights are not unlimited, in that the rights of one person are necessarily limited by the rights of others. Rights thus create corresponding obligations

[135]Ibid., 119.
[136]Harakas, 'Human Rights: An Eastern Orthodox Perspective', 14.
[137]ROC, 'Basic Teaching on Human Dignity, Freedom and Human Rights', I:2.

or responsibilities: my right to life creates a responsibility on the part of my neighbour not to take my life – and vice versa. The Universal Declaration of Human Rights extends this principle to include certain collective requirements: 'In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.'[138]

Although Orthodox human rights critics are typically short on alternatives, the ROC comes up with a partial alternative, in asserting the priority of morality and of collective and historical rights over individual rights, as we pointed out above:

> The development and implementation of the human rights concept should be harmonized with the norms of morality, with the ethical principle laid down by God in human nature and discernible in the human conscience.
>
> The implementation of human rights should not come into conflict with God-established moral norms and traditional morality based on them. One's human rights cannot be set against the values and interests of one's homeland, community and family. The exercise of human rights should not be used to justify any encroachment on religious holy symbols [and] things, cultural values and the identity of a nation.[139]

Despite its cautious, even sceptical approach to human rights, the ROC declaration on 'Human Dignity, Freedom and Rights' represents a shift from an outright rejection of human rights to 'a cautious opening towards a post-secular type of debate'.[140] But the declaration describes rights with such conditions and qualifications as to empty rights of any significant content; the document is more an indirect statement of rights claimed by the ROC itself than an affirmation of human rights. In the Russian context, collective and historical rights are defined by the church itself and sanctioned by the state, and aim above all at preserving the pre-eminent place of the ROC in society and public life, over and against other Christian denominations, non-Christian religions and institutions which should be religiously neutral. Respect for the dignity, uniqueness and freedom of the other, which flows from the Orthodox theology of personhood, is trumped by institutional and national prerogatives.[141] Yet institutional and national prerogatives are far less solidly grounded in Orthodox theology than the theology of the person.

One of the documents adopted at the Holy and Great Council of the Orthodox Church in June 2016 concerns 'The Mission of the Orthodox Church in Today's World'.[142] The document is a sweeping overview of the need for Orthodoxy to make its voice heard across a wide range of modern issues, focusing on the dignity of the human person, freedom and responsibility, peace

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[138]Universal Declaration of Human Rights, Article 29 (2).

[139]ROC, 'Basic Teaching on Human Dignity, Freedom and Human Rights', III:3; III:5.

[140]Kristina Stoeckl, *The Russian Orthodox Church and Human Rights* (London: Routledge, 2014), 128.

[141]The notion of responsibilities to the community, while less developed in human rights instruments than personal rights, is not totally absent. Article 29 (1) of the Universal Declaration of Human Rights reads 'Everyone has duties to the community in which alone the free and full development of his personality is possible.'

[142]Holy and Great Council of the Orthodox Church, 'The Mission of the Orthodox Church in Today's World' (The contribution of the Orthodox Church in realizing peace, justice, freedom, fraternity and love between peoples, and in the removal of racial and other discriminations) (Crete GR, 2016). https://www.holycouncil.org (23 January 2018).

and justice, the aversion of war and discrimination. Christian notions of social justice and morality underpin the document, which features an endorsement of fundamental human rights: 'The Orthodox Church confesses that every human being, regardless of skin colour, religion, race, sex, ethnicity, and language, is created in the image and likeness of God, and enjoys equal rights in society' (§ E.2).

Another Council document, the Encyclical, seeks to strike a balance between 'the arrogant apotheosis of the individual and his rights', and 'the humiliating debasement of the human person within the vast contemporary structures of economy, society, politics and communication'. But the emphasis is less on the endorsement of human rights than concern over 'the danger of individual rights falling into individualism and a culture of "rights"' and 'the elevation of the precarious identification of freedom with individual license into a "universal value" that undermines the foundations of social values, of the family, of religion, of the nation and threatens fundamental moral values'.[143] The only right which is endorsed unequivocally is religious freedom.

Despite the often outspoken denunciation of the non-theistic framing of human rights, some Orthodox critics nonetheless recognize that the very notion of personal rights has profound Christian roots: 'I am personally persuaded,' writes Vigen Guroian, 'that the deepest inspiration of the doctrine of human rights has roots in Christian convictions'.[144] Christos Yannaras refers to the protection of individual rights as 'a major success and a precious achievement' and human rights as 'an undisputable achievement', even if far from fully realized.[145]

In this light, the task of Orthodox theology is to build bridges between secular rights discourse and the Orthodox tradition, rather than to tear them down. Guroian himself offers a key to resolving Orthodox ambiguity towards human rights: 'Human rights thinking is alien to Orthodoxy; however, the notion that a normative human nature is concretely manifested in every human individual who comes into existence is central to Orthodox anthropology and theology.'[146] In a somewhat similar vein, Patriarch Kirill of Moscow has written that 'Orthodox people are willing to accept human rights and work toward strengthening them, but on the condition that these norms promote the perfection of the individual, not the justification of his sinful condition.'[147]

In this perspective, the idea of 'overlapping consensus' may help to overcome Orthodox hesitations about human rights.[148] Overlapping consensus characterizes a situation in which divergent moral and religious conceptions of the good converge on an agreed common ground. Thus Christians, including Orthodox, could agree with believers of other religions and agnostic or

[143]Holy and Great Council of the Orthodox Church, 'Encyclical of the Holy and Great Council of the Orthodox Church, Crete, June 2016' (Crete GR, 2016). https://www.holycouncil.org (23 January 2018), § 16.
[144]Guroian, 'Human Rights and Modern Western Faith', 243.
[145]Yannaras, 'Human Rights and the Orthodox Church', 88.
[146]Guroian, 'Human Rights and Modern Western Faith', 242.
[147]Kirill of Moscow, *Freedom and Responsibility*, 68.
[148]The notion of overlapping consensus is particularly associated with the leading American moral and political philosopher John Rawls (1921–2002), as developed especially in his books *A Theory of Justice* (1971; rev. 1999), *Political Liberalism* (1993) and *Justice as Fairness: A Restatement* (2001). For a discussion of Rawls's theory and its critics in an Orthodox perspective, see Athanase Giocas, *Le Bien justifié: Une lecture contemporaine de la synthèse philosophico-juridique de Vladimir Soloviev* (The Justification of the Good: A Contemporary Reading of Vladimir Soloviev's Philosophical-Juridical Synthesis) (Québec: Presses de l'Université Laval, 2016), 177–201.

atheistic humanists on the necessity of affirming fundamental human rights, each group for reasons grounded in its own tradition. For Orthodox, this would be Scripture, patristic anthropology and modern theology of the person. Other Christians and believers of other faiths can find justification from their own traditions for human rights and non-believers in an intuitive conviction of the equality and worth of every human. The notion of overlapping consensus may assuage Orthodox concerns about the incomplete nature of human rights documents. This contention rests in large part on the absence of a Christian or even theistic justification for human rights. But the provision of this justification, in the perspective of overlapping consensus, reposes with each group, including Orthodox, which affirms the principle of human rights. The development and adoption of the Universal Declaration of Human Rights is an example of overlapping consensus – all agreed on the content of the Declaration but were unable to articulate a common grounding or basis to justify the Declaration.

# Conclusion

Orthodox defenders of human rights see rights as the best option available in a pluralistic and imperfect world, offering some safeguard not only for religious freedom, but more precisely to create conditions favourable for the free development of full personhood as understood in contemporary Orthodox theology. This is recognized even in the ROC document on human rights: 'The political and legal institution of human rights can promote the good goals of protecting human dignity and contribute to the spiritual and ethical development of the personality [*sic*].'[156]

Critics of human rights often fail to pursue their line of criticism to its logical conclusions. Yannaras's criticisms are based on an idealized interpretation of the pre-Christian Greek city-state (but Athens rather than Sparta) and of the Byzantine Empire, which are hardly relevant as potential models for modern industrial and post-industrial societies. Orthodox critics of human rights run the risk of finding themselves on the same side of the issue as other anti-human rights theories and ideologies. Orthodox would do well to remind themselves how much their predecessors and contemporaries suffered and continue to suffer under regimes which trample human rights, such as the Ottoman Empire, communist regimes and Islamic fundamentalists. The strongest defence against injustices perpetrated by such regimes is the invocation of human rights.

Orthodox are understandably upset by the invocation of human rights to support morally unacceptable practices such as abortion or same-sex marriage. But they should not allow their indignation over moral issues to lose sight of the wider importance of human rights in the protection of human life and dignity. The Universal Declaration of Human Rights of 1948 is one of the greatest triumphs of Christian culture. Even if it is far from universally honoured, it sets a very high standard for human behaviour.

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[156]Russian Orthodox Church, 'Basic Teaching on Human Dignity, Freedom and Human Rights', III:5.

Admittedly, the classification of Orthodox thinkers on human rights into 'critics' and 'supporters' is too simplistic. The 'critics' recognize a certain validity of human rights, even if they want to circumscribe them, while the 'supporters' see weaknesses in the lack of philosophical and especially theological underpinnings and expressions of human rights. Modern Orthodox thinking neither canonizes human rights, nor does it endorse a Taliban philosophy of human rights. Both critics and supporters appeal to human rights to judge hardships and atrocities inflicted on the church and believers by hostile regimes, both historical (the Ottoman Empire, the communist regimes of Russia and Eastern Europe) and contemporary (Islamic fundamentalist movements).

Alternatives to human rights are mostly unpleasant and they usually involve discriminatory and oppressive measures against identifiable segments of the population, if not all citizens. Such measures run counter to major aspects of the Orthodox notion of the person, notably respect for the personhood, dignity and freedom of the other – even if this means accepting that the other may not conform to my notion of the truth, Christianity or the Orthodox tradition. Orthodox can view the purpose of human rights as to provide satisfactory conditions for the largest number of persons to achieve of full personhood – the divine likeness of patristic theology, theosis or divine-human communion – in an imperfect world.