

The Rites of Dispossession

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“because they are in error and we are on the righteous path.”

Pope Innocent IV

“What is needed then is a new kind of imperialism, one acceptable to a world of human rights and cosmopolitan values.”

Robert Cooper

A critical attitude towards human rights begins perhaps with appreciating that while ideals are a necessary and crucial aspect of life, they are also dangerous. Absent perspectivism – that sensibility that reminds us that others elsewhere may practice similar principles in different ways or may simply adhere to values that differ from ours – ideals threaten destruction of difference and diversity in the name of compliance with universality. Today, we have become somewhat mindful of the parochialism fostered by ethnocentrism and tempoctrism, but we nevertheless seem unaware that all three – parochialism, ethnocentrism, and tempoctrism -- derive from a deeper source. That source, we suggest, is epistemic exceptionalism – a condition that can be described by two leaps of faith and a corollary: (1) a belief that there is something superior or final about how one’s group comes to know the cosmos, nature, and social life; and (2) a belief that one’s own group has either special or select access to such knowledge. From these assumptions it follows that others’ knowledge claims are either inadequate or in some way defective.

We explore two kinds of epistemic exclusivity in order to encourage a critical stance towards contemporary theories and practices of human rights. We sketch first how two thirteenth century writers/practitioners – pope Innocent IV and his student

Hostiensis – assess the rights of infidels and the responsibilities of Christians, popes, and Church towards non-believers. Here the Christian origins of the world become the exclusive episteme through which Innocent IV and Hostiensis apprehend the world. For contemporary theorists the episteme shifts from Christianity to modernity. The unquestionable superiority of modernity serves as the basis by which the set of contemporary theorists we examine -- Jack Donnelly, Weiss and Chopra, Robert Cooper, and the writers of the Euston manifesto – derive their claims about universal human rights and the responsibilities of intervening in other societies. While our comparison between these two versions of epistemic exclusivity suggests both similarities and differences, we are nevertheless hopeful that the parallels between them indicate the rather firm hold that ethnocentrism, temprocentrism, and epistemic exclusiveness have on our contemporary imagination. In closing we suggest that taking human rights seriously requires an awareness of this tight and unyielding hold as well as a willingness to locate resources that might relax its grip. We do not believe that indications of epistemic exceptionalism are limited to Christendom or to the modern West. Indeed, such expressions seem to us habitual and ubiquitous. Nevertheless, epistemic exceptionalism reveals its destructive potential most dramatically when we examine it in those who become powerful. The powerful are able to devote their preponderant resources to transforming the world (including themselves) so that *their* understanding of cosmological and social order becomes *the* order. We start by asking what happens when two expistemic exceptionalisms encounter each other?

Infidel Encounters

In the summer of 1244, pope Innocent IV moved the papacy from Rome to Lyons because of the excommunicated emperor Frederick II's attack on Italy. In contention was the jurisdiction or relative power of pope versus the emperor within the Holy Roman

Empire. It was a period in which internal dissension went hand in hand with fears of an impending attack upon Christendom from the powerful Mongols. While both the Muslims and Mongols posed military threats to Christendom, the Mongols were a new and relatively unknown force. Innocent IV sent two groups of friars to make contact with the Mongols. He had multiple purposes. He wished to ascertain the make up of the Mongols, learn more about Mongol intentions towards Christendom, probe whether they might become allies against the Muslims, and, finally, he hoped to convert the great khan and his people to Christianity, (Muldoon 1979, 42; Williams 1990, 4). The friars carried two letters from Innocent IV to the Great Khan of the Mongols. These letters and the khan's response to them provide us with a sense of the encounter.

The first letter provides, in Robert A. Williams' words, "a simplified exegesis of the central mythological tenets...structuring Christian belief" (Williams 1990, 47).

Muldoon (1979: 43) translates and summarizes the letter:

Innocent stressed that man's capacity for knowing ultimate truths was blocked by the consequences of sin. Christ, however, acted as a mediator between God and man so that these consequences could be overcome. After His death, Christ left his vicar to care for all men in His name, and so as Christ's vicar and in obedience to the responsibility he bore for the salvation of all men, Innocent was sending learned and holy friars to instruct the Tartars [Mongols] in the way of salvation.

Innocent's presentation of the Christian myth of origins contains a set of assumptions. First, of course, the Christian God—not a god but *the* one and only God—leaves a vicar, that is, a proxy or representative, on earth. God/Christ charges the vicar to "the care of souls" and to "heed watch over their salvation" (Dawson 1955, 74). Further, "He handed to [the vicar] the keys of the kingdom of heaven by which he and, through him, his successors, were to possess the power of opening and of closing the gate of that kingdom to all" (Dawson 1955, 74).

What this amounts to is that Innocent is declaring his responsibility for the salvation of all men, including the khan:

Wherefore we, though unworthy, having become, by the Lord's disposition, the successor of this vicar, do turn out keen attention, before all else is incumbent on us in virtue of our office, to *your* salvation and that of *other* men...so that we may be able, with the help of God's grace...[to] lead those in error into the way of truth and gain all men for Him. (Dawson 1955, 74; emphasis added)

Innocent knows that he does not have the military resources to deter the khan from further advances upon Christendom. But having declared himself God's proxy on earth he admonishes the khan for military aggression and aims a spiritual salvo at him:

Nor should you be emboldened to commit further savagery by the fact that when the sword of your might has raged against other men Almighty God has up to the present allowed various nations to fall before your face; for sometimes He refrains from chastising the proud in this world for the moment, for this reason, that if they neglect to humble themselves of their own accord He may not only no longer put off the punishment for their wickedness in this life but may also take greater vengeance in the world to come. (Dawson 1955, 76)

Guyuk Khan's answer to Innocent IV, dated 1246, is nearly symmetrical in its epistemic exceptionalism. In response to Innocent's admonishment about his destruction of various nations, he offers the following:

The eternal God has slain and annihilated these lands and peoples, because they have neither adhered to Chingis Khan, nor to the Khagan [khan of khans], both of whom have been sent to make known God's command, nor to the command of God. Like thy words, they were also impudent... (Dawson 1955, 85)

However, Guyuk, perhaps projecting a sense of security in his greater power, does manage to pose the epistemological issue: how does Innocent know he speaks and acts for God?

Though thou likewise sayest that I should become a trembling Nestorian Christian, worship God and be an acetic, how knowest thou whom God absolves, in truth to whom he shows mercy? How dost thou know that such words as thou speakest are with God's sanction? (Dawson 1955, 85-6)

The question is posed, however, so that Guyuk Khan can deliver his own epistemic exceptionalism: "From the rising of the sun to its setting, all the lands have been made subject to me. Who could do this contrary to the commands of God" (Dawson 1955, 86).

The pope's rightful station is not as God's vicar but as Guyuk's vassal:

Now you should say with a sincere heart: "I will submit and serve you." Thou thyself, at the head of all the [Christian] princes, come at once to serve and wait upon us. At that time I shall recognize your submission. (Dawson 1955, 86)

Today the Mongol Empire hardly seems to hold our attention;¹ we are no longer concerned with Guyuk's conception of the rights, role, and rank of others. Studying Innocent IV's epistemic exceptionalism, however, perhaps remains relevant. This is especially so if his examination of the rights of non-Christians can help us to diagnose some of the tensions within contemporary human rights praxis.

Innocent IV and the Mainstream

Before he became pope Innocent IV (1243-54), Sinibaldo Fieschi was a leading canon lawyer. As pope and lawyer, Innocent picked up the various threads and themes scattered within Christian thought and synthesized them into a legal and theoretical basis for Christian relations with non-Christians societies. His analysis held sway for more than 300 years and had a direct bearing on Francisco Vitoria's fifteenth century analysis of Spanish dealings with Amerindians and Hugo Grotius's early systematizations of the law of nations (Williams 1990, 13, 44).

A list of internal and external others in Innocent's time included Christian schismatics and heretics, Jews and Muslims living within Christian realms, as well as Muslims and Mongols beyond the frontiers of Christendom.² Indeed, the canonist's discussion of how to deal with external others was a piecemeal extension of their ideas on how to treat non-Christians living within Christendom (Muldoon 1979, 3). The arrival

¹But, see, for instance, the recent book by Jack Weatherfold, which spent some time on the New York Times bestseller list.

² It is important to note that, though differences were recognized between Jews, Muslims and other groups, for most purposes the taxonomy was collapses into the single category, non-Christian, in order to create a uniform response to the infidel (Muldoon, 1979: 3).

of the Mongols at Christendom's door may have spurred Innocent IV to formalize thinking on relations with external others.

In his commentary on one of pope Innocent III's decretals³ – *Quod super his* (1209)– Innocent IV raised the following question: “is it licit to invade the lands that infidels possess, and if it is licit, why is it licit?” (Muldoon 1977, 191-2). By contemporary standards, Innocent is surprisingly direct, an issue to which we will return below.⁴

In answering the question of whether Christians had a right to dispossess non-believers, Innocent drew from the Bible, Roman Law, and the humanist thinking drawing from Aristotle.⁵ His rhythm largely follows the Christian mythography of origins, but is also tinged with nascent natural law thinking. As his creation, the earth ultimately belongs to God himself. However, the creation is also God's gift to all humankind, a gift to all equally by virtue of each person's status as one of God's creatures, though conflicts among Adam's descendants led inevitably to the apportioning of particular parcels of land for particular families and, hence, the origins of property. In addition, God's order requires earthly ordering by legitimate authorities, including, in the temporal realm, an initial grant of authority to the father, just as the Heavenly Father exercises authority over all his children. With the expansion of the size of population and the scale of territory, patriarchal rule over individual families is consolidated in the rule of princes. Thus, Innocent IV locates *dominium*—the rights to property and legitimate authority—in the very foundations of God's order; that is, in natural law. And according to natural law

³ Decretals were binding jurisdictional decisions issued by popes.

⁴We would note at this point that such candor was characteristic of later discussions among Spanish rulers and jurists of the legality of the conquest in the Americas. See Williams (1990) and Inayatullah and Blaney (2004). Such candor began to die away, Williams suggests, with the English thinkers' (Raleigh?) efforts to get beyond the need to justify dispossession of native lands.

⁵Richard Rubenstein (2003) provides a popular account of the re-discovery of Aristotle for Christian humanism. Muldoon (1979: 46-7) comments on the influence of Aristotelian themes on Innocent IV, particular via the codifications of canon law and the subsequent Christian understandings of natural law.

precepts, under which legitimate possession and authority are established, territories or lands, not already possessed or ruled, continue to be free for the taking.⁶

In short, Innocent IV established that, as Muldoon (1979: 9) puts it, “By the laws that were common to all men, private property and self-government were the right of all men.” But what about the lands possessed and territories ruled by infidels? His conclusion seems to circumscribe any efforts to dispossess infidels:

As a consequence, it was not licit for the pope or anyone else to wage a campaign to deprive infidels of their property or their lordship simply because they were infidels. Innocent thereby effectively demolished the possible claim that the responsibility of the Church for the souls of all men authorized any war that Christians chose to wage against infidels. (Ibid.)

Arriving at the conclusion that infidels have a right to property seems rather astonishing given that Innocent IV starts from a premise of the epistemic exclusivity of Christian truths, including that he is God’s vicar and has thereby has a kind of universal *dominium*. We are left to ask why he might want to arrive at what seems like the modern equivalent of sovereignty. As we shall see later, Innocent’s claims about the rights of others elsewhere is intimately connected with the problems posed for the Church by schismatics and heretics inside Christendom. For the moment however we can notice that for Innocent, accepting others’ right of *dominion* did not entail giving up his responsibility for their souls. Epistemic exclusivity remains intact but does not, in Innocent’s hands, immediately sanction a war of dispossession. Nevertheless, Innocent’s retention of the exclusivity of Christian beliefs should make us wary (Williams 1990, 45).

While apparently disavowing a war of dispossession, Innocent IV insists on papal jurisdiction over infidels. Indeed, he claims that the papacy, whatever its actual political

⁶ See Muldoon (1979: 8-9) and Williams (1990:). The foreshadowing of the entire edifice of social contract thinking, perhaps of liberal thought itself, is suggested by Skinner’s genealogy (1978:)

capacity, has the ultimate legal authority over all peoples, including infidels. This construction, separating *de facto* and *de jure* authority, points to another issue that Innocent's commentary on *Quod super his* is designed to resolve: who is authorized to make the decision to intervene? Innocent means to preempt Christian rulers from using this claim of epistemic exclusivity for nefarious, self-aggrandizing purposes at the expense of the true purpose of God's order and the papal role: salvation. By reserving the purpose of Christian authority over infidels to the work of salvation, he also privileges his own position in the earthly order as the true spokesperson for Christian truth (Muldoon, 1979: 9-12). We will return to this issue at several points below, but the immediate point is that with this claim of papal authority, Innocent works to reclaim from infidels what he has granted (even if he also appears to protect them from unjust and unauthorized conquest). That is, Innocent IV uses the same apparatus—the same combination of Biblical references, Roman Law sources, and humanist thinking—to establish infidel *dominium* and to construct the basis for the legitimate dispossession of infidels. This argument unfolds in several steps.

Innocent begins his argument with the unchallengeable claim that the pope has the right to judge Christians when they violate the laws of God, whether revealed or discoverable by reason. Also uncontroversial, at least from the point of view of medieval Christianity, was the pope's slightly limited but still powerful right to judge Jews. While the Jewish community within Christendom was self-governing in religious matters Innocent, as well as prior pontiffs, understood that the pope had the right to pass judgment on Jews when they (1) violated the laws of the Old Testament, and (2) when Jewish leaders did not shoulder the responsibility of enforcing those laws. We can note here the relative generosity; true, it is Christians who are judging, nevertheless, they are doing so by employing what they think to be the standards of Jewish texts and traditions.

As with Jews, so with infidels proper. On the assumption that natural law was something that can be understood by all people, Innocent argued that when infidel rulers failed to punish their subjects violations of natural law the pope could call on and authorize Christian rulers with military forces to intervene in infidel societies in order to mete out justice (Muldoon 1979, 10-11). Without spelling out the details about which infringements of natural law might cause the pope to intervene, Innocent nevertheless did mention sexual perversion and worship of idols as particular clear violations of the order of God's creation. The presence of such unchecked sins allowed the pope to summon and bless Christian armies for the purposes of righting the natural order. Once such a mission was accomplished,⁷ however, it became necessary for these armies to withdraw "just as Innocent IV and Gregory IX did not interfere in Jewish society after burning copies of the Talmud" (Muldoon 1979, 11).

As long as the blessed armies are there, we may wonder, why not use them to convert the infidels to Christianity? Here the secret wish of the powerful comes into play, namely that meaningful conversion requires an absence of coercion. The claim of exclusivity, epistemic or otherwise, cannot achieve adequate satisfaction merely by self confirmation. For such fulfillment it needs the other's free recognition.

Innocent's responsibility to the epistemic exclusivity of Christian truth thus takes on other responsibilities, most of which are pedagogical in nature. The trickiest of these is the missionary work required to instruct infidels on how to worship. Innocent recognizes that infidels may resist efforts at conversion. Indeed, they may forcibly block missionary activity altogether. But this is tantamount to blocking the spread of the true knowledge of God and justifies Christian invasion and thus the loss of *dominium*

⁷ And surely the armies and their rulers will have their own ambitions, associated with pillage and plunder, if not the desire for outright conquest. The need to pay attention to these practical considerations is also not far from the thinking of Popes, as Muldoon and Williams make clear.

normally protected as part of natural law. Persecution of Christians, including recent converts, living under infidel rule, also gives the pope authority to call for incursions by Christian armies. The pope might even remove an infidel ruler if such a ruler did not heed papal warnings about the ill-treatment of Christians. Innocent was careful on this score, however. He opposed Christians rebelling against an infidel ruler because he feared that if an infidel ruler came to believe that his Christian subjects were rebellious he might use that as a pretext for quelling a potential revolt and thereby escalate persecutions against Christians.

We might ask of Innocent IV whether his arguments are tied to the specific superiority of Christianity or whether they are general principles applicable to all peoples and situations. If the latter, could members of other faiths legitimately marshal such claims against Christians and their rulers? Innocent's anticipation of this problem remains fascinating, but we limit ourselves to what, for our purposes, is the most revealing question: Do infidels have the right to send missionaries into Christendom? Innocent's unsurprising "no" to this question merely expresses the asymmetry already at the origins of his episteme. Christian truth is universal but ultimately it does not sanction symmetrical rights among different peoples and viewpoints. The epistemic position of Christianity excludes other perspectives on truth. Nor is Innocent reticent in providing the reason why others' missionaries must be blocked while infidel interference with Christian missionaries sanctions invasion: "because they are in error and we are on the righteous path" (Muldoon 1979, 11-14; quotation on p. 14).

In sum, Innocent IV argues *for* the rights of infidels to property and self-government and thereby rejects the claim that they can be dispossessed simply because they are not Christians. However, Innocent's defense of infidel *dominion* or, in modern terms, some combination of property and self-rule, including elements of what we would

call “sovereignty,” is far from absolute. Rather, he provides a series of justifications that legitimate both military intervention and political/spiritual regime change.

An Alternative Frame

While Innocent IV’s framework of Christian relations with others became part of the mainstream of Christian thought, it was never fully accepted even in his own time. Indeed, Innocent’s most famous student, Hostiensis, while paying full homage to his master, developed a counter framework that echoed an alternative theme. This alternative framework had existed prior to Innocent’s analysis, and continued to challenge the Innocentian understanding right through the Iberian dispossession of the Amerindians. The central claim of this alternative is that *dominion*, the right to property and lordship, rather than being something that all peoples naturally possess, as claimed by Innocent, actually belongs to Christians alone. A corollary of this claim is that it is not just those who are Christians in name, but those who actually practice Christian principles with whom *dominion* rests. This view held that since all property and all authority to govern derived from God and since God, through Christ, had handed authority to his vicar the pope, all property and authority was the right and responsibility of the pope. If this was not yet true in fact, it was so in principle.

Crucially for our purposes, the alternative framework shares with the Innocentian mainstream the assumption of epistemic exclusivity. From one angle, this overlap makes of the two themes a single position. Neither of them permits a symmetry that tolerates for others the same epistemic privilege that they hold for their own myths of origin. That is, both disallow a perspectivism⁸ that challenges the certainty so necessary for dogmatism. If both the mainstream and the alternative framework within the

⁸ We draw term from Todorov, see Inayatullah and Blaney

Christian world share this episteme, what makes for their difference? It is worth examining Hostiensis' thinking at greater length.

Henry of Segusio, known often as Hostiensis. disputed Innocent IV's view that infidels possessed *dominion*. The central point of Hostiensis text is that Christ's arrival ended the power of all non-Christian priests or authorities:

It seems to me that with the coming of Christ every office and all governmental authority and all lordship and jurisdiction was taken from every infidel lawfully and with just cause and granted to the faithful through Him who has supreme power and cannot err. (quoted in Muldoon 1979, 16)

As Muldoon points out, this argument is an old one traceable to Alanus Anglicus and further back to the Donatists (whom we will discuss briefly below).

Hostiensis thus argued that Christ's establishment of his true Church on earth created Christian jurisdiction over both the spiritual and temporal realms; sinners, thereby, possessed no lawful basis for property or lordship and, where possible, might be dispossessed in favor of those more worthy. Indeed, because the word "dispossession" suggests that infidels once had possession --the right to their own property and governance, it does not quite carry the appropriate connotations. Infidel possession is merely *de facto*; it never has ontological depth or legal weight. Christ's incarnation merely ratifies the truth of Christian universal dominion. What this meant for Hostiensis was that popes had an unrestricted right to authorize intervention in infidel societies.

However, recognizing that his position could be used to mask base motives, Hostiensis is not interested in promoting rampant crusading against infidels. He qualified his position in two ways. First, if infidel rulers recognized the suzerainty of Christians, then they should be tolerated and allowed to retain their property and offices. Second, although infidels had usurped what rightfully belonged to Christians, Hostiensis felt that asserting the Christian right of universal dominion against infidels was not an

effective way to initiate contact. It was better to teach or reveal the truth to infidels and this required sending peaceful missionaries as the first step. His prudent thinking did not alter the legal basis for exclusive Christian *dominium*: Christians should try to teach infidels first, followed by armed intervention if they do not subordinate themselves to Christian truths and authorities. Direct military intervention is seen as a last resort.

The contrast is important. Whereas Innocent IV's claims to such intervention comes after the affirmation of infidel rights, Hostiensis presents papal intervention as the original or natural condition, even if he tempers his position with restraining qualifications.

Hostiensis' line of argument was not new and the implications of such a position were well known and had been already labeled as heretical. In the early thirteenth century, the English canonist Alanus Anglicus had already made the argument for universal Christian dominion upon which Hostiensis relied. Hostiensis' and Alanus' argument can be further traced back to the Donatist controversy. The Donatists were fourth century reformers in the North African Church. They believed that a priest could not rightly administer the sacraments without himself being in a state of grace. The Church, represented by no less a figure than Augustine, defended separating the role of priest and the institution of the Church from the person who performed the functions of a priest. For the Catholics, the Church was all that needed to be sanctified because the holiness or purity of the priest had little to do the holiness of the institution.

At stake was the status of sinners within the Church. The Donatists favored what we might call a purist, idealist, or radical reformist position. For the Donatists, the Catholics

were unable to deal with evil even when it had been identified. On these grounds the Donatists could claim to be the true Church even if their congregations contained sinners, for they dealt with them as soon as they were identified. On the same grounds, the Catholic claim to be the true Church was vitiated. The

Catholic claim that the Church could and did contain malefactors without prejudice to its holiness indicated a fatal laxity in Donatist eyes. (Tilly 1999, 17)

As Maureen Tilly points out, drawing on the records of the debate, the Catholics in their defense of the Church as sanctified institution, referred to Jesus' toleration of Judas, "The Lord Jesus Christ himself, a singular example of patience, not only knew that this most evil traitor was in the midst of his disciples, but already fully aware of this, he admitted him to the number of his disciples" (Tilly 1999, 18). Tilly concludes that what broke apart the North African church was the issue of whether holiness was rightly deemed an attribute of the Church as an institution or an attribute belonging to a group of people (Tilly 1999, 18).

The appeal of the Donatist position lies in its call to reform. The Donatist saw the Catholic toleration of sinners within the Church, particularly within the clergy, as indicating a corruption that desperately called for action. From the Church's position, the Donatists threatened the very existence of the Church. Muldoon (1979: 16) puts it precisely, "if the efficacy of a sacrament depended upon the personal qualities of the minister, the Church as an institution would dissolve into a series of sects led by those believed to be sinless." The Donatists were declared heretics as the Augustinian position carried the day.

We can now see how the Donatist heresy challenges precisely the legal structures and institutions that Innocent IV was intent on preserving. Those like the Donatists, who are committed to the purity of ideals and motivated to reform corrupted institutions, always remain in tension with those who are more at ease with the human flaws and institutional decay that beset any pursuit of ideals. In addition the Donatist's purificatory idealism associates *dominium* with grace, that is, with God's favor (or the sanctification that inspires virtuous impulses and imparts strength to resist temptation and endure trials). The equation of *dominium* and grace appears to authorize Christian

conquest of all infidel domains. As non-Christians they fail this test of grace by definition, if not by actual non-Christian beliefs and practices. Such an argument seems to directly support colonial conquest.⁹ However, the external application of this claim has an internal counterpart. Consideration of intervention beyond the boundaries of Christendom requires one, even if only implicitly or subconsciously, to make a critical assessment of one's own condition. If infidels can be dispossessed because they are not Christians then one's own church is vulnerable to the same dispossession by fellow Christians who consider themselves pure and the Church officials as corrupted.¹⁰ Also, it might be claimed that the right to intervene lies with any who represent the pure faith, who spread Christian truth. If *dominium* rests on grace, rather than on official position, papal authority itself is undercut; the pope loses his privilege and the right, nay duty, to spread the gospel (and, via that process, dispossess the infidels) is spread to all worthy Christian rulers and, perhaps, to all who reside in a state of grace.

In this context, the motivation for Innocent IV's stubborn defense of infidels' rights to property and self-government becomes clearer. If *dominium* depends on Christian grace, then dispossession of infidels may be justified, but this determination comes with the risk of warfare within the one Church. Fighting between different factions, each of which think of themselves as the select and regard other Christians as corrupted, can lead to a war of zeal. If *dominium* is independent of grace, then one secures the continuity of the Church but also grants rights to infidels. It is worth quoting Muldoon on this point:

the struggle over the rights of the infidels was linked...to the far more important problem of the nature of the Church. When the lawyers defended the right of infidels to *dominium*, they were not thinking primarily of [infidels]. They were thinking of the related problem of ecclesiastical dominium. If the infidels could

⁹ Williams?

¹⁰ Dangers of this discussed by Skinner; source of radical Calvinist doctrines.

not possess *dominium* because they were in a state of sin, neither could sinful priests, a conclusion that was obviously unacceptable. (Muldoon, 1980, 316)

Thus, the mainstream and alternative frameworks are polarized, not only on the imperative of the zealous enforcement of Christian principles, but also on the issue of the rights of infidels – as expressed, for example, by the positions taken by Innocent IV and Hostiensis.

This polarization, however, contains a key area of convergence. Once we include Innocent's "loopholes" within infidel rights – that is, once we focus on why, despite infidel rights to *dominium*, the pope can still authorize armed intervention, we then can see how both frameworks support dispossession. Admittedly, they do so for slightly different reasons, with markedly different postures, and with somewhat different implications. Nevertheless, as significant as the differences between the idealist reformers and the mainstream may seem, their common unconscious and uncritical acceptance of epistemic exclusivity allows them both to become variations on the theme of dispossessing others. Both frameworks operate under the register of Christian truth.

The differences between the two positions remained salient for the Church and for the imperial ambitions of Christian rulers. Reform orientated thinking such as that of the Donatists reappeared in various guises as anti-corruption movements throughout Christian history-- often in association with names like John Wyclif and Jon Hus. The tensions between the mainstream and calls for reform perhaps came to a head at the Council of Constance, held from 1414 to 1418. The council condemned as heretical forty-five propositions in John Wyclif's work. Among these was his claim that "No one is a civil lord, or a prelate, or a bishop, while in mortal sin." While the statement contains some ambiguities, it echoes Donatist inclinations and fits well with Wyclif's reformist agenda. Much like Hostiensis, after asserting the exclusive right of those in grace to *dominium*, Wyclif stressed the theme of converting infidels over conquering them. And,

like Innocent IV, he also argued that if infidels resist missionaries, then conquest was apropos. The main purpose of the Council of Constance was to create ecclesiastical unity, reinforce papal dominance, and end what came to be known as the Great Schism. In this context, ideas such as those of Wyclif's could not be tolerated (Muldoon 1979, 111). Indeed, as Muldoon goes on to note, the whole line of reformist argument from the Donatists to Alanus, from Hostiensis to Wyclif (and Hus), comes to a close:

The Council of Constance brought to an end the line of argument about the dependence of *dominium* upon grace that the thirteen-century canonists had developed. Following the condemnation of Wyclif's opinions, Hostiensis' views on *dominium* were no longer acceptable. (Muldoon 1979, 119)

Henceforth, if anyone wanted to make arguments about the conquest of infidel lands they would have to do so with reference to Innocent IV's mainstream arguments. That infidels had *dominion* independent of grace would have to be the starting point against which loopholes would have to be found – loopholes that Innocent himself had started to carve and which in the fifteen century Francisco Vitoria further widened despite his desire to stem the tide of Spanish genocidal activities in the Americas.¹¹ Even the much maligned Requerimiento—the document, ostensibly read to natives, that asserted the natural law basis for the Spanish conquest—took account of Innocent's natural law defense of infidel rights (Muldoon, 1980). As Robert Williams (1990: 8) has stressed, law had “legitimizing, energizing, and constraining roles” in European imperialism; law served as both instrument and tool of colonization.

Human Rights

¹¹ The importance of Vitoria for 16th century debates on the status of the Indians and the further development of the law of nations, including contemporary universalist claims, is discussed by Muldoon (1979: vii-viii), Dunne and Wheeler (1999: 4-5). See also our discussion (Inayatullah and Blaney: 58-65).

The concern of moderns has shifted from the problem of how to release the potential Christian within the infidels to the problem of how to liberate latent human rights of premoderns. For the modern, as Jack Donnelly evokes, a regime of human rights confronts its other most starkly in the form of “caste.” Caste and other forms of relatively fixed hierarchies limit the opportunities available to specific humans according to their ascribed rank and role. To live in the state of modernity is ostensibly to strive against caste; it is to know effortlessly and completely the superiority of a life in which individuals have equal worth. Each person is finally released from such birth marking tethers as sex, race, color, and tradition, allowing each thereby to become free to achieve an individual status. Touting the temporal superiority of modernity, Donnelly links the present of the non-West to the past of the West by asserting that “non-Western cultural and political traditions, like the *premodern* West, lacked not only the practice of human rights but also the very concept itself” (83, emphasis added).¹² That which best exemplifies the premodern, its avatar, is caste:

Caste and human rights are clearly radically incompatible. Human rights “derive from the inherent dignity of the human person,” to quote the International Human Rights Covenants once again. Each person has an inherent dignity and worth that arises from being human. Thus each person has the *same* basic dignity, and human rights are held equally by all. (Donnelly: 83, emphasis original)

The stress on the word “same” is crucial, for Donnelly is most likely aware that naturalized hierarchies may also cherish the dignity and worth of humans. *Sameness* of worth and dignity, however, suggests the exclusive distinction of modernity. In traditional India by contrast, Donnelly suggests that the very nature of humans differs “from person to person, or rather, from group to group” (83).

While Donnelly is not opposed to the culturalist suggestion that a definition of human rights needs to be compatible with various differing cultural legacies, he expresses an urgency to set limits on cultural variation:

¹² We have analyzed this form of temporal privilege in Blaney and Inayatullah (2006)

if human nature were infinitely variable, or if all moral values were determined solely by culture (as radical cultural relativism holds), there could be no human rights (rights that one has “simply as a human being”) because the concept of “human being” would have no specificity or moral significance. As we saw in the case of Hindu India, some societies have not even recognized “human being” as a descriptive category. (91)

With Donnelly, let us assume for a moment that some societies have not *even* recognized “human being” as a category. If so, why haven’t they?

We could hear this question as a signal to slow the rhythm of our inquiry. Acting on Donnelly’s hypothesis, we could design a study that investigates whether or not a representative sample of premodern cultures do or do not conceive of “human beings.” For those who have no such conception we may ask if such an absence is due to the lack of proper pedagogical training or whether it comes from a refusal of and resistance to such pedagogical imperatives. We might then ponder how to consider the rules of engagement across differences in which some do not even conceive of human beings. Do we devise such rules with or without the participation of these others? To pause and linger with these questions is perhaps to be scientific. It is at least to be curious.

Not to hear this signal and not to slow one’s rhythm calls attention to the pace at which Donnelly proceeds. The haste becomes most noticeable in his discussion of the various modernist conceptions of human nature which are linked to what he calls “philosophical anthropologies”:

There are many well-developed and widely accepted philosophical anthropologies: for example, Aristotle’s *zoon politikon*; Marx’s human natural being who distinguishes himself by producing his own material life; Mill’s pleasure-seeking, progressive being, Kant’s rational being governed by objective law; and feminist theories that begin by questioning the gendered conceptions of “man” in these and most other accounts. Each of us has a favorite that, up to a certain point, we would defend. But there are few moral issues where discussion typically proves less conclusive. 16-17

For Donnelly, inconclusive discussions act as the hurdles over which one needs to bound. They do not suggest, for some reason, the presence of substantive differences within modernity about the meaning of life, the place of humans within that life, and the

quality of rights that follow. Rather than acknowledging and facing the presence of the difference within modernity, Donnelly's alchemy converts such differences to "preferences" – innocuous, irrelevant, and inconclusive. Philosophical anthropology is transformed into a set of simple choices.

How then to arrive at some kind of certainty about human rights? Donnelly's preference is through what he calls "consensus:"

Fortunately, there is a remarkable international normative consensus on the list of rights contained in the Universal Declaration of International Human Rights Covenants. Furthermore, in the philosophical literature on lists of human rights there are really only two major issues of controversy (other than whether there are such things as human rights): the status of economic and social rights and the issue of group human rights. 17

However, the existence of such a consensus is much contested.¹³ Thus, again as patient scientists, we might want to ask how we know there is a consensus and how such a consensus was achieved. Do human rights become self-evident once we make the transition from premodernity to modernity? If so, why do some seem to remain tied to premodern conceptions? Is this consensus tied merely to a world-wide fashion in the present? Does the need to appear modern in these times validate the universal status of human rights? Does this consensus involve any implicit or explicit elements of coercion? Do fashion and coercion act together to create a seemingly dominant voice that tentatively accepts the consensus while the recessive voice against the consensus lays fallow and slowly cultivates its opposition? How might we engage these questions so that our research design remains attentive to what people in different cultures do and do not say?

¹³ Ken Booth (1999: 34), pointing as we have to the haste of human rights advocates, argues that it is "too soon in history to say" whether human rights are universal or natural. Bhikhu Parekh (1999) suggests that claims of such a universal conception run roughshod over existing moral diversity and that a commitment to dialogue have a logical and ethical priority to human rights.

The second part of the passage above is no less revealing of Donnelly's hastiness. In the literature on human rights, why are economic, social and group rights controversial? Does this controversy act as a proxy to a more substantial critique of human rights and modernity? If we examined these two controversies with more deliberation might we find in them an overlap of concerns suggested by the culturalist critique of modernity and human rights?

It is not that Donnelly does not address these questions. Rather, his need to defend human rights as universal and as intrinsically tied to the abstract ontological individual, brings out the polemicist in him. At his best, he recognizes the riven-ness of the global social fabric when he says, "Faced with inescapably contending and contentious first principles, we not only can but should interrogate, evaluate, and judge our own" (21). And, "There is no strong foundation for human rights—or, what amounts to the same thing, there are multiple, often inconsistent, "foundations" (20).¹⁴ Most revealing of all is Donnelly's hint to himself about how to create foundations: "Moral and political arguments require a firm place to stand. But that place appears firm largely because we have agreed to treat it as such" (19).

If so, does not the following become the question: given the contending and contentious nature of first principles and given multiple and differing cultural foundations of human nature and human rights, how do we formulate process by which to reach agreement? Such a question about process follows from Donnelly's logic but vanishes under the pressure of producing both certainty and "consensus" on the meaning of human rights.

¹⁴ The presence of multiple, inconsistent foundations, however, does not mean that there cannot be strong foundations for human rights. It only means that the latter cannot appear by disregarding the former. Indeed, perhaps we can speculate that a strong foundation for human rights appears only when the presence of multiple and inconsistent foundations act as the starting point.

This combination of insecure foundations and the blustering confidence that insecurity generates produces in Donnelly a tone reminiscent of Kipling.¹⁵ Donnelly begins to pontificate when he assigns himself the role of the gatekeeper of “reasonableness”:

It is not necessarily illogical to claim that some members of the species *Homo sapiens* are born to slaves or untouchables or subordinated to men. It is not necessarily incoherent to claim that members of one racial or ethnic group ought to be subordinated to another. It is, however, almost by definition *morally unreasonable in the contemporary world*. In particular, it is beyond the pale in almost all countries today to advocate social institutions that enforce qualitative differences between groups of human beings, especially when those differences are defined by ascriptive characteristics. Such institutions are not expressions of alternative conceptions of human rights but rather are fundamental challenges to the idea of human rights. (52, emphasis original)

Fair enough. We ourselves have argued that one might find the basis for beginning an ethical argument with a description of the ethical system of the present (intro, IR Difference). However, how might we respond to such challenges from “beyond the pale”?¹⁶ Might we hear that critique from the other as the response of those who feel coerced and imposed upon? Might we contextualize that critique as part of a riven global cultural landscape? Should perhaps we accept that critique as a potential resource by which we should, as Donnelly said earlier, “interrogate, evaluate, and judge our own” first principles? If they exist in a different time from ours – since they are outside the reasonableness of the *contemporary* world – might we use their time to evaluate our own?

No, of course not. Human Rights, like Christian truth, admit no symmetry; the mission flows in only one direction. Donnelly raises the issue only to hurriedly displace it:

¹⁵ On Kipling, see Nandy (1983).

¹⁶ In part, the origins of this phrase, “beyond the Pale,” refer to the space beyond what the English were able to pacify and control in their fifteenth century imperialism of Ireland. Here Donnelly seems to be intuiting the hegemonic component of the human rights agenda.

Participation in the overlapping consensus on the Universal Declaration model is (only) possible for those who see “human being” as a fundamental moral category and who see human beings as in some important sense as autonomous actors. These “foundational” commitments define the range of views that must be taken into account in cross-cultural and cross-philosophical discussions...Those outside the community thus defined should be listened to and perhaps even sought out—because of our own commitment to respect for all human beings, in an effort to change the minds of those who hold such views, or to sharpen our own views by subjecting them to external critique. But proponents of such views are legitimately treated as in some important sense “unreasonable.” 51-52

The possibility of an ethnological critique from the outside is “treated as” unreasonable; questioning the ontological priority of individuals makes you, not illogical, if we take Donnelly’s earlier point seriously, but illegitimate because anachronistic—an other out of sync with the times. Listening to others remains a kind of performative, if pale, tolerance that works only to re-valorize the modern self; or more important, as a strategic means to formulate a pedagogical plan for civilizing the infidels. But not, it seems, to enter a zone of cultural and intellectual dialogue.

The need to reject a potential critique, far from securing the universal consensus that Donnelly claims for human rights, suggests instead a kind of recognition of the frailty of the human rights agenda if not the insecurity of the entire project of modernity. Indeed, we may speculate that it is precisely this insecurity that forces a projection of certainty – and that this insecurity/certainty spawns belief in an epistemic priority and exclusivity reminiscent of Innocent IV. Thus, our knowledge is full—filled by the grace of God, by the progression of modernity, and by the clarity of reason. Their knowledge is permeated by lack—lack of God’s blessing, lack of time’s fullness, and lack of reason’s precision.

The premise of epistemic exclusivity can be defined by two leaps of faith, not unlike those available to Innocent and his interlocutors: (1) a belief that there is something superior or final about how one comes to know the cosmos, nature, and social life, and (2) a belief that one’s own group has either special or select access to

such knowledge. Indeed, the claim to universality of human rights relies, at least implicitly, on natural law notions of a common humanity and the privileged access of moderns to that knowledge (Dunne and Wheeler, 1999: 4-5; Brown, 1999). This epistemic exclusivity generates a set of rules by which the epistemologically select engage those who have yet to be graced.

What follows is not surprising, given our discussion of Medieval Christian thought. Rules of engagement with the other turn on the central principle of the modernist human rights agenda, namely the equality and autonomy of individuals. In parallel fashion to Innocent IV, Hostiensis, and Wyclif, a key implication of the presumed status of the person (then as a possible believer; now as an individual) is that the use of force to convert others is banned. Since force clearly violates autonomy the goal of universal consensus must be created without coercion (Donnelly: 52). However, the same principles of equality and autonomy of individuals mandate limits to what a “rights-protective society” can tolerate. Donnelly notes, that, as with unpunished violations of natural law for Innocent, “Some forms of behavior cannot be tolerated in a rights-protective society. Some interests must be excluded from the calculation of the public interest, no matter how deeply their proponents are attached to them” (52).

What else follows from the strictures set by the assumption of the equality and autonomy of individuals is quite complicated. Donnelly seems to accept that, within the boundaries of their own states, cultures may practice forms of naturalized hierarchy and other taboos of modern society, such as slavery, untouchability, “human sacrifice, trial by ordeal, extrajudicial execution, and female infanticide” (92-3). This is tantamount to accepting that *dominium* does not depend on grace since, as Friedrich Kratochwil (1995) has shown, the parallel between property and sovereignty is exact. Thus, the epistemologically enlightened have to tolerate living “next to those who hold morally and politically loathsome views” (52). But if such cultures attempt to impose their views on

other cultures, then things seem to get tricky -- as they did for our infidels in the face of Christian truth. When violations of today's natural law are serious, and perpetrators act with impunity in the face of international condemnation, "we would seem to have a national and political obligation to resist, with force if necessary, nonverbal behavior that seeks to create institutions of domination and subordination" (53).

Donnelly seems divided on the issue of armed intervention, even for humanitarian purposes. On the one side, he cites the illegality of such interventions (243). After all, sovereignty is a right of all peoples, not simply a grant to the sanctified. Further, he worries, as did Innocent IV, about how such interventions unsettle the given international order: "The exclusive spheres of domestic jurisdiction provided by territorial sovereignty dramatically reduce the occasions of inter-state conflict" (247). But what worries Donnelly the most, and rightly in Innocent's view, is how the powerful use humanitarian interventions to mask baser motives:

Throughout the Cold War era both the United States and the Soviet Union appealed to "humanitarian" concerns and principles such as "democracy" largely as masks for geopolitical, economic, and ideological interests. There is thus strong historical support for Ian Brownlie's claim that "a rule allowing humanitarian intervention...is a general license to vigilantes and opportunists to resort to hegemonial intervention." (247-48)

The presence of such hegemonic opportunism (today's avaricious Christian rulers) stops Donnelly from fully embracing the zeal of those he refers to as "cosmopolitan moralists."

On the other side, Donnelly seems keen to find exceptions ("loopholes" akin to those revealed by Innocent) to the ban on intervention. As Kratochwil (1995: 30) reminds us, *dominium*, like sovereignty, has rarely been absolute; the legitimacy of sovereignty always is measured against background conditions prevailing at the time. Kratochwil (1995: 33), like Donnelly, mentions that Chapter VII of the UN Charter allows for intervention, reflecting the ultimate authority held *de jure*, if not *de facto*, by the authorized institutions of the global community. Further, consistent with his

commitments to ontological individualism, Donnelly argues that state sovereignty and the system-wide pluralism that it supports is relevant not because pluralism has some intrinsic worth (except it seems for individuals which have ontological priority) but because such pluralism “reflects the autonomous choice of free moral agents” (246). Thus, when state actors violate the rights of their citizens, states lose the protections given on the basis of individual autonomy and, intervention can then be justified on the basis of protecting individualized pluralism. These higher imperatives lead Donnelly to waver in the post Cold-War era:

In the political circumstances of the Cold War (and the immediate post-Cold War era), I strongly argued against a humanitarian exception to the principle of non-intervention. Despite the strong moral case, the political and legal environments were so unpromising that giving priority to the danger of partisan abuse seemed the best course. Normative and political changes in the post-Cold War international society, however, suggest reconsidering such a blanket rejection. Partisanship remains a serious problem that is likely to increase when bipolar or multipolar political rivalry reasserts itself. (248)

Many claim that this position reflects a new consensus on the legitimacy of armed humanitarianism.¹⁷

This passage exposes how epistemic exclusivity works within Donnelly’s thought. From Kenneth Waltz to Hedley Bull, the usual argument is that a unipolar world is the most dangerous since there is no check to the aspirations and opportunism of the hegemon. How can we explain Donnelly’s willingness to set aside this concern? Two possibilities suggest themselves. First, despite his concern for the potential abuse of the

¹⁷Donnelly (1999: 91) earlier rejected any such consensus and, by some accounts, state sovereignty and non-intervention remain the most legitimate principles of international law (see Hurrell, 1999). However, David Chandler (2001) has argued that there has been a significant and largely successful effort by NGOs to undercut the non-intervention principle and legitimate armed intervention for military purposes. Chandler sees this “military humanitarianism” as fuel for the very colonial ambitions that concern Donnelly and Innocent IV. International lawyers, their own opinions considered a source of international law, suggest substantial alterations to the international legal terrain that are eroding sovereignty protections, opening spaces for humanitarian intervention (Meron, 2000; Walker, 2002; Ocran, 2002; Franck, 2005). Debates around the UN now must account for the possibility of humanitarian intervention (Tharoor and Daws, 2001).

humanitarian intervention argument in the bi-polar Cold-War world, something about the unipolar post-Cold War world alleviates his worries about US opportunism. Perhaps that something is that the US champions the cause of ontological individualism. Second, because he cannot find any deeper arguments for what he calls pluralism and what we call cultural differences, Donnelly regards pluralism as reducible to respect for individual choices. Others' differences—unless they can be constructed as a product of individual choices—cannot be a source of critique or learning for the modern self since such differences are contrary to a modern selfhood that is treated as the apex of civilization. Genuinely other ways of knowing—ways that violate the standards of individual autonomy and equality—cannot be of interest to the Western self, except historically, as superceded time, since the epistemic exclusivity of the modern is deeply assumed.

Ultimately, Donnelly is engaged in a denial of difference:

Whatever the situation in other issue areas, in the case of human rights, for all the undeniable differences, it is the similarities across civilizations that are most striking and important. Whatever our differences, now or in the past, all contemporary civilizations are linked by the growing recognition of the Universal Declaration as, in its own words, “a common standard of achievement for all peoples and nations.” 105-6

Under the trance of epistemic exclusivity, others' difference rather than being one of the foundations of social life are instead seen as a temporary and curable condition.

Cosmopolitan Moralists: Donnelly's Hostiensis?

We do not have the space in this forum to suggest the connections from Innocent IV to Vitoria, much less to develop the links between Innocent IV's and the alternative framework to current praxis of human rights, though others, including chapters in this book, do so.¹⁸ What we do want to suggest is threefold: (1) that the belief in Christian

¹⁸ See also footnote ? above.

embarkation of the world has morphed into a belief in Modernity as the port of disembarkation; a spatial Eden of departure is replaced by a temporal Eden of arrival; (2) both claims of departure and arrival are themselves the result of epistemic exclusivity; and (3) in both the assumption of epistemic exclusivity is the necessary precondition for dispossessing the non-select.

If Innocent IV asserted the rights of infidels only to be led by his epistemic exclusivity to find loopholes for Christian intervention in non-believing societies, he had his counterpart in Hostiensis who insisted that unbelievers are already in principle dispossessed but suggested that Christian claims to the world ought to proceed with caution. Such a coupling within the episteme of dispossession calls to mind Donnelly's work on contemporary human rights. In the spirit of Innocent IV, he reminds us of centrality of sovereignty. He points to the illegality of humanitarian intervention, how such interventions unsettle the international order, and most important, how easy it is for the powerful to use humanitarian interventions as a guise for possession. And yet, perhaps disappointed in the realist nature of the world and perhaps frustrated by how such a world limits the realization of a universal vision of human rights, Donnelly, like Innocent, searches for loopholes in the strictures of sovereignty. There is Chapter VII of the Charter, there are reasons to intervene when autonomy of choice is threatened, and there is the hope in his voice that, since now great- and super-power rivalries no longer exist, the lone superpower will help create the conditions for a more robust pursuit of universal human rights. It is not only that he cannot put his heart into a defense of cultural difference, it is also that his episteme disallows any substantive critique of modernity. If one believes without a doubt that modernity is an unqualified improvement over all other forms of life, then why wouldn't one want that for everyone?

If the parallels between Donnelly and Innocent IV are accurate, might we expect to locate those who appear to be Donnelly's Hostiensis, the Donatists of human rights?

Are there those who begin the argument not with the sovereignty of others but instead with the prior universality of modernity and human rights?

Moral cosmopolitans are not hard to find. Mary Kaldor (1999: 195), for example, has claimed the existence of a political project for the establishment of a transnational civil society—“a demand for a radical extension of democracy across national and social boundaries.” Transnational civil society is a newly invigorated agent of a universalistic project of civil behavior, rooted in the public morality of modern ideals. And, like our Medieval Christians, the alternative to such a global project of salvation is “almost unbearable to contemplate (Kaldor, 1999: 210-12). Her work is typical of a vast literature that announces the emergence of a global society,¹⁹ but these authors do not necessarily confront the issue of the *dominium* explicitly. Others do.

The authors of the Euston Manifesto seek to reform the left.²⁰ Specifically, they wish to “draw a line between the forces of the Left that remain true to its authentic values” and those who have been “too flexible” towards the forces of cultural relativism. Their support for modernity is explicit, “We reject fear of modernity” as they spell out quite clearly in a set of first principles. They are for democracy – of the liberal pluralist variety, they “decline to make excuses” for tyranny; and they promote universal human rights for all:

We hold the fundamental human rights codified in the Universal Declaration to be precisely universal, and binding on all states and political movements, indeed on

¹⁹ See Falk, etc. We examine some versions of this claim in Inayatullah and Blaney (2004: chapter 3).

²⁰ The Euston Manifesto (<http://eustonmanifesto.org>) (Accessed May 27, 2006). Four signers of the manifesto are listed at the top, presumably the main authors: Norman Geras, Damian Counsell, Alan Johnson, and Shalom Lappin. These names are then followed by another 23 names. Below these names are “other signers” which include 34 names, including interestingly for our purposes: Chris Brown, Professor of International Relations at the London School of Economics, and Michael Walzer of Princeton University. The origins of this group date back to May of 2005 after the general election when a twenty or so like minded people met at a London pub to discuss their frustration with the anti-war movement and the state of current left politics.

everyone. Violations of these rights are equally to be condemned whoever is responsible for them and *regardless of cultural context*. We reject the double standards with which much self-proclaimed progressive opinion now operates, finding lesser (though all too real) violations of human rights which are closer to home, or are the responsibility of certain disfavoured governments, more deplorable than other violations that are flagrantly worse. *We reject, also, the cultural relativist view according to which these basic human rights are not appropriate for certain nations or peoples.* (emphasis added)

The manifesto does not spell out how universal rights are derived. But regardless of their origins these rights are universally binding. Cultural context or cultural variation is presumably either an indication of inadequately having learned the lessons of modernity or just plain malevolent rejection of what is right and good. God is incarnate and the *dominium* of the non-modern is superseded by a new order.

By comparison with Donnelly, they seem unconcerned about the tendency of hegemonic power to use ideals as a mask for dispossessing the less powerful. This nonchalance comes through in principle 6, titled "Opposing anti-Americanism"

We reject without qualification the anti-Americanism now infecting so much left-liberal (and some conservative) thinking. This is not a case of seeing the US as a model society. We are aware of its problems and failings. But these are shared in some degree with all of the developed world. The United States of America is a great country and nation. It is the home of a strong democracy with a noble tradition behind it and lasting constitutional and social achievements to its name. Its peoples have produced a vibrant culture that is the pleasure, the source-book and the envy of millions. That US foreign policy has often opposed progressive movements and governments and supported regressive and authoritarian ones does not justify generalized prejudice against either the country or its people. (emphasis added)

Here the United States serves the role of a significant (but not the only) cultural repository of modernity. Only a small and curt reference is made to the US role as an opportunity seeking superpower.

The manifesto's reference to the current war in Iraq is revealing in that the authors are divided on the military intervention in Iraq. They cite differences within their ranks on such issues as the justification for the intervention, its planning and execution, and the prospects for creating a democracy. Nevertheless, they are one in their

view about the reactionary, semi-fascist and murderous character of the Baathist regime in Iraq, and *we recognize its overthrow as a liberation of the Iraqi people*. We are also united in the view that, since the day on which this occurred, the proper concern of genuine liberals and members of the Left should have been the battle to put in place in Iraq a democratic political order and to rebuild the country's infrastructure, to create after decades of the most brutal oppression a life for Iraqis which those living in democratic countries take for granted — *rather than picking through the rubble* of the arguments over intervention. (emphasis added)

Apparently the writers feel no hesitation about speaking for the Iraqi people and no anxiety about setting the terms of their liberation. Nor do they show a regard for the principles of *dominion* or sovereignty. Intervening in order to impose modernity is acceptable; what is at stake is merely the effectiveness of the means. In this way, the manifesto sides with Hostiensis in claiming that all cultural arguments and cultural differences are secondary if not wholly irrelevant to the one universal truth. Strictures on intervention are merely prudential -- a position neither Innocent IV and Donnelly could accept in principle. The Euston Manifesto, like its Donatist ancestors, taps a zeal for purity.

[We are not sure, dear discussant and reader, if the following section on Weiss and Chopra is really something we need. Do please let us know what you think]

Thomas Weiss and Jarat Chopra (1995) begin from similar principles but suggest a different mechanism for implementing a humanitarianism armed with both truth and effective power. They find in recent shifts in the character of identity—above and below the “level” of the state—a vitiation of sovereignty and a weakening of the principle of non-intervention. This questionable historical observation is less important to Weiss and Chopra than the weight of humanitarian values. The suppression of sovereignty reveals the existence of a new “global humanitarian space” and an emerging legal framework that takes us well beyond the era of sovereignty and the protected *dominum* of various rulers who have fallen into sin. Indeed, in this space the issue of “intervention” disappears, since no people or space is beyond the domain of the humanitarian.

Instead, action to “safeguard fundamental human rights” is merely the exercise of authority within a universal jurisdiction (Weiss and Chopra, 1995: 87-8). No pope ever claimed more -- universal truth produces universal jurisdiction. Weiss and Chopra (1995: 103) themselves associate the universal jurisdiction of humanitarianism with natural law.

However, they recognize, as did Innocent IV, that theoretical universal jurisdiction does not inevitably provide pristine institutional mechanisms that implement edicts; the need to rely on existing structures of power may well corrupt the purposes of that jurisdiction. Weiss and Chopra (1995: 91-93) turn to earlier legal debates of the 1960s and 1970s to locate the principles that might tame and purify power for humanitarian purposes. They recognize, like Donnelly and unlike the Euston Manifesto, the grave dangers attendant on the abuse of humanitarian principles. However, they respond to the problem of abuse by embracing a set of legal principles that codify: the conditions under which humanitarian assistance is called for, who can claim the right to intervene, and what forms of intervention qualify as humanitarian (Weiss and Chopra, 1995: 94-95).²¹ The challenge, then, is to build the enforcement mechanisms that will institutionalize the emerging recognition of humanitarian norms.

Given their concerns with consistency and proportionality, it is perhaps not surprising that Weiss and Chopra (1995: 102-110) are hesitant in relying on the discretion of Christian princes to implement humanitarian edicts. They recommend instead the development of the UN machinery, as a way of checking abuses and balancing the imperatives of justice and stability. It is only then that we can speak of this humanitarian space as having the “teeth” necessary to secure the salvation promised by a “new world order” (Weiss and Chopra, 1995: 114).

²¹ These structures parallel those put forward by Walzer (2001) in his defense of humanitarian intervention and the concerns raised by Tharoor and Daws (2001).

If we move from the purists of the liberal left somewhat to the right, we find a parallel statement in Robert Cooper's "The Post-Modern State" (2002). It is important to recognize that Cooper's use of "post-modern" does not reflect the usual academic understanding in which postmodernism is understood to query if not undermine the premises, certainties, and teleology of modernism. Cooper, a British diplomat, treats post-modernity as the apex of three civilizational stages: premodern, modern, and postmodern. The final realization of modern values lies in the last stage – the postmodern. The European Union, Canada, and Japan (and with some ambiguity, the US) have reached postmodern statehood, having overcome an "imperial urge" (12).

The problem, as Cooper sees it, is that the lack of civilization – the "laws of the jungle" practiced by modernist and premodernist states – threaten the emerging post-modern order. This problem is solved by accepting that a double standard must be applies:

Among ourselves, we operate on the basis of laws and open cooperative security. But when dealing with more old-fashioned kinds of states outside the postmodern continent of Europe, we need to revert to the rougher methods of an earlier era - force, pre-emptive attack, deception, whatever is necessary to deal with those who still live in the nineteenth century world of "every state for itself." Among ourselves, we keep the law but when we are operating in the jungle, we must also use the laws of the jungle. (16)

This privileging of a postmodern truth eclipses any concern for the *dominion* of infidels, respect for sovereignty, or the rights of premodern and modern others. Instead, the question of the moment is the form that intervention should take: "The most logical way to deal with chaos [created by the less civilized]...is colonization. But colonization is unacceptable to postmodern states (and, as it happens, most modern states too)" (17).

Cooper then sings the quasi-Kiplingesque lament so close to his heart:

All the conditions for imperialism are there, but both the supply and demand for imperialism have dried up. And yet the weak still need the strong and the strong still need an orderly worldWhat is needed then is a new kind of imperialism, one acceptable to the world of human rights and cosmopolitan values. (17)

Faced with a world of infidels, Cooper's inspiration follows in the tradition pursued by Hostiensis: a world subject to the reign of the true believers. The rest of this short paper he dedicates to the ways this new imperialism can be created. Like Hostiensis and Wyclif, Cooper is concerned to overcome the practical difficulties of implementing an epistemically pure vision.

The tone and substance of Cooper's presentation is all too familiar these days. It is echoed in Max Boot (2002), Elliot Cohen, (2001), Niall Ferguson (2003), Michael Ignatieff (2003), Robert Kagan (2002), Robert D. Kaplan (2003), and by the "neo-conservatives" involved both in the Project for the New American Century and in the highest levels of the current US administration. They seem to take their cue from the imperial poetry of Rudyard Kipling.²²

Conclusion

Cooper, Weiss and Chopra, and the Euston manifesto share with Hostiensis the willingness to unequivocally declare the superiority of their epistemological and moral position – the former by declaring the Western origins of modernity and referencing the West as the location of modernity's greatest accomplishments; the latter in assuming the Christian origins of the world and in supposing that the greatest perfection of God's grace occurs in Christendom. Hostiensis, however, displayed the good grace to caution against unbridled crusading. We should not credit Hostiensis too much on this score, however. His caution may have been due to prudence—an attentiveness of what a purificatory reformist agenda might mean for the Church and an awareness that

²² The likes of these are included in Francois Debrix's notion of "trash" or "tabloid geopolitics." [now in manuscript]

Christendom had as nearby neighbors the powerful Muslims and the even more powerful Mongols.

In the exchange between Innocent IV and Guyuk Khan we saw that epistemic exclusivity was not the sole preserve of Christendom or the West. Rather, as we suggested, it seems that epistemic exclusivity feeds power. And, it is fed by power. The secret of universals is not difficult to fathom: their origins seem less relevant than the extent to which humans and societies “agree” to act according to these values. Why then do human beings spend so much force on asserting epistemic exclusivity and such little vigor on processes in which proposed universals are argued and debated? One answer to this question may be that such debates seem uncertain in producing results. They test our patience as well as our humanity.

It may be, however, that an inattention to processes by which we can agree to act according to universals is a way of *not* taking universals seriously. If epistemic exclusivity feeds and is fed by power, if the declaration of universals is experienced by others as imposition, then the ultimate result of such declarations, when they do not lead directly to annihilation, is to produce resistance. Resistance might be the operative response even if those resisting agree with the principle itself. To be Clintonian about this: “It’s the imposition, stupid.”

These are neither great revelations nor deep insights; rather, they strike us as partaking in a kind of common sense. If so, then the crux of the matter concerns not high-minded argumentation, but more elemental things like the posture we adopt towards others, the rhythm of our conversation, and patience in the face of disagreement. How do we find a path that, in fact, takes human rights seriously? Where do we find the resources that would allow us to be calm, patient, and wise in the face of the presumed need to forcefully change the world and thereby provide evidence of our efforts? One place to look is in the very societies we have anachronized.

A caste system, though abhorrent to modernity, may not be without certain attractions and advantages. One does not signal an endorsement of caste by suggesting that the superiority of modernity is less than absolute. Only in the constructions of the social contract theorists does freedom seem severed from limits. Even the limitless freedom of the 'state of nature' seems fleeting and ephemeral given that social contract theorists require humans to transfer into society – where limits abound. What modern freedom shares with a caste system is the realization that all freedom is freedom within limits. By insisting that humans submit to a given rank and status, caste ask humans to accept the limits generated by tradition, society, and history. The payoff, if one can speak in such terms, is that such submission may free one to focus one's energies on appreciating and perfecting one's role, whatever that happens to be. Such a life is largely unburdened by dreams sunk in hopes of some differently imagined future. It's a life that cultivates the present – if it is able.

Such an attitude of fatalism, quietism, conservatism, and cultural traditionalism contains, for us, an additional powerful appeal. Rather than a yet-to-be-subdued anachronism, this posture resists, checks, undermines and ultimately critiques modernist claims to universal human rights. Caste acts as radical otherness, as absolute difference. Caste calls forth from the modern other an assimilative and purifying pedagogical praxis that would civilize and humanize such a world of difference—a praxis the modern has difficulty admitting and often denies. Thus, caste helps us to expose and reflect upon the silences generated by the modernist project of human rights.

Perhaps, then, there is something to be learned from caste and other systems of naturalized hierarchy. Despite their reified acceptance of social structures and social systems, they understand something about the creativity, fortitude, and patience that comes from regarding life as a tragedy riven by difference. Paradoxically, such a

posture might create the kind of real change that seems to have eluded the heirs of epistemic exclusivity.

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