

The Abolition of Foreignness¹

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*“The Preamble ... shall enunciate ... that man is a citizen
both of his state and the world ... ”³*

Abstract

The title of this paper seeks to identify a thematic barrier to the further advancement of human rights. It argues that moral standards (or to put it another way how we *think* about the rights of our fellow human beings) plays a fundamental role in the progress of human rights. In the cases of slavery, gender inequality and racism, significant progress only came after the development of new paradigms which extended equality to the previously excluded group. These case studies further offer insights into the processes by which seemingly ineradicable injustices in society are amenable to change. In our current world, much of our behaviour implicitly and explicitly regards discrimination against foreigners as morally acceptable. Implicitly the suffering of human beings who we categorize as non-citizens or foreigners has less value than our own suffering. The implicit acceptance, including in human rights instruments, that foreigners are not entitled to full equality feeds enormous human suffering, which amounts to moral, if not legal, human rights violations. The case studies examined in this paper suggest the importance of challenging discrimination and exclusion on the grounds of foreignness, if the most profound human rights violations of the modern day are to be addressed.

¹ An associated website is maintained at www.abolishforeignness.org

² See end note for Acknowledgements and author background.

³ From the first draft of what was to become the Universal Declaration of Human Rights prepared by the John Humphrey and the Human Rights Division of the United Nations Secretariat. *A World Made New: Eleanor Roosevelt and the Universal Declaration of Human Rights* Mary Ann Glendon, Random House 2001, p 271.

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1. INTRODUCTION

Since the adoption of the Universal Declaration, the human rights movement has won profound advances in human rights. These advances can be measured in fields such as the spread of civil and political rights, the increasing observance of equality of men and women, the end of colonialism, and the increasing eradication of racism. It is measured in the widespread influence of the Universal Declaration of Human Rights which marks a watershed in human history: and which is looked to everywhere as the minimum standard of human dignity. It is marked in the elaboration and pursuit of the principles of the Declaration in numerous international treaties, national laws, regional instruments and global, regional and national institutions. That so much has been achieved is a tribute to men and women (most of whose names will never be known) who have in innumerable ways and across the planet struggled to advance human rights, whether their own or that of their fellow human beings.

Nonetheless, the last 60 years have been years of profound failure, a failure which can be demonstrated by reference to many human rights measures, but most poignantly in the fact that each year in the vicinity of 10,000,000 children under five die from *preventable* causes.⁴ That humanity has the capacity to prevent these and similarly massive and systematic violations of human dignity, gives them their character as human rights violations.⁵

The Universal Declaration proclaims that all are equal and entitled to the rights it upholds without distinction, and that each person is entitled to an international and social order in which all its rights can be realized. After 60 years, manifestly, the promise is yet to be fulfilled.⁶

Why has 60 years not been enough? Why does there remain such striking inequality between human beings, and why does profound deprivation and exclusion affect so much of the human population? In a period when universal human rights are increasingly threatened within the very forums in which they were first enshrined⁷, how can the human rights movement find renewal and effectively address these unremedied human rights violations? This paper will suggest that if we look back into the past before the last 60

⁴ See the United Nations Development Program website which provides extensive statistics including in respect of the Millenium Development Goals.

⁵ To refer to specific provisions of the Declaration its goals include the achievement of freedom from want. Such deaths represent a failure to achieve for all the rights such as the right to life, social security, to a standard of living adequate for health and well-being including food, clothing, housing and medical care.

⁶ Article 1 and article 28 of the Universal Declaration of Human Rights.

⁷ The now abolished UN Commission on Human Rights and its successor the UN Human Rights Council. See footnote 122.

years (something rarely done in the day to day struggle to attain human rights), we can draw on older models of human rights advocacy that can help us renew the struggle for human dignity.

Reflection on such past human rights struggles provides us with dynamic models for the advancement of human rights that are known to have ultimately succeeded (although not necessarily for the same reasons). Moreover, the outcomes that were achieved, would be judged to be well-nigh impossible from obstacles that these transformations had to overcome. Three such struggles will be examined: the struggle to abolish slavery as a legal institution, to emancipate women and to eradicate of racism.

Each of these cases, offers us the opportunity to ask: What changed? How did change arise? The first two cases of abolition of slavery and the emancipation of women have a number of features:

- The existence of beliefs, attitudes and assumptions, practices and laws within the society that made the violation involved not only tolerable, but indeed almost invisible. Correspondingly the eradication of the human rights violations involved was almost inconceivable.⁸
- The emergence of small groups of people (sometimes inspired by their religious beliefs, sometimes the victims of the violation in question, sometimes those who unlike the members of their society were for one reason or another brought directly face to face with the human rights violations involved): in short individuals who “saw” the violation and advocated the need for changes in accepted standards.
- An active and long term dialogue and grassroots advocacy within a society around these issues driven by the work of these few.
- The spread of the new moral standard providing the motive force for change, involving a profound change not only in the condition of the victims of human rights violations, but also in the behaviour and beliefs of those who were beneficiaries or perpetrators of the violations.
- The progressive achievement of a broader human rights goal captured through many smaller steps.
- The progressive engagement of society in concrete measures to change practices and laws which had been quite impossible if not inconceivable in the prior state of affairs.
- The progressive adoption of new standards first at national and then ultimately at international level (including through international treaties).

⁸ The concept of invisibility of human rights violations (or to put it another way “blindness”) is drawn from the history of advocacy of the abolition of slavery (see discussion on slavery).

Racism, however remained a widely accepted societal standard among the most powerful societies of the then world up until World War 2. Indeed social advocates can be seen to have worked not for the eradication of racism but for its extension in new and more virulent forms. It was the experience of World War II and its associated Holocaust which finally precipitated the formal adoption of racial equality, and the point from which over the succeeding decades we see racism increasingly driven to the margins.⁹

This history of the struggle for human rights preceding the 1948 declaration has tended not to attract the emphasis it otherwise might. For any human rights worker, those who struggled to address these themes in societies that barely understood their vision, stand as mentors who still speak to us today, providing us with confidence as to what is possible and innumerable ideas as to how we might go about the task faced today.¹⁰ If this paper has no other value, the recalling these struggles for its own sake, is an endeavour worth undertaking.

At the very beginning of the modern human rights movement this question was asked: *“Is it right to make slaves of others against their will?”*¹¹ Today the question that we might ask (that this paper asks and which others have asked before¹²) is: *“Is it right to discriminate against another because he or she is a foreigner?”*

⁹ While racism was far from eradicated immediately after the end of World War II, that racial equality would be a fundamental principle of the new era was inherent in the acceptance of the principle by the framers of the United Nations Charter and the Universal Declaration.

¹⁰ Thomas Clarkson, whom we will shortly come to know as one of the leading figures in the abolition of the Atlantic slave trade, not content with his achievements, takes the time to write a history of abolition explicitly for the purpose that human rights workers who succeeded him should have access to an account of how it was abolished. *“For it cannot be otherwise than useful to us to know the means which have been used, and the different persons who have moved, in so great a cause. It cannot be otherwise than useful to us to be impressively reminded of the simple axiom, which the perusal of this history will particularly suggest to us, that “the greatest works must have a beginning;” because the fostering of such an idea in our minds cannot but encourage us to undertake the removal of evils, however vast they may appear in their size, or however difficult to overcome. It cannot again be otherwise than useful to us to be assured (and this history will assure us of it) that in any work, which is a work of righteousness, however small the beginning may be, or however small the progress may be that we may make in it, we ought never to despair; for that, whatever checks and discouragements we may meet with, “no virtuous effort is ever ultimately lost.” And finally, it cannot be otherwise than useful to us to form the opinion, which the contemplation of this subject must always produce, namely, that many of the evils, which are still left among us, may, by an union of wise and virtuous individuals, be greatly alleviated, if not entirely done away: for if the great evil of the Slave-trade, so deeply entrenched by its hundred interests, has fallen prostrate before the efforts of those who attacked it, what evil of a less magnitude shall not be more easily subdued?”* Clarkson, Volume 1, Chapter 1. Clarkson’s closing words here are sobering, for perhaps he could imagine no worse evil than the slave trade. The twentieth century saw worse; much worse, yet Clarkson’s reasoning is valid nonetheless.

¹¹ Clarkson Volume 1, Chapter VII. This essay topic was set by the Vice Chancellor of Cambridge University in the context of widespread concern attending the slave trade. See discussion below.

¹² See discussion below of views debated by moral philosophers in the section *The Immorality of Discrimination on the grounds of Foreignness*.

In the modern day, the principal distinction or inequality between human beings is that grounded in citizenship, or to describe it by its complement: non-citizenship or as it is titled in this paper, “foreignness”. Bader expresses the issue thus:

*Citizenship in Western liberal democracies is the equivalent of inherited feudal privilege – an inherited privilege that greatly one’s life chances. Like feudal birthright privileges, restrictive citizenship is hard to justify when one thinks about it closely.*¹³

*The exclusion of billions of desperately poor and uprooted people “out there” becomes morally more scandalous the harder one thinks about it.*¹⁴

This succinctly expresses not only a fundamental human rights issue, but a fundamental moral issue of our times. To leave such a mass of humanity in extreme deprivation and exclusion, given our resources and capacities to end it, is indeed a scandal.

Like those who worked in societies where slavery was morally unexceptional or the denial of vote, work, property, education and equality to women was right and proper; the overcoming of such profoundly rooted human rights violations requires the attainment of fundamental *moral* change. As with all the case studies we examine, the issue concerns essentially how widely we draw the circle of equality: who do we really recognize as “born free and equal in dignity and rights”? In the 21st century there is no longer any basis to exclude any member of the human family from full and equal human rights or from human dignity. Morally, treating human beings as foreigners is wrong because it denies their equality and freedom. In the latter sections of this paper we explore the current state of human rights and the issue of foreignness and its abolition.

In embarking on an exploration of past human rights struggles, it is important to note that this paper is not (cannot be) comprehensive. It focuses on the narratives to which the author has greatest access: that is those told in English, and particularly on the British and American struggles, which are more readily accessible. It would be wrong to infer however that the human rights struggles outlined only occurred in those countries or that there were not significant human rights workers in other cultures dealing with the same and other human rights issues. In fact the precise opposite is the case and a more comprehensive review would draw similar stories from other

¹³ Bader *Fairly Open Borders* in Veit Bader *Citizenship and Exclusion*, p 32 citing Carens.

¹⁴ Bader, *Citizenship and Exclusion*, p 2.

jurisdictions and other cultures.¹⁵ In considering the following narrative, the reader is asked to recall that similar narratives could be constructed for every region of our world.

2. ABOLITION OF SLAVERY

It is difficult for us to imagine how a society not so far removed from the modern day would find tolerable the buying and selling of human beings. Yet at the same time that societies in Europe were undergoing what is now termed the Age of Enlightenment, they were deeply engaged in the widespread and accepted practice of slavery.

2007 marked the bi-centenary of the prohibition of the international slave trade in both Great Britain and the United States. The commemoration was marked by the release of the movie *Amazing Grace* which dramatizes the story of the struggle to ban the slave trade within the United Kingdom, particularly through the work of William Wilberforce, the leading parliamentary advocate of abolition. The movie, as evident from its website, is intended to serve as a catalyst for human rights action, particularly in respect of continuing manifestations of slavery. It is named after the well-known hymn of the same name, which was written by John Newton. Newton was a reformed slave trader who became a preacher. Among his parishioners was William Wilberforce, to whom Newton was certainly a counselor, and who himself played a role in abolition by providing evidence of the trade.¹⁶

The core theme of the hymn is of interest from a human rights perspective “[I] was blind, but now I see.” Placed in its historical context, in addition to their religious meaning, these words speak to the slave trade and its invisibility to its perpetrators. John Newton speaks of this explicitly in his writings:

“Disagreeable I had long found it, but I think I should have quitted it sooner, had I considered it, as I now do, to be unlawful and wrong. But I never had a scruple upon this head at the time, nor was such a thought once suggested to me by any friend. What I did, I did ignorantly, considering it as the line of life which Divine Providence had allotted to me, and having no concern, in point of conscience, but to treat the slaves, while under my care, with as much humanity as a regard to my own safety would admit.”¹⁷

¹⁵ See the extensive discussion in Lauren, *The Evolution of Human Rights Visions Seen*

¹⁶ See for instance Robert and Isaac Wilberforce *The Life of William Wilberforce* 1841 American edition p 51 and references to Newton in Clarkson Volume 1 and 2

¹⁷ *From Faith Materials (US) published with Amazing Grace* www.amazinggracemovie.com

Advocates of abolition draw our attention to the same phenomenon. William Wilberforce in his words in 1789, as recorded in his speech to parliament first introducing the bill for the abolition of the slave trade, proceeds with caution and in a manner that makes evident that he does not believe that those engaged in the trade see (or will readily accept) its profound inhumanity.

*I will not accuse the Liverpool merchants: I will allow them, nay, I will believe them to be men of humanity; and I will therefore believe, if it were not for the enormous magnitude and extent of the evil which distracts their attention from individual cases, and makes them think generally, and therefore less feelingly on the subject, they would never have persisted in the trade. I verily believe therefore, if the wretchedness of any one of the many hundred Negroes stowed in each ship could be brought before their view, and remain within the sight of the African Merchant, that there is no one among them whose heart would bear it.*¹⁸

Thomas Clarkson, is another leading figure who speaks to us from this time. He comes into the abolitionist story by an interesting path.¹⁹ In 1785 as a young man Clarkson entered a Latin essay competition set by the Vice Chancellor of Cambridge University, Peter Peckard on the theme: *“Is it right to make slaves of others against their will?”*²⁰ In setting the essay topic, Peckard himself was responding to a notorious court case involving the commission of insurance fraud. The fraud was committed by a slave ship captain by the expedient of tossing spoiled cargo into the sea. That cargo was comprised of more than 100 live but sick slaves that the captain had failed to maintain in sufficient health to be in a saleable state on delivery. There were no murder charges, despite advocacy to that end, for slaves were legally not people: they were goods.²¹

Clarkson won the prize, and his exposure to the ideas of the abolitionist movement and the realities of the slave trade transformed his life. His life became devoted to pursuing the abolition of slavery and he was instrumental in achieving that outcome. He pursued it by extensive travels throughout the United Kingdom, particularly for the purpose of collecting evidence of the slave trade that could be placed before parliament.

¹⁸ William Wilberforce's 1789 Abolition Speech Page 1 of 4

<http://www.brycchancarey.com/abolition/wilberforce2.htm> 19/02/2008

¹⁹ A good account of Thomas Clarkson's role is given in summary by Adam Hochschild based on his book *Bury the Chains: Prophets and Rebels in the Fight to Free an Empire's Slaves* on the British abolitionists in *Against All Odds*

http://www.motherjones.com/news/feature/2004/01/12_403.html

²⁰ Clarkson Volume 1, Chapter VII

²¹ See Hochschild *Against All Odds*

Clarkson's essay began:

When civilized, as well as barbarous nations, have been found, through a long succession of ages, uniformly to concur in the same customs, there seems to arise a presumption, that such customs are not only eminently useful, but are founded also on the principles of justice. Such is the case with respect to Slavery: it has had the concurrence of all the nations, which history has recorded, and the repeated practice of ages from the remotest antiquity, in its favour. Here then is an argument, deduced from the general consent and agreement of mankind, in favour of the proposed subject: but alas! when we reflect that the people, thus reduced to a state of servitude, have had the same feelings with ourselves; when we reflect that they have had the same propensities to pleasure, and the same aversions from pain; another argument seems immediately to arise in opposition to the former, deduced from our own feelings and that divine sympathy, which nature has implanted in our breasts, for the most useful and generous of purposes. To ascertain the truth therefore, where two such opposite sources of argument occur; where the force of custom pleads strongly on the one hand, and the feelings of humanity on the other; is a matter of much importance, as the dignity of human nature is concerned, and the rights and liberties of mankind will be involved in its discussion.²²

He describes the effect writing the essay had upon him, in his 1808 history of the abolition of the slave trade:

... the subject of it almost wholly engrossed my thoughts. I became at times very seriously affected while upon the road. I stopped my horse occasionally, and dismounted and walked. I frequently tried to persuade myself in these intervals that the contents of my Essay could not be true. The more however I reflected upon them, or rather upon the authorities on which they were founded, the more I gave them credit. Coming in sight of Wades Mill in Hertfordshire, I sat down disconsolate on the turf by the roadside and held my horse. Here a thought came into my mind, that if the contents of the Essay were true, it was time some person should see these calamities to their end. Agitated in this manner I reached home.²³

Before he had embarked on the project, Clarkson's only object had been to obtain academic distinction. His only thought after, how he might get his Essay published so that it might influence others with what he had learnt.

²² Thomas Clarkson *An Essay On The Slavery And Commerce Of The Human Species, Particularly The African, Translated From A Latin Dissertation, Which Was Honoured With The First Prize In The University Of Cambridge, For The Year 1785, With Additions*. <http://www.gutenberg.org/etext/10611>

²³ Clarkson, Volume 1, Ch VII

From these kinds of inconspicuous beginnings and contributions the abolitionism was born as an organized movement.²⁴

Both in his own reactions and in how he presents the case to others, the necessity of challenging received modes of thought and standards of behaviour is evident. As we saw in the Zong case, by the expedient of classifying a person as mere “goods”, every denial of rights and oppression (so long as it did not affect the rights of the non-slave), could be sanctioned.

This perhaps is the most important lesson we can learn from these historical precedents, for it immediately suggests to us the need, if human rights have failed to achieve the gains they might (as they have), to look for those received modes of thoughts and accepted standards that may be the fundamental barriers to further progress.²⁵

Another interesting aspect of the story is the length of time and persistence that it required to ultimately pass from an acceptance of slavery to its complete abolition (as an acceptable form of behaviour or commerce). The movement can be traced directly to the Quaker community which from the early 1800's opposed slavery. The work of John Woolman and Anthony Benezet in the mid 18 hundreds, both North American Quakers, carried the cause forwards, by working within and outside their religious communities to promote the abolition of slavery.²⁶

In 1783 the Quaker community in the United Kingdom (influenced by its North American coreligionists) brought forward a parliamentary resolution calling for abolition. From these efforts the Quakers in 1789, were instrumental with others in forming the Committee for the Abolition of the Slave Trade. The committee included Thomas Clarkson.²⁷ It took from 1789 until 1807 for the abolition of the trade to be achieved (a period of 18 years). The complete abolition of slavery within the British Empire took until 1835. It was of course not until after the American civil war in the 1860s that the same end was reached in North America.

²⁴ Clarkson, Volume 1, Ch VII

²⁵ It is worth noting that ignorance was readily supplemented by self-interest. Thus the initial phase when the wrong is “unseen”, is not succeeded by universal and ready acclaim to remedy the wrong. One sees rather that as the reformers become successful in their advocacy and approach success in their aims, those benefiting from the status quo mobilise to oppose and suppress the proposed change, wilfully denying, disputing and impeding any attempted change. Clarkson thus writes “the interest by which [the slave trade] was thus supported, was not that of a few individuals, nor of one body, but of many bodies of men. It was interwoven again into the system of the commerce and of the revenue of nations. Hence the merchant--the planter--the mortgagee--the manufacturer--the politician--the legislator--the cabinet-minister--lifted up their voices against the annihilation of it.” Clarkson Volume 1, Chapter I

²⁶ Clarkson, Volume 1, Chapters IV & V.

²⁷ Clarkson, Volume 1, Chapters IV & X

Subsequent to these national abolition efforts we see a continuing stream of action in work to institute international treaties for the abolition of the trade, and to mobilize state resources in suppression of the trade. It is a remarkable fact that Britain, the very nation most engaged in the slave trade and to whom it was a major industry, was so change its attitudes as to send its warship to patrol African waters with the explicit purpose of suppression of the slave trade. Such a turn of affairs emphasizes the essential possibility of change. Further, given the conceptual (but artificial) distinction now drawn between the positive and negative duties of states with respect to human rights, we see that in this case both approaches were acknowledged as valid by the state in question.²⁸

Finally we can trace the movement from the thinking and actions of small groups, through to a more general civil society mobilization to effect change in moral standards, to national action manifested as legal measures and finally international action and practical measures of enforcement.²⁹ In essence the central point of dialogue that the advocates pursued was whether or not slaves were individuals entitled to the same treatment as anyone else. Whether it could possibly be just to procure them by murder and kidnapping to subject them to imprisonment and forced labour and to deny them any legal status whatever.³⁰ It is the same point of dialogue (in a different context) that advocates of women's rights pursued. It is the dialogue of human equality.

Another interesting distinction we might draw between the typical patterns of modern human rights advocacy, and the abolitionist story, is that it required the public of whom the abolitionists were a part to accept that there was a need for a change in *their* behaviour and beliefs. In contrast much modern human rights advocacy (that is to say since the Universal Declaration) is addressed to the human rights violations of *others* – which while undoubtedly valid, has the consequence of making human rights “someone else's problem”.

Wilberforce perhaps exemplifies the spirit of discourse that was employed:

²⁸ See Lauren, pp 38-46. Pogge, *Recognized*, p 720 notes the arguments advanced to distinguish between the validity of *positive* and *negative* state duties in respect of human rights.

²⁹ Kathryn Kish Sklar *Women Who Speak for the Entire Nation American and British Women at the World Antislavery Convention 1840*, in Yellin, *The Abolitionist Sisterhood*, notes the calling of the World Anti-Slavery Convention in 1840 as the redirection of British Abolitionism, having achieved the emancipation of all slaves in the Empire by 1833, to the task of “universal abolition”, particularly directed to continuing slavery in the United States.

³⁰ See Clarkson Vol 1 and 2. Clarkson records in great detail the arguments used by parliamentarians on both sides of the debate as well as the rationales employed by the abolitionists to pursue their ends.

I wish exceedingly, in the outset, to guard both myself and the House from entering into the subject with any sort of passion. It is not their passions I shall appeal to—I ask only for their cool and impartial reason; and I wish not to take them by surprise, but to deliberate, point by point, upon every part of this question. I mean not to accuse any one, but to take the shame upon myself, in common, indeed, with the whole parliament of Great Britain, for having suffered this horrid trade to be carried on under their authority. We are all guilty—we ought all to plead guilty, and not to exculpate ourselves by throwing the blame on others; and I therefore deprecate every kind of reflection against the various descriptions of people who are more immediately involved in this wretched business.³¹

Further grassroots advocacy stands out as a prominent feature of the mechanisms used by the abolitionists to bring about societal change. The abolitionists generated and depended on grassroots support from individuals and locally based associations and agencies, who provided support for the changes in law and practice they sought.³²

3. THE EMANCIPATION OF WOMEN

We merely need to reflect that the legal, social and cultural oppressions under which women lived, affected half the human population for much of recorded history to conclude that the significant progress made to the current day offers another case study of value in considering the future of human rights. As, Louise Dittmar an 1849 advocate for women's rights put it:

The freedom of women is the greatest revolution, not just of our own day, but of all time, since it breaks fetters which are as old as the world.³³

That the denial of the vote to women, and their exclusion from public life, as well as innumerable other legal and social discriminations under which women were placed, reflected accepted moral standards, should not require argument.

As in the case of slavery, the denial of human rights that this involves was invisible to society of the time. The connection between the abolitionist movement and the early development of the movement to emancipate

³¹ William Wilberforce's 1789 Abolition Speech Page 1 of 4 <http://www.brycchancarey.com/abolition/wilberforce2.htm> 19/02/2008

³² Clarkson, Volume 1, notes the emergence of local committees for abolition and the support of church and community leaders around the country for the abolition of slavery. Much of Clarkson's own time was devoted to travelling the country, not only collecting evidence to be presented to parliament, but also establishing local support groups who were critical in gaining parliamentary support.

³³ Cited by David Brion Davis, *Declaring Equality: Sisterhood and Slavery* in Sklar and Stewart, p 3.

women, confirms that this was indeed the case. Many in the United States who were to become its first organized advocates for the emancipation of women came from the abolitionist movement. Thus Abby Kelley Foster (one such abolitionist and a Quaker) states:

*In striving to strike off his chains, we found most surely we were chained ourselves.*³⁴

Placing Kelley's comments in the context of the opposition she faced shows that her comment was not merely eloquent rhetoric. Kelley had proposed in 1840 to speak at a public meeting of Connecticut Anti-Slavery Society. She was unable to do so. While we might assume that those who argued for the freedom of slaves would have no difficulty supporting the emancipation of women, such was not the case. They did not see the injustice against women.

*Anger overflowed at the male-dominated meeting ... When the minister in charge denied her the right to speak because of her sex, Kelley objected and talked back to the outraged cleric who, in a tantrum, denounced the woman ... "No woman shall speak or vote where I am moderator. I will not countenance such an outrage on decency. I will not consent to have women lord it over men in public assemblies. It is enough for women to rule at home ... Where woman's enticing eloquence is heard, men are incapable of right and efficient action. She beguiles men and blinds men by her smiles ... I had enough of woman's control in the nursery. Now I am a man, I will not submit to it." ... The anti-slavery society voted to silence the woman.*³⁵

The World Anti-Slavery Convention of 1840 provided a particular catalyst for action towards the emancipation of women. Two women, Elizabeth Stanton (who had traveled there with her new husband) and Lucretia Mott (a Quaker elected to represent the US abolitionists at the Conference) were among women delegates from the United States. They were denied an equal seat by male abolitionists, forced to sit in an area at the back of the hall reserved for women and denied the right to speak.

The injustice (indeed profound betrayal) of such a decision from such a forum was underlined by some of the American male delegates, who being male, were able to speak on their behalf. They argued that the women were critical to the abolitionist movement in America.

³⁴ Lauren, p 49. For an account of Foster's evolution first as an abolitionist and then as an advocate for the rights of women as abolitionist, see Keith Melder *Abby Kelley and the Process of Liberation*, in Yellin *The Abolitionist Sisterhood*, pp 231-248

³⁵ Keith Melder *Abby Kelley and the Process of Liberation* in Yellin ed *The Abolitionist Sisterhood* p 242

If in the legislature [of Massachusetts] I have been able to do anything in the furtherance of this cause [abolition] ... it is mainly owing to the women ... My friend George Thompson, yonder, can testify to the faithful services rendered to this cause by those same women. He can tell you that when "gentlemen of property and standing," in broad day and broad cloth, undertook to drive him from Boston, putting his life in peril, it was our women who made their own persons a bulwark of protection around him. And shall such women be refused seats here?³⁶

The exclusion of the American abolitionist women served as a catalyst for action by Mott and Stanton in the cause of the emancipation of women. They decided to hold a convention as soon as they returned home to advocate the rights of women.³⁷

The women kept up correspondence and met again in 1848 initiating the formal beginnings of a women's movement. Elizabeth Stanton had by this time become a young mother, frustrated by domestic drudgery and exclusion from society. Mott and others encouraged and joined Stanton in calling a conference at Seneca Falls (a remote town near Lake Ontario) which was to mark the beginning of the American women's movement. Again from inconspicuous beginnings grew the complete revolution of the established order.³⁸

The meeting adopted the "Declaration of Sentiments". It was framed within the language of the U.S. Declaration of Independence and included a catalogue of deprivations, demanding among other things women's suffrage. This last was regarded as going "too far", by Stanton's husband (who left

³⁶ George Bradburn, a Unitarian Minister and Member of the Massachusetts legislature from *Proceedings of the General Antislavery Convention* quoted in Kathryn Kish Sklar *Women Who Speak for the Entire Nation American and British Women at the World Antislavery Convention 1840*, in Yellin, *The Abolitionist Sisterhood*, pp 311-312. George Thompson, referred to was a leading figure of the British abolitionist movement who had travelled to America in 1834-1835 and in his speaking tour recruited many of the leading American women. He failed to speak for the inclusion of the women (p 310). Bradburn is not exaggerating as to the courage of the women abolitionists who used peaceful resistance to face down the opponents of abolition. In 1838 in Philadelphia, a crowd of 10,000 gathered outside a "promiscuous meeting" of men and women for the abolitionist cause to be held in the newly opened Pennsylvania Hall. Public authorities made no efforts to stop the mob. The women (Lucretia Mott among their leaders), continued their meetings. "The women completed their regular business in both morning and afternoon sessions. When it was time to adjourn for the day, many of the participants were clearly anxious about leaving the hall and facing the mob. Lucretia Mott arranged for the women to go arm-in-arm, one black woman and one white woman. She herself led the column, and the women simply faced down the angry onlookers, relying on the moral force of their own courage and sense of right to protect them from attack. It worked ..." The mob however was to burn down the hall. See Margaret Hope Bacon *By Moral Force Alone The Antislavery Women and Nonresistance* in Yellin (ed) *The Abolitionist Sisterhood* pp286-287

³⁷ Kathryn Kish Sklar *Women Who Speak for the Entire Nation American and British Women at the World Antislavery Convention 1840*, in Yellin, *The Abolitionist Sisterhood*, p302.

³⁸ Coolidge, *Women's Rights*, p 27

town for the duration of the event), and even by Lucretia Mott who thought it would appear ridiculous. Stanton persisted nonetheless and gained the support of the convention.³⁹

The following extract demonstrates the clarity of its advocacy:

The history of mankind is a history of repeated injuries and usurpations on the part of man toward woman, having in direct object the establishment of an absolute tyranny over her. To prove this, let facts be submitted to a candid world.

He has never permitted her to exercise her inalienable right to the elective franchise.

He has compelled her to submit to laws, in the formation of which she had no voice.

He has withheld from her rights which are given to the most ignorant and degraded men - both natives and foreigners.

Having deprived her of this first right as a citizen, the elective franchise, thereby leaving her without representation in the halls of legislation, he has oppressed her on all sides.

He has taken from her all right in property, even to the wages she earns.

He has monopolized nearly all the profitable employments, and from those she is permitted to follow, she receives but a scanty remuneration.

He closes against her all the avenues to wealth and distinction, which he considers most honorable to himself. As a teacher of theology, medicine, or law, she is not known.

He has denied her the facilities for obtaining a thorough education - all colleges being closed against her.

He has endeavored, in every way that he could to destroy her confidence in her own powers, to lessen her self-respect, and to make her willing to lead a dependent and abject life.

Now, in view of this entire disfranchisement of one-half the people of this country, their social and religious degradation, - in view of the unjust laws above mentioned, and because women do feel themselves aggrieved, oppressed, and fraudulently deprived of their most sacred rights, we insist that they have immediate admission to all the rights and privileges which belong to them as citizens of these United States.

(extracts from the Declaration of Sentiments)⁴⁰

³⁹ Coolidge, Women's Rights, p 28

⁴⁰ Women's Rights Conventions Seneca Falls & Rochester, NY July and August 1848 Arno & New York Times 1969 pp 5-6

While to the modern world the declaration speaks eloquently. The same was not true of the time in which it was written. Advocacy of women's rights was met with intimidation and violence, including pelting with rotten eggs and rocks, and the burning of buildings in which its advocates spoke.⁴¹

*Speedily the state was aflame with disturbances in temperance and teacher's conventions, and the press heralded the news far and near that women delegates had suddenly appeared demanding admission in men's convention; that their rights had been hotly contended session after session by liberal men on the one side, the clergy and learned professions on the other; an overwhelming majority rejected the women with terrible anathema and denunciations. Such battles were fought over and over in the chief cities of many of the northern states, until the bigotry of men in all the reforms and professions was thoroughly tested.*⁴²

Even more powerfully than in the case of slavery, the oppression of women was accepted and indeed considered the right and natural order of things. It would be almost 20 years until the vote (a key demand) was extended anywhere to women in the United States, more than seventy years until national suffrage was accorded,⁴³ and more than 100 years before the principles advocated in 1848 obtained reasonably widespread acceptance.⁴⁴

In the course of time the cause of women's rights was embodied in the Declaration and then the Convention on the Elimination of all Forms of Discrimination against Women. It continues to be a central human rights issue.

The removal of discrimination based on gender, as in the case of slavery required a change in moral standards in the perpetrators and beneficiaries of discrimination, and progressed from a grassroots movement through change of national standards before the international treaties became a possibility. The time scale required to achieve these changes is similar to that in the case of slavery, and for practical purposes no different: that is more than a human lifetime. Few among those who begun the journey lived to see the end.

⁴¹ Lauren 49-50

⁴² Elizabeth Stanton quoted in National American Woman Suffrage Association *Victory How Women Won It: A Centennial Symposium 1840-1940* HW Wilson Company, p 41.

⁴³ Lauren pp 51

⁴⁴ Wyoming, in 1869, became the first jurisdiction in the United States to accord women the vote. Colorado 1893, Idaho 1896, Washington 1910, California 1911, Illinois 1914, New York 1917, United States 1920 (more than 70 years after the campaign began). See Coolidge *Women's Rights*, pp 70-71 and 181-182. Even in 2008, older women will tell you stories of having been forced to stop working and stay in the family home, when they became married.

As in the case of slavery, the advocates of change needed to open thinking to the very existence of a problem, and then to undertake patient grassroots advocacy to build a constituency for change. As in the case of slavery the central question was whether there was any justice in the denial of equality and equal rights to women.

Elizabeth Stanton, and Susan Anthony, her closest supporter (both of whom were later to become leaders of a national movement), devoted years of their lives to touring and lecturing on the topic on women's emancipation, an activity by which they promoted their cause and earned a living.⁴⁵

Again as with slavery, as the cause began to approach success it attracted the opposition of vested interests, particularly in this case the alcohol industry which campaigned determinedly to prevent suffrage, due to the alliance then existing between temperance activities and women's rights, fearing that vote for women threatened their trade. These opponents recruited saloon owners and campaigned for votes against suffrage.⁴⁶ As in the case of slavery, no higher principle motivated these commercial opponents of suffrage.

In concluding this discussion of the abolition of slavery and the emancipation of women, some tribute is due to the Quakers. To be associated with one such movement is an astounding achievement. To be at the roots of both, affirms the enlightenment among its followers and extraordinary genius for reform the movement was then able to generate.⁴⁷

4. RACISM AND RACIAL DISCRIMINATION

The issue of racism and the suffering and denial of human dignity that has attended it presents a third and horrific case study. Of course the doctrine that 'all men are created equal' is incompatible with any theories of racial distinction or superiority. Yet no sooner had the struggle against institutionalised slavery been won, we see Europe and America turn to racial theories that supported and justified suppression, exclusion and exploitation of black minorities and colonial populations.⁴⁸

⁴⁵ Coolidge, *Women's Rights*, Chapters 2-3

⁴⁶ Coolidge, *Women's Rights*, pp 81-83

⁴⁷ During my own time as a human rights worker, I often attended meetings which a devoted elderly Quaker woman, Nancy Shelley, also attended. At the time I was unaware of the deep social justice traditions on which she drew and which she continued to live in her own life.

⁴⁸ In *Plessy v Ferguson* 163 US 537 (1896), the US Supreme Court supported the institutionalisation of racism in the United States in a decision which validated the segregation of America's black minority. In mid 1850s Gobineau wrote one of the early and influential European works asserting a scientific theory of racial inequality *An Essay on the Inequality of Human Races* Joseph Arthur Comte de Gobineau.

The commercial and self-interested imperatives contributing to racism can be seen in the rhetoric of those who supported it. Thus Clarkson records Wilberforce's parliamentary response to the claims of African inferiority:

*But upon whom did the cruelties, thus arising out of the prosecution of this barbarous traffic, fall? Upon a people with feeling and intellect like ourselves. One witness had spoken of the acuteness of their understandings; another of the extent of their memories; a third of their genius for commerce; a fourth of their proficiency in manufactures at home. Many had admired their gentle and peaceable disposition; their cheerfulness; and their hospitality. ... Were these then a people incapable of civilization? The argument that they were an inferior species had been proved to be false.*⁴⁹

The slogan of the abolitionists "Am I Not a Man, and a Brother" was a direct challenge to theories that denied slaves their humanity and equality.⁵⁰

At the end of his history Clarkson states "They, who supported this wicked traffic, virtually denied, that man was a moral being. They substituted the law of force for the law of reason. But the great [Abolition] Act now under our consideration, has banished the impious doctrine, and restored the rational creature to his moral rights."⁵¹

Given it was made in 1808, it is a notable observation. This very doctrine, against which the abolitionists fought, was in the course of the next century and a half to re-emerge in a new form in social Darwinism, and the allied beliefs in eugenics or racial hygiene contributing a scientific justification to colonial exploitation (once again in the service of commercial gain), feeding the furnace of racism and ultimately culminating by the mid-twentieth century in a horrific war of race supremacy.⁵²

An early example of the "science" of racism is found in the North American Medical and Surgical Journal of 1831 which canvasses a debate on racial inferiority of Africans.⁵³ Their teeth are "more truly canine", "they resemble more the teeth of an ape", "their mouth or muzzle" protrudes further, "we once knew an African, who in combats with his fellow servants, was almost as dangerous in his snaps as a dog", the nerves are larger "resembling an inferior animal", his nails resemble claws, "the Caucasian will be almost

⁴⁹ Clarkson, Volume 2, Chapter 3

⁵⁰ Clarkson, Volume 1, Chapter 20.

⁵¹ Clarkson, Volume 2, Chapter 10

⁵² For an overview of scientific racism see chapter 5 of Jane Sampson *Race and Empire Seminar Studies in History* Pearson Longman 2005

⁵³ North American Medical and Surgical Journal July and October Volume XII 1831pp 363 et seq

perfect, the African less so, and the ape the inferior of the three”, on some points the “resemblance between ape and African are as nearly as strong as between the African and the Caucasian”, the Caucasian is “superior in intellectual faculties”, African and other races “bear the stamp of inferiority.”⁵⁴ Not everyone espoused such views. Many rejected them. But the profound character of the racism that this time gave birth to will be evident. Its social context, hinting at the use of slaves in game fights, and its portrayal of Africans as bestial, underlines its morally repugnant character. Such views are heard in the twenty-first century only in the ravings of white supremacists confined to the margins of society. These quotations however come from a scientific journal, with its implication of endorsement by the authority of “learned” minds. It will be noted also that this example of scientific justification of racism preceded evolutionary theory, which would later provide an additional rationale for prejudices already held.

While the victims of racism whether in the colonies, in America or in the non-European independent states, certainly struggled against it,⁵⁵ in contrast to the cases of slavery and emancipation, we do not see a *successful people’s* movement for the eradication of racism in the societies perpetrating it, until after World War II.

It is moreover, easily forgotten how pervasive and long-held were the racist attitudes and belief in white superiority in European and American societies, right up until the beginnings of World War II. The first half of the twentieth century constituted a racist crucible that made possible the most extreme manifestations of racial and nationalist theory and practice in Fascism and Nazism.

The postscript to World-War I and precursors to World War II offer convenient points to note the lack of progress. Woodrow Wilson (rightly noted as the leading advocate of the establishment of the League of Nations) was not prepared to deal with the issue of racial discrimination. There was a strong push, particularly from the Japan and the Asian states for the inclusion of the principle of racial equality in the Covenant of the League of Nations. The Japanese successfully called for a vote resulting in 11 votes out of 17 in favour. Wilson refused to accept the vote claiming that such a vote required unanimity (a legally untenable position).⁵⁶ Australia (though later to redeem itself in the establishment of the United Nations), at the end of World War I, also distinguished itself as a proponent of racial theories. The British

⁵⁴ North American Medical and Surgical Journal p 377 et seq

⁵⁵ Two well known examples being the work of the National Association for the Advancement of Coloured People (NAACP) in the United States, and the work of Mohandas (later Mahatma) Gandhi in South Africa.

⁵⁶ Lauren pp 99-100

representatives were similarly immersed within a white supremacist paradigm:

“[The Japanese] sought a single clause in the Covenant of the League of Nations supporting the principle of the right to racial equality, but met with quick and intransigent opposition. Wilson, who had a record of supporting immigration exclusion against the “Yellow Peril” abroad and racial segregation with the United States, did all that he could to thwart their efforts. The British foreign secretary exclaimed that he simply did not believe that all men were created equal and most certainly “not that a man in Central Africa was created equal to a European.” The Australian prime minister, representing a country that continued to persecute Aborigines, had personally campaigned on behalf of the statement: “Our chief plank, is, of course, White Australia. There’s no compromise about *that*.” Moreover, he announced that he “would not deviate an inch” from his position, and declared that if the Covenant contained a provision on racial equality his government would refuse to join the League itself.”⁵⁷

As the century proceeded, repeated efforts to have the League adopt principles of racial equality were rebuffed.⁵⁸

Eugenics, a science based social movement which was at its height in the first half of the twentieth century, illustrates how difficult the task of anyone advocating racial equality was during this period. Eugenicists across Europe (particularly in Germany) and the United States advanced scientific and biologically based arguments in support of racial prejudice and discrimination. The value of a person was solely determined by their genes.⁵⁹ Genes might not only carry physical deficiency, but also moral degeneracy.⁶⁰ Ideas concerning “survival of the fittest” and the extension by analogy to human populations of selective breeding as applied to domesticated plants and animals were used to justify classification of individuals, families and groups as “unfit”. Not only were such unfit appropriately excluded from society’s assistance (a benevolent instinct that only perpetuated the continued

⁵⁷ Lauren, p 99

⁵⁸ Lauren p 123-125

⁵⁹ Although the term “germ plasm” was used at the time.

⁶⁰ Thus in the US Supreme Court Case *Buck v Bell* 274 U.S. 200 (1927) Justice Wendell Holmes and the majority justified the sterilization on a woman on her presumed hereditary mental and moral insufficiency: *It is better for all the world, if instead of waiting to execute degenerate offspring for crime, or to let them starve for their imbecility, society can prevent those who are manifestly unfit from continuing their kind. The principle that sustains compulsory vaccination is broad enough to cover cutting the fallopian tubes. Three generations of imbeciles are enough.*” See discussion in Black, Chapter 6 United States of Sterilization

propagation of unfit strains)⁶¹, but measures (such as sterilization) were adopted to suppress the continuation of their genetic lines, to prevent their immigration into the state and to segregate the “socially unfit classes”.⁶² “The worthless members of society must be prevented from multiplying”.⁶³ This philosophy was combined with pre-existing racial prejudice and a belief in the inherent superior fitness of the “Nordic” or “Aryan” “race” to ground measures to prevent race mixing with inferior strains to protect the racial vigour of the superior white strain.⁶⁴ Morality itself could be recast in terms of whether an action served the genetic future of the “race”. Anything could be (and was) justified in these terms, including genocide, the use of human beings as “lab rats” and what came to be called the Holocaust.⁶⁵

It is only after World War II that we see the position change and racial equality successfully asserted and acknowledged internationally. If this principle had been successfully advanced earlier in history, millions would have been spared systematic extermination, discrimination and oppression on the basis of their “race”. Beyond this, the world may not have tipped into a war which was waged on one side *for* the cause of racial supremacy and on the basis of its doctrines.

As in the previous cases studies, the societies that perpetrated racial discrimination, considered it morally well-grounded. Indeed so persuaded were they of the moral rightness of racial categories and the inherent superiority of their own “race”, that leading scientists, politicians, lawyers, academics and social activists were able to construct an entire science and social program justifying and implementing their prejudice, discrimination and worse.

⁶¹ Black, *America's War on the Weak*, p 222-223

⁶² Black, *America's War on the Weak*, p 88

⁶³ Black, p 237 citing an opening address to the Second International Congress of Eugenics in 1915.

⁶⁴ In the United States these concepts applied in particular in regard of African Americans and Native Americans led to the strengthening and extension of laws prohibition marriages between “whites” and other “races”. Eugenists created racial categories to which they sought to classify individuals (proposals for instance adopted in the state of Virginia which adopted a Racial Integrity Act in 1924). See Black, Chapter 9 Mongrelization. Eugenists also ‘pioneered’ racially and culturally biased “IQ” tests which enabled them to confirm their pre-existing view of the inferiority of non-“Nordic” populations (particularly negroes). . See also Black, Chapter 5 Legitimizing Raceology. Eugenists (in Germany known as Race Hygienists) welcomed Hitler’s policies. Ernst Rudin (a eugenic scientist and the second President of the International Federation of Eugenic Organisations) stated “The importance of racial hygiene has only become known to all intelligent Germans through the political work of Adolf Hitler, and it was only through him that our more than thirty-year-old dream has become reality and racial hygiene principles have been translated into action.” EMBO Reports Vol 2 no 10 2001 *European Molecular Biology In the name of science – The role of biologists in Nazi atrocities: lessons for today's scientists*. American eugenicists often applauded and called for support for Nazi race policies which they saw simply as an application of their eugenic views. See for instance *Stefan Kuhl, The Nazi Connection Eugenics, American Racism, and German National Socialism*, Oxford University Press 1994, p 36

⁶⁵ See generally Black, *America's War on the Weak*, Kuhl, *The Nazi Connection*,

After World War II, although those steeped in racism stubbornly resisted change, the cause of racial equality could no longer be held back and the practice of racial oppression and discrimination was gradually rendered illegal and effective social programs pursued to bring it to an end. The elimination of discrimination on the basis of race was enshrined as a goal of the United Nations⁶⁶, beginning decades of transformation (including it might be said through the Civil Rights Movement) that earlier generations again would not have believed possible (and many among the whites would have considered entirely undesirable). As with the case of slavery and the emancipation of women, the issue that society faced was whether indeed we are born equal. The voices which said we are were simply not heard. How society as a whole *thought* about human rights issues determined the outcomes that were possible, and the appalling failures that the period marked.

5. EXTREME EXCLUSION: THE CURRENT VIOLATION OF HUMAN RIGHTS

Today's most profound violation of human rights are easily found. They appear regularly on the television (and more recently computer and phone) screens of those in the human population privileged to have access to the benefits of modern technology. The victims of these violations are the global poor who are in a condition of extreme poverty.

Pogge summarizes the implications of extreme poverty affecting 44% of the world's people:

The effects of severe poverty are staggering. It is estimated that 831 million human beings are chronically undernourished, 1,197 million lack access to safe water, and 2,747 million lack access to basic sanitation. About 2,000 million lack access to essential drugs. Some 1,000 million have no adequate shelter and 2,000 million lack electricity. Some 876 million adults are illiterate and 250 million children between the ages of 5 and 14 do wage work outside their household – often under harsh or cruel conditions: as soldiers, prostitutes, or domestic servants, or in agriculture, construction, or textile or carpet production. Roughly one-third of all human deaths, 18 million annually, are due to poverty-related causes, easily preventable through better nutrition, safe drinking water, cheap rehydration packs, vaccines, antibiotics, and other medicines. People of colour, females, and the very young are heavily

⁶⁶ Article 1.

*over-represented among the global poor, and hence also among those suffering the staggering effects of severe poverty.*⁶⁷

Perhaps the most striking statistic is the scale of deaths among children under the age of 5. Some 10 million children a year die of largely preventable causes.⁶⁸ That such deaths are unnecessary is underlined by a comparison of the death rate in OECD countries as against the poorest nations of the world. Per capita, 100 times as many children in poor countries die under age five as compared with rich countries. For instance, in Nigeria in 2005, 19% of children under the age of 5 did not survive beyond that age. The monstrosity of such an outcome speaks for itself. It is not the worst faring country on this score. Angola having 26% mortality, Rwanda 20%, Congo 20% and Niger 25%. By comparison, the United Kingdom (which is reasonably typical of OECD countries in this respect) had 0.6% mortality. The percentages in respect of undernourishment in the countries with the worst outcomes are similarly stark: Tanzania 44%, Congo 74%, Angola 35%. In Britain the figure is less than 2.5%⁶⁹ The differential is a reasonable indicator of the scale of death and suffering that a more rational and moral world might avoid.

The cruelest and most vigorous efforts of the history's violators of human rights pale to insignificance in the face of this massive toll of suffering. Further as noted by experts advising the UN Sub-commission on human rights:

Extreme poverty is ... a form of discrimination and a complete negation of civil and political rights, in particular the right to life, as well as a denial of economic, social and cultural rights.⁷⁰

Such global exclusion is made possible by juridical boundaries which prevent the victims of this deprivation seeking to escape their plight by moving to rich countries and which classify them as "the other". Every rich country has developed a plethora of tools that ensure as far as possible (except for 'charity' extended to refugees in camps distant from national boundaries) that such self-help is impossible. The deprivation is further realized through the limited effectiveness and priority accorded to international cooperation to remove the deprivation that these human populations suffer. Finally the international system fails to deal effectively with corruption and poor

⁶⁷ Pogge, 719

⁶⁸ *The Millennium Development Goals Report 2008*, notes that for the first time in 2006 under 5 child mortality dipped below 10,000,000. It states "despite progress child mortality remains unacceptably high". (p 20).

⁶⁹ Data from Human Development Report Data 2007 <http://hdr.undp.org/en/statistics/data/>

⁷⁰ *Implementation of existing human rights norms and standards in the context of the fight against extreme poverty* Final report submitted by José Bengoa, coordinator of the ad hoc group of experts A/HRC/Sub.1/58/16* 23 June 2006

governance in many of the states where the situation is at its worst. In short the ability to *think* of such suffering as the suffering of foreigners makes its continuation acceptable and unexceptional. It excuses us from action that might be taken to remedy it.

6. ABOLISHING FOREIGNNESS

“But the stranger that dwelleth with you shall be unto you as one born among you, and thou shalt love him as thyself; for ye were strangers in the land of Egypt”⁷¹

What is ‘Foreignness’?

In exploring the meaning of “foreignness” for the purposes of this paper (and therefore reaching conclusions as to its abolition), some definition of the term is required. We could simply describe it as “discrimination on the grounds of citizenship”, or “discrimination against non-citizens”. Such language however obscures the non-legal dimensions of the issue. However by exploring what we mean by the concept of “citizenship”, we can more easily appreciate what non-citizenship, or “foreignness” means.

Citizenship is sometimes said to have three dimensions: legal status defined in terms of citizenship rights, political status referring to the citizen’s role in the political process, and identity status meaning recognition of the citizen as a member of the “political community” Sometimes, this third dimension is referred to as the psychological dimension.⁷² To determine that one is a foreigner, is not only to deny them equal legal rights, it means denying them a voice in decisions, irrespective of whether those decisions profoundly affect their future, it is to deny such a person “communion” as a member of those we recognize as our community. As one author has described the benefits of nationality: “The primary good that we distribute to one another is membership in some human community”.⁷³ Exclusion from nationality is thus a profound exclusion. The exclusion is justified by entirely arbitrary considerations of either descent or place of birth. Human rights has long recognized that for someone’s human dignity to be determined by such factors, or for one to be denied human rights because of them is the very heart of the wrong that human rights seeks to remedy.⁷⁴

⁷¹ Leviticus 19:34

⁷² Stanford Encyclopedia of Philosophy <http://plato.stanford.edu/entries/citizenship/> downloaded 6 November 2008

⁷³ Michael Walzer in Pogge (ed) *Global Justice: Seminal Essays*, p 146.

⁷⁴ “A few countries still adhere to the *ius sanguinis*. According to the rule, only those who belong by ‘blood’ (or race?) to a particular group can ever be citizens. Such a position is not defensible scientifically as neither blood nor race have any scientific meaning. Until recently most states adopted

It is important also to note that inclusion in citizenship rights has changed over time so that characteristics such as property ownership, female gender, religion and ethnicity have all been used to exclude individuals from citizenship or its benefits.⁷⁵ The use of citizenship laws in such exclusionary forms is most notoriously illustrated by Nazi Germany's Nuremberg laws *Law for Protection of German Blood* and *Reich Citizenship Law* which, having defined Jews as racially "non-German" and prohibited intermarriage with Germans, stripped Germans of Jewish racial background of German citizenship.⁷⁶

The Immorality of Discrimination on the grounds of Foreignness

The theme "*the Abolition of Foreignness*" is of course adopted by analogy to past human rights struggles. Yet the language is awkward. Perhaps this is an indication that the acceptance of discrimination against foreigners is so profound that we simply do not recognise such discrimination as fundamentally a denial of human equality as objectionable as racism, oppression of women or slavery. We can of course offer rationales as to why these other situations are different, but are they really? If we took the words that open Clarkson's essay⁷⁷ in regard of the time honoured tradition of slavery, could we not simply substitute *foreignness* and make much the same observations with equal force?

If we speak of an institution of foreignness (that is consider it as a set of ideas, values, laws and practices similar to those that maintained slavery, women in subjection or racism) we see that it is supported by the entire structure of the international nation-state system - and within it a plethora of laws, rules, procedures, requirements and presumptions that maintain the distinction between citizen and foreigner. Underpinning these is an implicit morality of *human inequality* or a differential valuing of human suffering completely at odds with human rights. The price paid by human beings is unimaginable.

the *ius soli*. According to that rule, anyone born on national soil could be a citizen regardless of this or her antecedents. Recently – as for example, in the French legislation of 1993, or the Australian amendments of the same year – there has been a drift back towards the *ius sanguini*, even in countries of the *ius soli*." Alistair Davidson, *Fractured Identities Citizenship in a global world* in *Vasta (ed), Citizenship, Community and Democracy* Macmillan Press 2000., p 7. Beyond this one may simply ask what relevance does where one is born have to their entitlement to enjoy equal human rights (which of course are expressed through legal categories such as citizenship)? It only needs to be stated this way to immediately recall the non-discrimination principle of article 2 of the Universal Declaration. Davidson argues that equal treatment is incompatible with the claim of national priority which is today embodied in national practice. See p 18.

⁷⁵ Stephen Castles *Underclass or Exclusion: Social Citizenship for Ethnic Minorities* in *Vasta (ed) Citizenship, Community and Democracy*, p 23

⁷⁶ Black, *America's War on the Weak*, p 311-312.

⁷⁷ See above footnote 22.

Philosophically the institution of foreignness enables the suffering of foreigner to be minimised and ignored. Structurally it deprives the foreigner of a voice in decisions and actions affecting their well-being. Psychologically it denies community and hence shared responsibility. Geographically it herds humanity into suffering groups - not permitted to escape their abject poverty or extreme suffering. Institutionally it paralyses human agencies in responding to what would otherwise be recognised as societal crises requiring immediate and sustained action and priority application of available resources. Globally it distorts our international institutions so that rather than embodying the representation of humankind - they institutionalise the division of humanity into geographically bound groups. Legally the institution of foreignness sanctions and upholds institutionalised discrimination on a vast scale in which the rights of human beings deemed foreigners are systematically denied. The institution of foreignness feeds violence within and between nations: sanctioning the killing of foreigners in the service of the state. All of us are foreigners in this system. All subject to deprivation of our rights depending on the context.

Like slavery, the denial of the vote to women, and racism, its continuation has no justification other than (in the final analysis) self-interest. Surely when weighed against the price paid by so many members of the human family (on a scale that dwarfs the entire history of the Atlantic slave trade, to place its magnitude in context), any justification whether of convenience, interest or practicability of overcoming it, ultimately collapses. In seeing foreignness in these terms we see that it has a definite and profoundly oppressive reality that calls for a human rights response.

The morality of discrimination grounded in foreignness (as it is described here), has been a matter of debate among moral philosophers now for some decades. The debate is complex. The purpose of setting it out here is not to enter into that debate, but to canvas it in a human rights context, as it leads us to ask new questions about the human rights system.

To oversimplify it, on one side of this debate there are those who regard discrimination against foreigners (in effect) as morally indefensible. On the other side some philosophers have responded by arguing that there are morally justifiable grounds to grant greater rights and accept more onerous responsibilities in respect of our co-nationals, that moral obligations to foreigners are "less" than moral obligations to compatriots. Such arguments seem centrally concerned with the integrity of the national community which we know: apparently fearing some threat to that integrity in universalist ethics (particularly in the potentially open access of foreigners in our 'home' territory).

Examples of the former are Bader who we have introduced above,⁷⁸ and who argues that in our world of severe poverty and gross global inequality, restrictive first admission or closed borders are morally wrong. He argues for “fairly open borders”.⁷⁹

Peter Singer in 1972 (not explicitly dealing with foreignness but arguing that geographical distance is irrelevant to moral obligation) concludes that members of affluent countries have a moral obligation to do far more for the global victims of famine and poverty. “If it is in our power to prevent something very bad from happening, without thereby sacrificing anything morally significant, we ought, morally, to do it.” His argument is universalist and abstract.⁸⁰

Thomas Nagel argues that “[t]here is something wrong ... with an international market economy in which many people are malnourished while many others live high, when there is enough productive capacity to feed everyone adequately.” He thus argues that moral considerations require substantially greater aid flows from affluent nations given this situation of “radical inequality”.⁸¹

Joseph Carens argues for open borders on moral grounds. “Borders have guards and guards have guns ... Perhaps borders and guns can be justified as a way of keeping out criminals, subversives, or armed invaders. But most of those trying to get in are not like that. They are ordinary peaceful people seeking only the opportunity to build decent, secure lives for themselves and their families. On what moral grounds can these sorts of people be kept out? What gives anyone the right to point guns at *them*.” He rejects the right of the nation to keep out immigrants.⁸²

Michael Walzer argues that grant of membership of a national community is “not pervasively subject to the constraints of justice” and that “[a]cross a considerable range” of decisions “states are simply free to take in a stranger (or not)”. He founds this on the “right” of a community to “maintain its character”.⁸³ He admits a “good Samaritan” principle beyond the boundaries of “nation” or “family” as he calls it, but does not appear to give it any fixed

⁷⁸ See footnote 13.

⁷⁹ Rich nations he argues have a double moral obligation to seriously fight global poverty and let more people in. See Veit Bader p 31. He however also believes some degree of closure of borders is justified for various reasons of practicability. p 49.

⁸⁰ Peter Singer *Famine Affluence, and Morality* in Pogge (ed) *Global Ethics Seminal Essays*, p 3. (originally published in 1972)

⁸¹ Thomas Nagel *Poverty and Food: Why Charity is Not Enough* in Pogge (ed) *Global Justice Seminal Essays*, p 51 (originally published in 1977)

⁸² Joseph H Carens *Aliens and Citizens: The Case for Open Borders* in Pogge (ed) *Global Justice Seminal Essays*, p 211 (originally published in 1987).

⁸³ Michael Walzer *The Distribution of Membership* in Pogge (ed) *Global Justice Seminal Essays*, p 174. (Originally published 1981)

scope beyond a restricted right of asylum of the refugee having “affinities” with the host state (should they manage to reach its territory).⁸⁴

David Miller is concerned to argue against an universalist ethic, primarily on the grounds of practicability. Even admitting the essentially artificiality of the concept of nation he concludes that the extension of sentiments of distributive justice to the world as a whole is wildly implausible. “We do not yet have a global community in a sense that is relevant to justice as distribution according to need. There is no consensus that the needs of other human beings considered merely as such make demands of justice on me, nor is there sufficient agreement about what is to count as need.”⁸⁵ As a matter of fact we behave as if our duties to compatriots are greater than our duties to others.⁸⁶ The sense of obligation to fellow nationals and indeed the belief in a nationality is subjective and need not be ‘true’.⁸⁷ For Miller, ethical obligations need to be judged in the light of this subjective and ‘particularist’ experience, rather than from an abstract universal viewpoint which has no real existence.⁸⁸

Robert E. Goodin also finds the universal model unsatisfactory. He thus outlines the ‘special duties’ we owe to others depending on our relationships with them and sees this as additional to our ‘general duties’ to others ‘merely because they are people.’⁸⁹ He notes that even some of those who seek to ground morality in universality acknowledge the existence of ‘special duties’.⁹⁰ “It is ordinarily assumed that we owe more to our fellow countrymen and less to foreigners ... at least in the case of aid; the state determining what use shall be made of its own moneys, may legitimately consult the welfare of its own citizens rather than that of aliens”.⁹¹

However his arguments lead him to the model of the state as a “mutual-benefit society” which he does not find entirely satisfactory. He prefers to ground special duties as derivative from general duties. The state has primary responsibility to care for its own citizens but no such responsibility in regard of the citizens of other states. On the other hand all states have a duty not to harm foreigners: to leave them as they found them.⁹² On his own model however he argues that if someone has no protector (no state which

⁸⁴ Ibid, p 147 et seq

⁸⁵ David Miller *The Ethical Significance of Nationality* in Pogge (ed) *Global Justice: Seminal Essays*, p 250. (Originally published 1988)

⁸⁶ Ibid p 235

⁸⁷ Ibid p 236

⁸⁸ Ibid

⁸⁹ Robert E. Goodin *What Is So Special About our Fellow Countrymen* in Pogge (ed) *Global Justice Seminal Essays* p 255. (Originally published in 1988).

⁹⁰ Ibid p 257

⁹¹ Ibid p 259

⁹² Ibid pp 272-273.

cares for them) then the person becomes the “residual responsibility” of all.⁹³ Further if there are states which are allocated insufficient resources to care for their people, such states should be reconstituted or assisted. Territorial boundaries are in his view thus are merely a device for matching individuals to a single protector. Citizenship thus fixes special responsibility on a known agent for what are otherwise general responsibilities. He finally concludes “In the present world system, it is often – perhaps ordinarily – wrong to give priority to the claim of our compatriots.”⁹⁴

Thomas Pogge in *Recognized but Violated by International Law: The Rights of the Global Poor*, focuses on the rights of the global poor within the international human rights system as the most profound violation of human rights in the modern world.⁹⁵ Although his paper traverses the issue from a number of dimensions, he also discusses the debate around negative and positive obligations of states to observe human rights. (i.e. abstaining from acts violating human rights as opposed to failing to take acts to attain human rights). “Much of this controversy is due to the false assumption that a human right to freedom from poverty must entail correlative positive duties. Such human-rights-imposed positive duties to aid and protect any human beings who would otherwise suffer severe deprivations are widely rejected in the United States and in other affluent countries. But what is rejected here is not a specific class of rights, but a specific class of duties: *positive* duties. Those who deny that very poor foreigners have a human-rights-based moral claim to economic assistance typically also deny that foreigners have any other human-rights-based moral claims to aid or protection – against genocide, enslavement, torture, tyranny, or religious persecution. What these people actually reject are not human rights as such, or any particular category of human rights. They reject human-rights-imposed positive duties and therefore *any* human rights specified so that they entail correlative positive duties.”⁹⁶ He however argues in his paper that the international system (mandated by wealthy countries) actually imposes suffering, therefore amounting to an infringement of the negative obligation not to violate rights (particularly that of poor foreigners).⁹⁷

Andrew Linklater (more a political theorist than moral philosopher) undertakes a review of debates around the moral duties of the state within an international community. Again the issue of whether preferencing the citizen over the alien can be morally justified arises, and has generally been answered affirmatively. The nation-state is argued to be the widest political

⁹³ Ibid p 274

⁹⁴ Ibid p 275

⁹⁵ Pogge, *Recognized but Violated*, p 718.

⁹⁶ Pogge, *Recognized but Violated*, p 720.

⁹⁷ Ibid, see generally and discussion at p 733.

community within which questions of morality arise.⁹⁸ Nonetheless he notes that historically there has been an extension of citizenship rights in three main phases. Firstly, categories such as class and gender were challenged as not morally significant to the attribution of citizenship rights. Secondly, the scope of citizenship was extended by the introduction of concepts of entitlements in the sphere of health, education and welfare. Third, dominant cultural groups were challenged to prevent the social exclusion of cultural minorities.⁹⁹ In short (generally, though not inevitably as we have seen), citizenship status, with all that implies, has been extended to a wider and wider circle of humanity.

Seyla Benhabib, also a political theorist, writes “The status of alienage ought not to denude one of fundamental rights. Furthermore, just membership also entails the right to citizenship on the part of the alien who has fulfilled certain conditions. Permanent alienage is not only incompatible with a liberal-democratic understanding of human community; it is also a violation of fundamental human rights.”¹⁰⁰ He notes that “Even in one of the most developed rights regimes of our world, refugees and asylum seekers still find themselves in quasi-criminal status. Their human rights are curtailed; they have no civil and political rights of association and representation. The extension of full human rights to these individuals and the decriminalization of their status is one of the most important tasks of cosmopolitan justice in our world.”¹⁰¹ Even more forcefully he writes: “The right to universal hospitality is sacrificed on the altar of state interest. We need to decriminalize the worldwide movement of peoples, and treat each person, whatever his or her political citizenship status, in accordance with the dignity of moral personhood. This implies acknowledging that crossing borders and seeking entry into different polities is not a criminal act but an expression of human freedom and the search for human betterment in a world which we have to share with our fellow human beings.”¹⁰²

Below, some observations are offered on this debate, but it is worth pausing at this point and considering the relevance of this debate to the human rights movement. Surprisingly, some of the thinking advanced by the moral philosophers and political theorists is well beyond the basic assumptions that underpin modern human rights work, which simply takes as a given the

⁹⁸ Andrew Linklater, *The Transformation of Political Community: Ethical Foundations of the Post-Westphalian Era* Polity Press, 1998, pp 179 et seq

⁹⁹ *Ibid* p 188

¹⁰⁰ Seyla Benhabib *The Rights of Others* Cambridge University Press, pp 3-4.

¹⁰¹ *Ibid* p 168

¹⁰² *Ibid* p 177

permissibility of citizenship based discrimination. Reasons why this might be so are examined below.¹⁰³

Interestingly, the same does not appear to hold true in respect of the international development system (at least the current rhetoric of that system). The Millennium Development Goals for instance, suggest a transcendence of the category of foreignness (certainly a preparedness to ignore it) for one's citizenship is rendered entirely irrelevant to the setting of the goals.¹⁰⁴ Further while states argue how much they should contribute, and regrettably fail to meet the commitments they have made, states do not argue they do not have any responsibility in regard of such development assistance. In fact state leaders explicitly accept their responsibility for the welfare of all human beings.

Thus in the Millennium Declaration of 2000 the gathered leaders of world governments stated:

*We recognize that, in addition to our separate responsibilities to our individual societies, we have a collective responsibility to uphold the principles of human dignity, equality and equity at the global level. As leaders we have a duty therefore to all the world's people, especially the most vulnerable and, in particular, the children of the world, to whom the future belongs.*¹⁰⁵

They continue:

*11. We will spare no effort to free our fellow men, women and children from the abject and dehumanizing conditions of extreme poverty, to which more than a billion of them are currently subjected. We are committed to making the right to development a reality for everyone and to freeing the entire human race from want.*¹⁰⁶

12. We resolve therefore to create an environment – at the national and global levels alike – which is conducive to development and to the elimination of poverty.

13. Success in meeting these objectives depends, inter alia, on good governance within each country. It also depends on good governance at the international level and on transparency in the financial, monetary and trading

¹⁰³ However, see below discussion by Weissbrodt in relation to the limits of discrimination against non-citizens, given the current human rights frameworks.

¹⁰⁴ The same is far from true of human rights treaties, which embody citizenship based discrimination (see below).

¹⁰⁵ Paragraph 2 Millennium Declaration Resolution of the General Assembly A/res/55/2

¹⁰⁶ Of course here drawing on a grounding goal of human rights: "freedom from want".

*systems. We are committed to an open, equitable, rule-based, predictable and non-discriminatory multilateral trading and financial system.*¹⁰⁷

If there is any prioritising of responsibilities in this statement, the priority is poverty eradication, rather than national affiliation. Such statements are easy to make, and absent concrete commitment, abound within the United Nations system. Clearly all states which may be able to “spare effort” are hardly exhausting their capacity to do so, and do in fact so prioritise the interests of co-nationals that little is left to address the needs of the global poor.¹⁰⁸ Nonetheless there is no doubt that the thinking behind these statements regards *only membership in the human family* as an appropriate criteria for moral responsibility to assist and for entitlement to share in such assistance. Concretely it is evident that the Millennium Goals are generating significant activity by intergovernmental, government and non-government actors to seek to *bring to an end* the “radical inequality” that currently characterizes the world. Perhaps this offers concrete evidence that eradicating foreignness from our thinking, if not necessary, is at least profoundly useful in making progress on human rights for the most excluded segments of the human population.¹⁰⁹ Of course here the issue is not explicit, it is simply that the grounding implicit assumption is one of human equality – people are not here regarded as foreigners.

The discussion below in respect of human rights, shows quite a different paradigm, in which foreignness is centrally relevant to the grant of human rights, or rather their limitation. Why in the development context we are able to think and act universally, but in the human rights context, we do so to a significantly lesser extent, is a paradox.¹¹⁰ One difference we may observe is that development assistance does not have to deal with the politically difficult issue of immigration. We may admit an obligation to help the poor “out there”. Admitting them in an *unrestrained* manner or even in large numbers, to our company, well, that is more difficult. This latter issue, human rights

¹⁰⁷ Ibid.

¹⁰⁸ For instance in September 2008 religious leaders called on states to turn their commitment to “spare no effort” into effective action. “The massive scale of poverty and related suffering can be changed. Because we have the capacity to make this change, we have the moral obligation to do so.” They further point out that even the Millennium Development Goals themselves are inadequate as they abandon 50% of the poor to their current condition. They note that aid commitments fell in 2007 to 0.28 % of gross national income, well below the 0.7 percent commitments of 2002 and 2005. *Religious Leaders Call to Eliminate Poverty through MDGs September 2008* World Conference of Religions for Peace: Religions for Peace.

¹⁰⁹ See for instance *The Millennium Development Goals Report 2008* United Nations, which reports significant mobilization by governmental and non-governmental actors in pursuing the goals as well as progress across a number of the specific measures to alleviate poverty although also acknowledging that sufficient progress not being made on a number of the Millennium Goals (p 6).

¹¹⁰ Given the volume of material that is produced in both the development sector and in human rights, elements of both approaches will be found in both and there is a risk of failing to acknowledge developments or elements of both. Nonetheless it seems possible to reach the conclusion that has been suggested.

has to deal with, whereas development assistance does not. Certainly it would be of benefit within human rights debate to make explicit these profoundly different approaches to questions of rights: either we accept we can discriminate against foreigners, or we do not. Each view will affect profoundly shape our behaviour.

However before turning to the specifics of human rights, I set out some further arguments and responses in relation to the debate above.

Arguments From Fear

The logical conclusion of abolishing of foreignness is the extension of citizenship rights far more widely than is now the case. We might suggest three extensions of rights that would flow from such abolition (either in the short or long term):

- (a) the right to cross borders;
- (b) the right to assistance and resources to ensure freedom from poverty and the realization of human rights (implying a significant proportional increase and a re-ordering of national priorities to address currently unmet basic needs *as if* foreigners were in fact fellow citizens)
- (c) the right to suffrage in the place where an individual may have residence.

The opening of borders is most likely to provoke fear, and it is the most widely discussed precisely because individuals challenge laws purporting to deny them a right of entry, whether through process of asylum, or simply through illegal entry. The idea of “foreigners” having a vote, a say in “our” destiny, is similarly likely to promote fear. What becomes of our identity if *anyone* can be a fellow national: do these people share our values and interests?

Three responses are worth making.

Even if there is some difficulty arising from such extensions, do they justify us in leaving our fellow human beings in such profound suffering? Particularly given such fears are entirely speculative.

The second is that the extension of citizenship (or effective access to the rights of a citizen) is not new, it has been repeated time and again throughout history (as we have seen), and generally its results, far from being negative, contribute to significant societal advancement. By contrast, history’s attempts

to deny equal rights are associated with practices which are now noted for their profound barbarism.

Finally, we may note that the arguments of fear were advanced against every previous extension of citizenship and community to those who previously had been excluded. The abolition of the slave trade would bring financial ruin¹¹¹, the freeing of slaves in the South would cause the North to be swamped with “Negros” who would take northern jobs¹¹², the emergence of women into the public sphere would undermine morals, society and the natural order of things,¹¹³ the extension of equality and rights to the general public (as opposed to the propertied classes) would undermine democracy.¹¹⁴

These fears, in the course of time, have been proven to be false, or at least matters of little importance in the context of the great social advances that were achieved. Such arguments in the context of issues of global justice, of clear denial of human rights, and in the context of the known beneficial effects of the extension of equality in these past cases do not merit weight. To evoke the difficulty faced by Clarkson in arguing against slavery, no matter how much the general concurrence of history and tradition may seem to support the current state of affairs, injustice of so monstrous a character ought not to be allowed to continue.

¹¹¹ “Everyone almost says, that the abolition of the Slave- trade must immediately throw the West Indian islands into convulsions, and soon complete their utter ruin.” pp 86-87 New York Edition 1836 Clarkson, volume 1

¹¹² “Thousands of well meaning people have been alarmed at the prospective emancipation of the slaves, from a belief they would *flood the North*, and bring their labour into direct and disastrous competition with our own. This is a favourite argument with the Proslavery Democrats, who have used it very vigorously, first in opposition to the war, and now in support of SEYMOUR’s election. They aim especially to alarm the Irish laborers, who are naturally sensitive on a point which threatens to affect so nearly their own interests.” From a letter to the Editor New York Times October 7, 1862. “Prejudice against the abolitionists, who were seen as threatening commercial relations with the South as well as encouraging blacks to compete for white jobs, was particularly strong in Philadelphia at the time, so soon after the financial panic of 1837. When the public learned that blacks, whites, men and women, were going to meet together at the hall, public feeling against racial “amalgamation” flared. Angry crowds gathered around Pennsylvania Hall from its opening on May 14 [1838].” Margaret Hope Bacon *By Moral Force Alone The Antislavery Women and Non Resistance* in Yellin (ed) *The Abolitionist Sisterhood*.

¹¹³ In response to a petition for women’s rights a member of the New York legislature stated “It is well known, that the object of these unsexed women is to overthrow the most sacred of our institutions, to set at defiance the Divine Law which declares man and wife to be one, and to establish on its ruins what will be in fact and in principle but a species of legalized adultery ... Are we to put the stamp of truth upon the libel here set forth, that men and women, in the matrimonial relation, are to be equal? We know that God created man as the representative of the race; ... But, this law of God and creation is spurned by these women.” Quoted in Victory, *How Women Won it*, p 43. See also discussion above of opposition to Kelley in her attempts to speak on abolition. (p 12).

¹¹⁴ “[Burke] and others believed that such dangerous ideas and revolutionary notions about liberty and equality for all people would raise unwarranted expectations, encourage challenges to authority of all kinds, disrupt the rich continuity of history and custom, and thereby seriously threaten enviable conditions of law and order and private property that had proven themselves again and again over time an location throughout the world.” Lauren, p 26.

Arguments Regarding Community

Another kind of argument that we have seen raised is that of the “loss of community”. Essentially this argument sees the further extension of rights and the removal of barriers against foreigners, as a threat to “community” and perhaps a threat to the rights and freedoms already gained. Can any sort of community be constructed out of such diverse elements? Associated with it are fears that individuals of different language, history, temperament and culture might undermine the values we hold dear. In some respects, it is thus simply another argument from fear and therefore can be responded to in the same manner. Further it might be asked what *real* basis there is to hold such fear about foreigners? Is this not just another form of prejudice, that would be overcome by friendly association – so that we would find that in reality such individuals, in material respects, as good citizens as any other? However it also goes beyond this to an anxiety about loss of identity and loss of belonging. This sense of identity as a member of the nation refers of course to the psychological aspect of citizenship which again we have referred to above.¹¹⁵ It is a sufficient response to observe that this sense of belonging with people we have never met is ultimately an imagined and arbitrary construct.¹¹⁶

As we have imagined it in the past (in fact continually re-imagined it in the past), we can re-imagine it in the future. If this sea of human suffering we observe is fundamentally and critically grounded on our free choice as to how we *think* of our fellow human beings (that is as a result of the fact that we now categorize them as *foreigners*), and if we can ameliorate their suffering by the recourse of *thinking* of them as members of our community and as in all important moral senses fellow citizens, rather than as foreigners, then why not do so? Of course having changed our *thinking* we would also change our

¹¹⁵ John Stuart Mills Chapter XVI Considerations on Representative Government 1861 reproduced in the Micheline R Ishay, *Human Rights Reader* 2nd Edn. P 291 provides a further example of this concept. and is succinctly captured by John Stuart Mills: *A portion of mankind may be said to constitute a nation if they are united among themselves by common sympathies which do not exist between them and others ... This feeling of nationality may have been generated by various causes. Sometimes it is the effect of identity and race and descent. Community of language and community of religion greatly contribute to it. Geographical limits are one of its causes. But the strongest of all is political antecedents, the possession of a national history and consequent community of recollections, collective pride and humiliation, pleasure and regret, connected with the same incidents of the past. None of these circumstances however are either indispensable, or necessarily sufficient in themselves.*

¹¹⁶ An example of the constructed nature of nationality is the creation of Italy from a number of states with significantly different histories, cultures and regional languages. “The Neapolitan historian Luigi Blanch said in 1851: “The patriotism of the Italians is like that of the ancient Greeks and is love of a single town, not a country; it is the feeling of a tribe, not a nation. Only by foreign conquest have they ever been united. Leave them to themselves and they split into fragments.” The Florentine disliked the Venetian, who in turn looked down on the Neapolitan, while the Sicilian was resentful of any suggestion that he might come from the mainland. ... In general there was a lack of acceptance or even understanding of the idea of Italy.” Christopher Leeds *The Unification of Italy*, Wayland Publishers London 1974 pp 13-14. The creation of Italy required the creation of the myth of an Italian nationality.

behaviour. The really difficult part, paradoxically, is in our minds. We are of course attached to those mental constructs that help us make sense of the world, those things we have been taught by our teachers, those things that are the common assumptions of our society and those things we viscerally believe to be true. Nonetheless, as Shoghi Effendi, puts it:

*If long-cherished ideals and time-honored institutions, if certain social assumptions and religious formulae have ceased to promote the welfare of the generality of mankind, if they no longer minister to the needs of a continually evolving humanity, let them be swept away and relegated to the limbo of obsolescent and forgotten doctrines. ... For legal standards, political and economic theories are solely designed to safeguard the interests of humanity as a whole, and not humanity to be crucified for the preservation of the integrity of any particular law or doctrine.*¹¹⁷

Finally does affording citizenship rights to foreigners (in fact abolishing altogether the very concept of foreignness), undermine our sense of community and belonging? If we “share” “our” rights with “them”, will we in some sense lose ourselves?

A response is that a sense of community, or the sense of dutiful citizenship which accompanies it, did not disappear with each of the re-conceptions of community discussed in this paper. Nor is there any reason to believe that it would do so were we to re-conceptualize our relations in absence of the category of foreigner. Simply, individuals attained a new sense of their relations with their fellow human beings. More importantly, if we carefully consider the effects of every past extension of equality, we can observe that the violators found a deeper sense of themselves, becoming more whole, more enlightened and extending a manifestation of human dignity in the world. Thus the assertion of freedom from arbitrary government and recognition of political liberty, provides the essential philosophical context within which the downfall of slavery is possible, and ultimately occurs. The defeat of slavery generates conditions leading to the emancipation of women. The failure to overcome the injustice of racism, led only to unimaginable suffering for both violators and the oppressed. The affirmation of universal human rights has so transformed the world, that to imagine going backwards seems to us a descent back into barbarism. Abolishing foreignness simply falls within this historical process of progressive realization in practice of the ideal that “all human beings are born free and equal in dignity and rights.”¹¹⁸

¹¹⁷ Shoghi Effendi, quoted in *The Promise of World Peace* 1985, Universal House of Justice (the international governing council of the Baha’i Faith).

¹¹⁸ Article 1, Universal Declaration of Human Rights.

7. THE HUMAN RIGHTS OF FOREIGNERS

Much of the discussion above is directed to general concepts and developments outside the human rights movement itself. The following sections of this paper discuss the issue of foreignness specifically in the context of the current human rights system. The first section examines the tension between the fundamental ethic of human equality and state sovereignty, a tension which has burdened the human rights movement since its inception. The second and third sections examine human rights instruments as vehicles for discrimination against foreigners and other current developments within the human rights movement of relevance to foreignness. The fourth section, while hardly a definitive consideration of the issue, suggests some possible measures that might be advocated for the abolition of foreignness within the context of international human rights.

The Human Rights Paradox of the State

Throughout the history of human rights two models of human relationships have been in tension.

The first model is that propounded by human rights, which fundamentally knows no distinctions between individuals: all human beings are entitled to human rights simply by virtue of membership in the human family. This model has progressively unfolded over time, and a study of the behaviour of even its proponents shows that understanding of its principles has emerged slowly over time (for instance slavery persisted in the United States long after the assertion of human equality by its founders).¹¹⁹

A second model (paradoxically through which human rights must work), is a state-centred model of human relationships which speaks of state sovereignty, independence of nations and domestic jurisdiction. Through

¹¹⁹ For instance in *Dred Scott v Sandford* 60 US 393 (1857), the US Supreme Court was able to exclude slaves and the descendants of slaves from the community entitled to the rights, protections and equality of US constitutive documents: “*The question is simply this: Can a negro, whose ancestors were imported into this country, and sold as slaves, become a member of the political community formed and brought into existence by the Constitution of the United States, and as such become entitled to all the rights, and privileges and immunities, guaranteed by that instrument to the citizen? . . . The legislation and histories of the times, and the language used in the Declaration of Independence, show, that neither the class of persons who had been imported as slaves, nor their descendants, whether they had become free or not, were then acknowledged as part of the people, nor intended to be included in the general words used in that memorable instrument.*” – C.J. Taney. See *Race, Ethnicity and Citizenship in the United States 150 Years After Dred Scott v. Sandford* Harvard Law School April 2007. The *Plessy v. Ferguson* case cited above echoed such exclusion in the context of segregation laws.

much of its 20th century history therefore, the struggle for human rights has been a struggle not only to achieve state acceptance of the responsibility for human rights, but also to break the barriers of impunity raised by the argument of the sanctity of domestic jurisdiction.

Given the centrality of this tension it is perhaps not surprising that the state should come to dominate human rights advocacy in at least three important respects:

1. Increasingly the human rights movement has depended on states and appealed to them as the sole arbiters and definers of human rights (i.e. human rights are rights if they are 'legal rights' sanctioned by the state – through embodiment in resolutions, declarations and treaties). Human rights are advanced by reference to such instruments, yet equally they are bound by their limitations. Pogge thus speaks of the need to reintroduce dimensions of morality (or to speak of 'moral' human rights) in order that we can break free of these limitations.¹²⁰ This is a profoundly useful idea as it allows us to question not only continuing violations of human rights, but to ask whether the legal standards embodied in human rights instruments are adequate to achieve the moral ethic of human equality and human dignity embodied in the Universal Declaration.¹²¹
2. The desire to influence the state in this role as arbiter of human rights has found increasing expression through focus on debate with "the state" in the forums of the United Nations. Paradoxically however, the human rights dialogues of the United Nations are entirely remote from the day to day experience of those who suffer human rights violations and the general mass of the population (whose mobilization we have seen to be an important feature of the abolition of the slave trade and the emancipation of women). Human rights debates at the United Nations are rarely reported through the media. Sadly the UN continues to be burdened by undemocratic practices and assumptions that maintain that distance. Further, central mechanisms of the UN responsible for human rights, such as the now replaced UN Human Rights Commission, and its successor Human Rights Council have attracted increasing criticism for ineffectiveness and even undermining human rights.¹²² A feature we have seen in our case

¹²⁰ Thomas Pogge (see *Recognized*) is a leading exponent of this view and he systematically and powerfully applies tools of reason and philosophy to demolish arguments against the moral imperatives of human rights.

¹²¹ Pogge, *Recognized*, p 717-718

¹²² For instance on 12 December 2008 the UN Secretary General Ban Ki-moon called on members of the Human Rights Council to cease posturing and rise above regional divides. Reported by Reuters *UN Chief Tells Rights Body Drop Rhetoric, Bloc*. <http://www.reuters.com/article/worldNews/idUSTRE4BB67820081212?sp=true>. On the shortcomings of the Commission on Human Rights see *A More Secure World Our Shared Responsibility Report of*

studies is that change in those cases moved not from the top down - institution to people (although this has been a model that has worked in many cases since the Second World War) but from the people upwards: change moving from individual, to local, to national to global.

3. Thirdly, almost unnoticed the paradigms of state sovereignty have colonized and been accepted into human rights instruments and therefore human rights thinking. Understandings of state responsibility (and therefore human rights) consistent with a state-centred paradigm result in a system of human rights that might reasonably be concluded to be *unable* (until stripped of those state-centred values) to fully achieve the vision of the Universal Declaration because such elements ultimately defend and promote human *inequality* in respect of “non-citizens”, who in our international system always constitute the majority of our fellow human beings.

Human Rights Instruments as Vehicles of Discrimination and Inequality

The matter which might most concern those involved in human rights is the question of where human rights instruments and institutions stand on discrimination against foreigners.

The distinction between citizen and non-citizen may be rational from the point of view of the state: but is certainly out of place in human rights, for the distinction prioritizes state rights over human rights and over the attainment of human dignity. That the state view of things has colonized human rights (as stated above), is easy to demonstrate. Human rights instruments recognise that a state is responsible for human rights within its jurisdiction but provide only for weak (and unelaborated) obligations of cooperation beyond that ‘boundary’. Such an arrangement would not have adverse human rights implications if one’s state did not differentially affect one’s chances of having human rights. But, of course, this is not the case.¹²³

Let us examine the Convention the Rights of the Child and the Convention on the Elimination of all Forms of Racial Discrimination to explore this issue.

As noted above, the number of children needlessly dying each year is of obscene proportions. This must have been known in 1990 (the year in which

the Secretary General’s High-Level Panel On Threats, Challenges and Change pp 88-89. United Nations 2004. <http://www.un.org/secureworld/report3.pdf> On 21 March 2005, UN Secretary General Kofi Annan called on the member states to establish a new Human Rights Council “This would replace the present Commission on Human Rights, whose capacity to perform its tasks has been undermined by its declining credibility and professionalism.” <http://www.un.org/largerfreedom/sg-statement.html>

¹²³ See footnote 14.

the United Nations Convention on the Rights of the Child was adopted with much fanfare). It must also have been known that the places where children's rights are most violated, are not the places where the state is most in a position to prevent those violations. That Convention followed the standards set by earlier human rights treaties.

*States Parties shall respect and ensure the rights set forth in the present Convention to each child **within their jurisdiction** without discrimination of any kind,*¹²⁴

The limitation of jurisdiction does not appear to have been debated – i.e. it seems to have occurred to no one that this limitation rendered the instrument near useless to the most vulnerable children.¹²⁵ It was and remains the accepted standard for protection of human rights. This necessarily excuses states with resources of responsibility for the welfare of those very children which are at most risk, and are known to be outside their jurisdiction. With regard to international cooperation between states, the adopted standard for children is surprisingly even weaker than the more general standard recognized in the 1966.

*... With regard to economic, social and cultural rights [of children], States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.*¹²⁶

It will be noted that the foregoing does not explicitly oblige states to do anything with respect to international cooperation (i.e. in respect of foreign children). Articles 24 and 28 contain further weak obligations to “promote and encourage” international cooperation in regard of attainment of minimum standards of health and education. (Such promotion and encouragement apparently not being warranted in respect of children attaining adequate standards of living). By comparison ICESCR definitely required states to “take steps, individually and through international assistance and cooperation” with regard to achievement of the goals of the Covenant.¹²⁷ An attempt by Australia to introduce a more definitive set of transnational obligations into the CRC “to take all appropriate measures,

¹²⁴ Convention on the Rights of the Child article 2.1

¹²⁵ Legislative History, Volume 1, p 314. There was an attempt to further confine responsibility to children “lawfully within the territory”, which was defeated.

¹²⁶ Convention on the Rights of the Child article 4

¹²⁷ International Covenant on Economic Social and Cultural Rights. “Article 2.1 Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.”

individually or jointly within the framework of international cooperation, for the full and effective implementation of the rights recognized in the Convention” was unsuccessful.¹²⁸ Presumably the problem outlined here was thought about at that point, but the morality of national preference prevailed. As we have seen above in the context of the Millennium Declaration, state leaders simply recognised their obligation to act and act together to address such issues. The contrast in thinking is striking.¹²⁹

The result, in the CRC, is that the world’s children most in need of protection of their economic, social and cultural rights do not have legal rights viz a viz all states – but only against their own most likely unable or unwilling state. This is a result we may reasonably regard as fundamentally inconsistent with the basic notions of human rights, and certainly unhelpful in addressing such widespread human suffering. In human rights terms, it represents failure.

Another example of such entrenchment of inequality in international human rights treaties is the treatment of discrimination on the grounds of citizenship. In the International Convention on the Elimination of Racial Discrimination, while *race* discrimination is prohibited, discrimination against *foreigners* (that is non-citizens) is specifically exempted as a permissible form of discrimination. This distinction significantly weakens the Convention, given the historically constructed correlation between citizenship and perceived categories of “race” or “nation”, created at the time nation-states were built and disaggregated from multinational empires.¹³⁰ More fundamentally to authorize discrimination on the ground of nationality, is contrary to the basic prohibition of discrimination in the Universal Declaration.

Examples of international human rights treaties embodying discrimination against foreigners could be multiplied, as the same principles flow out through other human rights treaties. This simply reflects the tension between a state-centred paradigm and the ongoing struggle to realize human rights. This tension is well known in human rights circles.

¹²⁸ Legislative History, Volume 1 p 319

¹²⁹ See footnotes 105 and 106 above.

¹³⁰ Michael Curtotti, *Barriers to International Freedom of Movement: A Lacuna in International Human Rights Law?* Australian and New Zealand Society of International Law, 2002 Proceedings, p 129, 142. The assertion of correlation between national boundary and race or ethnicity may require some justification (particularly in modern day western countries which are increasingly multicultural and multiracial in character). When CERD was negotiated however countries such as Australia continued their adherence to the White Australia policy. America had only recently abandoned policies of segregation. South Africa continued to practice apartheid. Further it may be recalled that the modern state was founded (often in violent ways) upon the idea of the nation (hence the nation-state) – and the separation of ethnic groups into separate juridical boundaries which has been a continuing cause of warfare down to the modern day.

Current Development in the Human Rights Field

The foregoing brief account of course carries the risk of failing to do justice to the considerable work done within the human rights movement around the human rights of refugees, migrants, or poor in the global south. The breadth and commitment and outcomes of such work, cannot be doubted.

To take an example concerning freedom of movement, the European NGO network UNITED maintains information on deaths caused by 'Fortress Europe' and campaigns for regularization (or decriminalization) of the status of illegal immigrants.¹³¹

Another example in relation to extreme poverty is work now in train to adopt guiding principles concerning human rights and extreme poverty. "In recent years international organizations ... have reached a consensus that extreme poverty is a fundamental denial of human rights."¹³² The experts preparing the report urge a rights based approach to extreme poverty and argue that the approach must cover the duties of national, private and public stakeholders, particularly states and "international stakeholders" who have an impact on extreme poverty.¹³³ Those in extreme poverty are effectively denied citizenship and face multiple forms of discrimination.¹³⁴ They argue for legal standards based in human rights to replace voluntary contributions by states. "While many attempts have been made to set up special funds to finance efforts to combat poverty, most meetings on the issue have been conspicuous for the absence of any explicit reference in these initiatives to human rights. Many people - policymakers, jurists and academics - believe that, so long as there is no proper legal framework to support efforts to fight extreme poverty, these efforts will continue to depend on voluntary initiatives which are generally of a purely humanitarian nature and are unsupported by a proper framework for action."¹³⁵ They call for the establishment of

¹³¹ "Since 1993 UNITED has monitored the deadly results of the building of a 'Fortress Europe'. More than 9000 deaths of refugees and migrants have been documented up to now. These deaths can be put down to border militarisation, asylum laws, detention policies, deportations and carrier sanctions. They are linked to the carrying out of decisions taken on highest political level: the Schengen Treaty, the Dublin Convention and EU border control programs. These deaths are not isolated incidents. They are symptomatic of policies that no longer see the humanity of those fleeing their homeland, but prefer to see them as numbers, or worse, as a natural disaster, 'a flood'. By making legal immigration and asylum nearly impossible these policies lead to the death of refugees, who fled because of war, persecution, despaired poverty or natural disasters." Information Leaflet Number 24 December 2007 version. See also Information Leaflet Number 12 *Legalise Them! Papers for All in Europe*. www.unitedagainstracism.org.

¹³² *Implementation of existing human rights norms and standards in the context of the fight against extreme poverty Final report submitted by José Bengoa, coordinator of the ad hoc group of experts A/ HRC/Sub.1/58/16**,

¹³³ *Ibid*, p 9.

¹³⁴ *Ibid*, p 6

¹³⁵ *Ibid*, p 4

internationally recognized zones where extreme poverty is generalized and where the efforts of the international community should be focused, implicitly disconnecting nationality from international responses to address the issue.¹³⁶ They endorse the eradication of extreme poverty as a national and international priority.¹³⁷ International cooperation, particularly for developed states is a duty, “to which they must devote a significant proportion of their resources” and states are under an obligation to act immediately to end widespread situations of poverty, starvation and hardship.¹³⁸ These appeals of course underline that there is in reality little political will to act in accordance with principles not typically disputed within international fora. The emergence of such will is sapped by the absence of a clear community consensus that it is immoral to treat our fellow human beings as if they are *foreigners*.

David Weissbrodt, explicitly examining the international legal rights of foreigners undertakes an extensive review of the status of rights of non-citizens as *Special Rapporteur on the Rights of Non-Citizens*.¹³⁹ It is clear from General Recommendation XXX (2004) of the Committee on the Elimination of Racial Discrimination (which is included as an annex to the Weissbrodt Report) that discrimination against non-citizens is an increasing area of focus for UN organs. Nonetheless, it is also clear from the Weissbrodt report that although general human rights principles can be applied to ameliorate the nature and extent of discrimination faced by non-citizens, in substance international human rights law *authorizes* discrimination in a range of important respects, including in respect of the right to vote, access to health and freedom of movement. Even however in a world in which the permissibility of such discrimination is legally enshrined, Weissbrodt observes that: “Almost all advocacy for non-citizens has focused on the rights of discrete groups, such as asylum-seekers, refugees, stateless persons, trafficked persons, etc. Unfortunately, however, little has been done to identify the common plights, needs and approaches for redress of the various non-citizen groups.”, and he recommends greater thematic focus on the rights of non-citizens in general.¹⁴⁰ Even taking that discrimination against foreigners is permissible under international laws, non-citizens face violation of even these recognised legal rights.¹⁴¹

¹³⁶ Ibid, p 8

¹³⁷ Ibid, draft guiding principles extreme poverty and human rights, p 12

¹³⁸ Ibid, p 17

¹³⁹ David Weissbrodt, *The Rights of Non-Citizens* Office of the United Nations High Commissioner for Human Rights, New York and Geneva, 2006

¹⁴⁰ Ibid, p 35 and generally.

¹⁴¹ Ibid, pp 6-7

The primary question is one of the effective use of the very foundations of human rights - *we are all born free and equal* - to assert the full equality and human rights of all human beings regardless of citizenship. This paper suggests that the issue of *foreignness* is the fundamental locus of discrimination which underpins the abandonment of our fellow human beings to their fate or imposes on them a violation of their human rights.

Concrete Measures

While “abolishing foreignness” is easily stated, how this might be approached in practice is not necessarily at all obvious. As with the case of slavery, and oppression of women, there are a number of potential starting points in terms of concrete policies and it is not immediately evident what might be the best point of departure. Final success typically required many steps.

Any measures however seem likely to fail if they are not accompanied and underpinned by a fundamental change in society in which it becomes generally accepted that to discriminate against foreigners is morally flawed. Like the advocates of the past therefore, appeal to the community and promotion of awareness of the wrongness of such discrimination, is likely the best starting point.

The end point in terms of governance might be a position in which *every organ of governance (local, national or international)* regards itself as equally responsible for the realization of the human rights of every human being, regardless of citizenship.¹⁴² Whatever system of governance currently exists, or may in future be designed, that system must meet the still unrealized standard set out in article 28 of the Universal Declaration:

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

¹⁴² This idea is based on the writings of Baha’u’llah: “O ye the elected representatives of the people in every land! Take ye counsel together, and let your concern be only for that which profiteth mankind, and bettereth the condition thereof, ...” *Gleanings from the Writings of Baha’u’llah*, p. 254. A similar line of thought appears in the Draft Guiding Principles Extreme Poverty and Human Rights. “States and the international community, as well as all the organs of society at the local, national, regional and international level, have an obligation to take effective action to eliminate extreme poverty.” A/HRC/Sub.1/58/16*, p 12, para 5.

Within the human rights system itself, a useful practical measure for a program of action to end discrimination on the basis of foreignness would be to make evident *within human rights debates* the immorality that the distinction involves, or at a minimum to maintain awareness of the fundamental paradigms at work when the issue arises, and as in the case of the Millennium Declaration, ensure measures are not biased by such discrimination.

While the following are not arranged in any particular order, they represent additional points where it may be feasible to shift debate so that it is grounded on full human equality without regard to citizenship.

- Assertion of “universal state responsibility” for all human rights of all members of the human family, in future human rights treaties and resolutions, or efforts to remove restrictions on state responsibility in current treaties.
- Explicit discussion and advocacy in relation to discrimination on the basis of non-citizenship and non-residence and dialogue around its incompatibility with fundamental human rights norms.
- Eradication of discrimination on the grounds of citizenship.
- Engaging a broad range of religious communities in consideration of the moral implications of the toleration of discrimination on the basis of foreignness.
- Grassroots advocacy to the people in affluent countries, or among the affluent in poorer countries.
- Dialogue on the responsibility of elected representatives for members of the human family outside their electorates and outside their nations.
- Discussion *from the point of human rights treaties* of effective and adequate mechanisms for implementation of international cooperation between states to effectively realize human rights (that is actual implementation of the obligation of international cooperation).
- Promotion of the progressive removal of all barriers to freedom of movement of human beings across national boundaries.
- Promotion of ratification of the International Convention on the Rights of Migrant Workers, which seeks to address discrimination faced by non-citizens within national boundaries.
- Support of the Millennium Development Goals within a human rights context and pursuit of the Draft Guiding Principles on Extreme Poverty and Human Rights.

8. CONCLUSION

To imagine the possibility of such profound changes in accepted modes of thought that would result in the *abolition of foreignness* might be concluded to be unrealistic, but for our review of the history of human rights. Given that

the road the cause of human rights has already travelled is unimaginable to past generations, there seems no basis to doubt the ability of the principle of human equality to realize in practice its own essence in this field, as it has in others. While we may not be able to adequately imagine a future in which this further barrier to equality is removed, it is achievable, as the abolition of slavery, the advancement of the equality of women and the eradication of racial discrimination have all been carried forward.

There is no reasonable moral distinction to be drawn between the practices that imposed human suffering under the name of slavery, and the practices structures and assumptions that enable even greater human suffering under the assumption of foreignness. Each represents a massive failure of society to observe, protect and promote human rights.

Further, given the case studies we have explored, focusing on the underlying mental constructs is a line of approach that makes sense in the struggle to advance human rights. It is precisely the challenging of accepted distinctions between human beings that made those causes not only ultimately successful, but absolutely essential and profoundly transformative. We have seen also that the current abuse of human rights does not justify a sense that the issues that we face today are any less of a profoundly moral character than those which the abolitionists or emancipationists faced: the suffering is the same, the magnitude of it on par or greater.

Given the resources of which we dispose, given the infinitely greater knowledge to which we have access as compared to the past, we may wonder how future generations will see us. Will they respond with the same horror and amazement that now moves us when we read of these former human rights struggles and learn of the enormous courage and vision of those who laid the foundations of universal human rights? Will they experience the same appalled puzzlement that we now feel, that anyone could live with such injustice in their midst?

Will they, however, also read that in the first decades of the twenty-first century a new generation of human rights workers, following in the steps of their forebears, arose to confront this challenge and that with time they abolished foreignness?

Acknowledgements

In this paper I have noted, where relevant, the faith that inspired some of the individuals involved in advocating for human rights. As people inspired by faith have long been participants in the human rights movement, it should be no surprise to find that the writing of this paper is influenced by my own religious beliefs. In particular this paper has at its heart the ethic of the *oneness of humanity* taught by Baha'u'llah, the founder of the Baha'i Faith and it is entirely appropriate that I acknowledge my fundamental indebtedness to this source. As Baha'u'llah stated it (as fact rather than normative goal): "*The Earth is but one country, and mankind its citizens.*" In 1911 and 1912 Abdu'l Baha (Baha'ullah's son) traveled to Europe and North America, promoting the oneness of humanity (a central element of Baha'i teachings) and associated principles including the abolition of prejudice, the equality of men and women, human rights and the abolition of extremes of wealth and poverty. While wishing to acknowledge my indebtedness to the ethic embedded in these sources, I have been at pains in writing this paper to ensure that one does not need to share my beliefs to entertain the conclusions that are suggested, and therefore have largely not drawn on them, but rather from the history of human rights itself.

This history and the discussion engaged in by moral philosophers and others makes clear that such conclusions can be reached from many viewpoints. It is of course fundamental to how human rights works that we can approach them from different philosophical groundings but reach the same conclusions about the nature of human rights. As one philosopher invited by UNESCO to contribute to preparation of input to drafting of the Universal Declaration joked when questioned about the ability of thinkers from diverse philosophies to agree on a common list of human rights: "Yes, we agree about the rights but on condition no one asks us why."¹⁴³

Also deserving acknowledgement is Paul Gordon Lauren's work *The International Evolution of Human Rights: Visions Seen* which provides a comprehensive and concise record of the history of human rights and many of the facts it cites provided the point of departure for further research into particular streams of human rights development and was therefore of considerable value in preparing this paper. Acknowledgement is also due to the producers and inspirers of the movie *Amazing Grace*, (intended to be a work of human rights advocacy) which commemorated the 200th anniversary

¹⁴³ Glendon, *A World Made New*, p 77.

of the abolition in the United Kingdom of the slave trade. It was that movie that first introduced me to Thomas Clarkson.

Finally I would like to express my thanks to Vafa Ghazavi and Chris Sidoti, who very kindly provided valuable comments on a previous version of this paper.

The author is solely responsible for the content and views expressed in this paper.

31 December 2008.

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