Chapter 4

Conflicting Values or Misplaced Interpretations? Examining the Inevitability of a Clash between ‘Religions’ and ‘Human Rights’

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1. introduction

The debate on the conflict between religions and human rights is both historic and contemporary.¹ This debate has been well-rehearsed, and its facets well documented and examined exhaustively, from theoretical as well as practical perspectives.² The inevitability of a clash between religion and human rights is so fervently argued, the breadth of the apparent conflict so profoundly explored, that it appears almost nonsensical to dissent. Religions are perceived as advocating regressive policies, whereas the ideals of human rights are viewed as accommodating and progressive. Amidst this impasse, the present chapter adopts a challenging position – it argues that it is possible, indeed imperative, to reconcile the values of religions with those of human rights law. From a contextual and methodological context, it is argued that over time the meanings provided to ‘human rights’ and ‘religion’ have varied greatly; and their interpretations continue to vary. In the contemporary legal and political

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environment, reconciliation is advocated on the basis that not only do the jurisprudence of ‘human rights’ and ‘religion’ retain a strong relationship with each other, but elements of ambiguity contained within these two disciplines also allow for numerous possibilities of rapprochement.

The chapter is divided into four main sections. After this introductory section, the next section, section 2, analyses the complexities within international human rights law. The jurisprudential kaleidoscope of ‘human rights’ raises profound questions regarding the meaning of ‘rights’ within the international legal framework. As this discussion elaborates, in addition to the conceptual difficulties, there continue to remain substantial disagreements in formulating a substantive code of human rights. The obstacles in establishing a coherent set of human rights standards in international arenas are examined within section 2.

If the consensus on ‘human rights’ principles is not readily discernable, religious values are often conspicuous through their apparent rigidity. Section 3 elaborates on the difficulties facing conventional interpretations of religions.

The history of all the major religions is littered with instances of a tragic involvement with acts of violence, aggression and substantial violations of human rights. The world’s major religions evoke stresses and strains when confronted with modern day challenges posed by marginalised groups such as homosexuals, religious minorities and indigenous peoples. While insular and rigid interpretations of Christianity, Judaism and Islam sanctify inequalities and advocate violence, Islam and Muslim communities have been under the spotlight particularly since the events of 11 September 2001, and the Madrid, Bali and London bombings.

Critics argue that Islam is a religion which engenders discrimination.

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