CHAPTER 6
Religion and Human Rights: Redressing the Balance
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INTRODUCTION
I would suggest that there are strong similarities, as others have noted, between types of religious obligation and human rights. Religions comprise sets of beliefs (parts of which may be reduced to writing in the form of regulation) based on cultural, national, spiritual, moral and emotional sources. Human rights comprise sets of ideals (often reduced to writing in the form of regulation) based on rational, cultural, national, spiritual (humanist), moral and emotional sources. Both religious duties and human rights are (at least when brought to book and the subject of decisions) constantly developing, interpreted by representative bodies and reactive to contexts. So the similarity of the compositions and sources of both religious beliefs and human rights often make them competitors—not only in beliefs, but also in corresponding regulatory systems. If so, I would ask: are there any developing themes or rules to help us know which, of religion or human rights, trumps the other, and if so, when? In beginning to ask and answer this question in the following discussion, I intend to reflect by way of example on some issues which are considered to be important within the Jewish religion, and also to reflect briefly on whether there appears to be a Jewish religious approach to human rights. In doing so, I refer to my own religious background, not because it is better or worse than any other, but simply because it is the one I know.

THE PROVENANCE OF HUMAN RIGHTS; FOR EXAMPLE, JEWISH RELIGIOUS TRADITION
Deutscher, whenformulating the concept of ‘the non-Jewish Jew,’ included a comment about the wheels of revolutions often being oiled by Jewish blood. He noted the over-representation of people from culturally
or nationally Jewish backgrounds in the lists of those who had brought about changes associated with developments in human rights.\textsuperscript{1} If this is true, then is there any provenance for this approach to be found within the religious beliefs and duties set out within the Jewish religion that might have brought about this over-representation?

As a preliminary point, I want to address the ‘rights and duties’ issue. The Jewish religion itself promotes the concept of duty rather than ‘right’ in its modern positive form. Duties (as between people; legal actions against the Deity are not very frequent!) may be actionable in rabbinical courts and therefore are equivalent to rights. Some rabbinical writing (and some of the other essays in this volume) contends that rights-based societies engender a sort of ‘taker’ attitude, whereas duty-based societies encourage a society of ‘givers’. But it seems to me, as a lawyer, that if a duty is actionable in law, it does not make any difference whether it is couched in the language of rights or not, since in effect it really becomes a right. One might argue about the degree of exhortatory influence a ‘right’ might have over a ‘duty’, but this would be a largely academic, semantic discussion (and one which already exists in the literature).

What duties of the nature of human rights are referred to within Judaism? A familiar and constant theme relates to the proper treatment of those who are different, alien or strange, as in the verse אֶת יְדַעְתֶּם וְאַתֶּם הַגֵּר נֶפֶשׁ ‘for you know the heart of a stranger, since you were strangers in the land of Egypt.’

The Ten Commandments include respect for parents, and forbid murder, adultery, theft, bearing false witness and jealousy. The next set of ‘people duties’ enumerated in the text of the Torah (the Five Books of Moses) relate to issues of servants – the eved (Exodus 21.2). Rabbi Shimshon Refael Hirsch, a German enlightened rabbi of nineteenth-century modernity, asks, Why do the Jewish social laws begin with concepts of servants or slavery? The answer given is that one can determine a society’s level of humanity by the way it treats its most vulnerable members.\textsuperscript{2} Unlike traditional forms of slavery, the eved Ivri (actually a penal system for dealing with criminals who have stolen but cannot repay) is not the chattel of the master, and there are limits in terms of excruciat-

\textsuperscript{1} Isaac Deutscher, The Non-Jewish Jew and other essays, ed. Tamara Deutscher (London: OUP, 1968).

\textsuperscript{2} Thanks to Paul Taylor’s recent ‘daf parashah’ for this.