

## **FROM PLURAL WORLDVIEWS TO GLOBAL HUMAN RIGHTS DISCOURSES: ON MULTICULTURALISM, INTERCULTURALISM, AND THE POSSIBILITY OF AN OVERLAPPING CONSENSUS**

### **DAS COSMOVISÕES PLURAIS AOS DISCURSOS GLOBAIS DOS DIREITOS HUMANOS: SOBRE MULTICULTURALISMO, INTERCULTURALISMO E A POSSIBILIDADE DE UM CONSENSO SOBREPOSTO**

Amos Nascimento

Associate Professor of Philosophy at the Interdisciplinary Arts & Sciences program. University of Washington, Tacoma.

#### **Autor convidado**

**Abstract:** *This paper discusses the implications of a pluralistic approach to human rights and cosmopolitanism. This goal is pursued in a few steps. First, I introduce the topic of pluralism in terms of multicultural plurality and intercultural plurality in light of Karl Jaspers' philosophy of the Axial Age, which is a way of recognizing a variety of cultural and religious worldviews. Second, I turn to philosophers such as John Rawls, Martha Nussbaum, and Charles Taylor in order to discuss the possibility of an overlapping consensus among different cultural and religious views and postulate that they see this possible unenforced consensus as a way to affirm the universality of human rights. Finally, I offer a proposal for a more plural approach to human rights in which the affirmation of plurality of cultures is not seen as incompatible with universality of human rights. I conclude that one way of moving beyond particularism to affirm universality is to differentiate between multicultural plurality and intercultural plurality, which are complementary ways to recognize, support, and promote human rights around the world.*

**Keywords:** *Human Rights; Multiculturalism; Interculturalism.*

**Resumo:** Este artigo discute as implicações de uma abordagem pluralista dos direitos humanos e o cosmopolitismo. Esse objetivo é perseguido em algumas etapas. Primeiro, introduz o tema do pluralismo em termos de pluralidade multicultural e intercultural à luz de Karl Jaspers, que é uma forma de reconhecer uma variedade de visões de mundo sobre cultura e religião. Em segundo lugar, dirige-se a filósofos como John Rawls, Martha Nussbaum e Charles Taylor, a fim de discutir a possibilidade de um consenso sobreposto entre os diferentes pontos de vistas sobre cultura e religião e postula que haja esse possível consenso como uma maneira de afirmar a universalidade dos

direitos humanos. Finalmente, oferece uma proposta para uma abordagem mais plural dos direitos humanos em que a afirmação da pluralidade de culturas não é vista como incompatível com a universalidade dos direitos humanos. Conclui que uma forma de ultrapassar o particularismo para afirmar a universalidade é diferenciar a pluralidade multicultural e intercultural, que são maneiras complementares para reconhecer, apoiar e promover os direitos humanos em todo o mundo.

**Palavras-chave:** Direitos Humanos; Multiculturalismo; Interculturalismo.

**Summary:** I. A Possible Model of Global Plurality: Worldviews and the Axial Age; II. Overlapping Consensus: From Plural Worldviews to Universal of Human Rights; III. Politics, Law, and Plural Worldviews in relation to Human Rights. References.

To talk about “multiculturalism, interculturalism, and human rights” requires us to consider a thematic relationship that is very polemic in mainline academia. These themes are separated according to specific contexts and areas of expertise, indicating the lack of a more global and interdisciplinary approach capable of articulating politics, law, social issues, and cultural realities in a wider framework. Each of these topics corresponds to areas that are now being questioned on various grounds – as seen in the critique of constitutional privilege and the promotion of cultural rights, including religious expressions. Yet, these polemic issues have been addressed more systematically by philosophers such as John Rawls, Jürgen Habermas, Judith Butler, Charles Taylor, Jacques Derrida, Martha Nussbaum, Hilary Putnam, and Giorgio Agamben, among many others who are now opening the way for a questioning of the incompatibility between the recognition of plurality and the affirmation of the universality of human rights. The recent philosophical interest in a multicultural approach to human rights is a response to the “fact of pluralism” and the “reality of globalization.” Multicultural societies have made room for the recognition of a variety of cultural and religious views linked to minority groups that claim the right to express their identity and beliefs in the public sphere. It is, therefore, in light of this wider context that we can talk about “multiculturalism, interculturalism, and human rights.”

Having established the current importance of this theme, its polemic implications, its impact on recent philosophical positions, and my own approach to this series of factors, I will now pursue this subject according to three steps.

First, I introduce the topic of pluralism in terms of multicultural plurality and intercultural plurality, which is a way of recognizing a variety of cultural and religious worldviews. Second, I discuss the possibility of an overlapping consensus among different cultural and religious views and postulate that many authors see this possible consensus as a way to affirm the universality of human rights. Finally, I conclude with a proposal for a more plural approach to human

rights in which the affirmation of plurality of cultures is not seen as incompatible with universality of human rights, but rather constitutive to it.

## 1. A POSSIBLE MODEL OF GLOBAL PLURALITY: WORLDVIEWS AND THE AXIAL AGE

My initial task is to present a wider interdisciplinary discussion on the compatibility of a *plurality of cultural and religious worldviews* with the *universality of human rights*. Before I delve into this topic, I want to step back and take Karl Jaspers' definition of the Axial Age as the starting point for a consideration of this theme. I have at least two reasons for this initiative. First, Jaspers was one of the first in the attempt to perform a “decentering” of Eurocentric views; second, he provides us with an interesting suggestion about the simultaneous development or co-originality of philosophical and religious worldviews. Despite some of Jaspers' limitations, the concept of axial times has been reassessed today by many authors and has an important role in conceptions of cosmopolitanism, human rights, religion, and post secularity.

Karl Jaspers began his career by publishing a psychological analysis of “worldviews” [*Weltbilder*] and contrasting them with a philosophical “global intuition” [*Weltanschauung*]. In his book *Psychology of Global Perspectives* [*Psychologie der Weltanschauungen*] he defines worldviews as patterns based on particular environments which enable an individual to make sense of objective reality, even under conditions of psychopathology (1919:122). Individuals follow such cultural patterns that formalize their experiences, define what counts as an authentic life, and help them to pursue their existential goals. In contrast, Jaspers conceives of a “global intuition” as something universal, as a philosophically defined comprehensive framework that corresponds to “the highest manifestations of the human being” (1919:1). It is not surprising, therefore, that the first volume of Jaspers' book on philosophy has the subtitle “Philosophical global orientation” [*Philosophie 1: Philosophische Weltorientierung*] (1932). In this book, he concludes that such philosophical comprehensive frameworks orient our global orientation and require both our acknowledgement of the ethical and religious elements at the core of worldviews and the realization that these worldviews are always in communication (1932:392; see Alessiato 2011).

Jaspers' considerations on the worldviews and global perspectives of groups and civilizations are registered in *Origin and Goal of History* [*Ursprung und Ziel der Geschichte*]. In this book he defines the Axial Age or the axial times [*Achsenzeit*] as “the period around 500 BC, in the spiritual process that occurred between 800 and 200 BC” (1949:1), a time in which “a common framework for

the historical self-understanding” of humans evolved. He characterized this as “an age in which the basic categories emerged, based upon which we still define our thinking” (1949:19-20). Also here he highlights the plurality of collective worldviews and a positive relationship between religious and philosophical conceptions. He describes the Axial Age not necessarily as a moment but rather as a process of moving from myths to a more abstract and speculative process [*Vergeisterung*] that led to the origins of philosophy. Yet, he does not see this process as a necessary development, but rather as a rupture that could be observed simultaneously and independently in several high cultures [*Hochkulturen*] and geographic regions such as Persia, India, China, and Greece. His approach is realist enough to acknowledge drawbacks in the history of civilizations but at the same time affirm the possibility of an evolution in human rights and solidarity. For instance, he affirms that “one of the preconditions for of humanity is human solidarity, illuminated by natural and human law, continually betrayed and for ever presenting its demands afresh” (1949:43).

Although Karl Jaspers has been characterized today as “a neglected thinker” (Tornhill 2011), his thought on the Axial Age and on the plurality of worldviews has recently gained renewed attention. First, there have been several critiques of his views, including the charge that he simply generalizes an implicit understanding of Christian religion upon other cultures, that he is limited by the Eurocentric perspectives of his times, and that he does not include Africa in his schema of world history (Black 2008). Yet, as Hauke Brunkhorst has stated, despite these criticisms – which are to be taken seriously – we can at least assume that Jaspers’s approach has helped to perform a decentering of perspectives that is helpful today. Second, the concept of Axial Age has been reassessed more approvingly in several ways: Shmuel Eisenstadt led a series of initiatives to study the presuppositions and current impact of the axial civilizations and other civilizations in the preaxial times – such as Egypt and Mesopotamia (1986); Samuel Huntington recognized the plurality of civilizations and their role in a multipolar world, even though he concluded that this plurality would lead to a “clash of civilizations” (1996:28, 41–55, 183f.); sociologists have reinterpreted the axial times to make sense of the tensions between secularism and postsecular societies (Bellah and Joas 2012). Finally, Jaspers’s philosophy has been used to reflect on the intrinsic plurality of perceptions about *humanity* which influence various conceptions of *human rights*. For Jim Bohman, recent discussions about human rights have given much more emphasis on the meaning of *rights* than to the meaning of *human* because references to human worth, human dignity, and human needs have a religious dimension that is deemed too metaphysical or weak as a justification for the universality of human rights (Bohman 2007:101f., 105). Bohman relies on

Jaspers and also on Hannah Arendt to provide an insightful distinction between humanness and humanity and qualify the status of what is “human” in human rights. In this process, he insists that the plurality of worldviews leads to a plurality of political communities – identified as *dêmoi* – which may offer alternative self-understandings of modern democracy and the corresponding variety of legal frameworks (Bohman 2007).

Based on all the above, I conclude that Jaspers’ theory can help us set the stage for a discussion about a multicultural understanding of human rights and plural worldviews. If he is right, contemporary views on human rights are built upon deep foundations that can be traced back in centuries and millennia, leading us back to the cultures of the axial times, and revealing cultural as well as religious presuppositions to philosophy, politics, and law. Taking these cultures into consideration help us to acknowledge the variety of contemporary worldviews and recognize their plural values. Still, a question remains: Is it possible to arrive to universality based on this affirmation of pluralism? Today, this question concerning the plurality of worldviews and their relationship to religion, politics, and law is being affirmed by authors as diverse as John Rawls, Martha Nussbaum, Hans Küng, Jacques Derrida, Abdullahi An-Naim, Charles Taylor, Seyla Benhabib, Jürgen Habermas, and many others. Having taken Karl Jaspers’ definition of the axial times as a way to affirm the importance of global plurality, now I want to focus on three specific contemporary authors who propose different ways of arriving to an “overlapping consensus” among global philosophical and plural worldviews. They provide important concepts that help us make sense of the relationship between human rights, communities, and what I define as multicultural and intercultural plurality.

## **2. OVERLAPPING CONSENSUS: FROM PLURAL WORLDVIEWS TO UNIVERSAL OF HUMAN RIGHTS**

Karl Jaspers’ definition of the Axial Age offers us an initial of map of global cultures which can be worked out and expanded. Based upon this map we can affirm the simultaneity of philosophical and religious worldviews as well as the importance of global plurality from the beginning. This serves as framework within which we can insert current discussions about human rights. In this section, I attempt to trace how John Rawls, Martha Nussbaum, and Charles Taylor address religious themes in their work and defend the possibility of an *overlapping consensus* among different worldviews.

This step is important for several reasons. First, these authors try to answer the question concerning the possibility of upholding universality amidst the re-

cognition of plurality, including the plurality of religious groups and convictions. Second, they avoid top-down approaches by understanding universality as the result of bottom-up and more democratic “overlapping consensus” that emerges from an intercultural dialogue among representatives of different cultural and religious traditions. Third, they reveal in their own writings how cultural and even religious elements can operate as underlying backgrounds that influence contemporary philosophical positions. Finally, they provide a good example for the very point I am trying to make because they seem to arrive to an overlapping consensus regarding the possibility of affirming the universality of human rights, even though they arrive at this similar conclusion through different ways and means.

### **2.1. FROM THE FACT OF PLURALISM TO AN OVERLAPPING CONSENSUS**

In political philosophy, Rawls has been one of the first to take comprehensive worldviews into account, challenge the role of religious views in politics, but nevertheless propose the possibility of an overlapping consensus about basic values brought forth by such views. Although Rawls’ *A Theory of Justice* states that justice should not be considered as a common good given by nature or dispensed by God – as traditional societies believe – but rather as a “way in which the major social institutions distribute fundamental rights and duties and determine the division of advantages from social cooperation” (Rawls 1971: 7), he later provides more room for cultural and religious considerations as well as reflections on how this relates to human rights.

A clear initial movement in this direction can be observed in his article “Justice as Fairness: Political not Metaphysical” (1985), where he refers to the Protestant Reformation and the religious wars over conflicting conceptions of the good as a problem whose solution required religious tolerance and a more unbiased political conception of justice. Based on this example he defines justice as fairness and envisions it as the practical agreement among free and equal citizens within a democratic regime, an agreement that requires us to “to avoid disputed philosophical, as well as disputed moral and religious, questions” (1985:230). Accordingly, social cooperation cannot emerge from God’s law or from the affirmation of comprehensive moral doctrines, but rather from the impartial perspective of the “original position” in which individuals refrain from expressing their contingencies and worldviews by assuming the “veil of ignorance” (1985:235).

In a second moment, registered in “The idea of an Overlapping Consensus” (1987), we observe a clearer turn to pluralism as Rawls moves beyond this initial



proviso and affirms the possibility of a wider agreement among plural worldviews through a process in which “different and even conflicting doctrines affirm the publicly shared basis of political arrangement,” even if they accept justice as fairness for different reasons (1985:246, 248-249; 1987:4). Religious views are one example of comprehensive doctrines that can be acceptable if they do not contradict political expectations of religious tolerance and of the right to individual “liberty of conscience.” This accommodation indicates an important step towards the recognition of differences, but as Will Kymlicka argues, in order to search for an unbiased standpoint Rawls provides a somewhat biased account of tolerance that does not account for plural group rights (1992).

These considerations are then expanded and synthesized in *Political Liberalism*, where Rawls continues to reject metaphysics but accommodates the plurality of opposing and incommensurable conceptions by accepting the “fact of reasonable pluralism” (1993:36). Also here he has much to say about religion, especially as he defines moral, philosophical, and religious “background cultures” as comprehensive doctrines with similar standing (1993:37-43). While he continues to insist on the primacy of a political conception of liberalism, he now adds the possibility of accepting such comprehensive doctrines as part of a possible consensus, provided that they are translated into a free-standing political conception of justice compatible with constitutional democratic principles (1993:59). This “overlapping consensus” should not be confused with the despotic *consensus* of Catholic universalism (1993:xxif.) but postulated as a *political* conception of justice that can be accepted by different religious, cultural and philosophical views – under the condition that these views are “reasonable” (1993:36-37). One interesting point is that Rawls comes closer to Jaspers when he distinguishes between “fully comprehensive” and “partially comprehensive” views. He is more concerned with the former and the possibility of translating fully comprehensive claims into constitutional principles. This can be seen, for example, in the case of a religious doctrine that affirms liberal political values such as the principle of toleration and liberty of conscience. Modern society allows for a learning process in which citizens may uphold both the principles of justice recognized in constitutional democracies and other cultural and religious views: “Should an incompatibility later be recognized between the principles of justice and their wider doctrines, then they might very well adjust or revise these doctrines rather than reject those principles” (1993:160). Even though Rawls subsequently provides slight revisions of this requirement, the general point remains roughly the same: “reasonable comprehensive doctrines, religious or non-religious, may be introduced in public political discussion at any time, provided that in due course proper political reasons – and not reasons given solely by comprehensive doctrines – are presented that are

sufficient to support whatever the comprehensive doctrines are said to support” (1997:783).

This understanding has profound implications for Rawls’ conception of human rights. In *The Law of Peoples*, where he goes from the national application of political liberalism to its implementation in the international arena – thus being more directly confronted with a much wider plurality of conflicting comprehensive doctrines – he tends to see human rights as an extension or generalization of liberal principles (1999:37). Although he does make room for other political cultures of “decent peoples” in hierarchical societies and acknowledges the plight of “burdened societies,” in the end religious views are unimportant for him. On the one hand, he says, “liberal peoples by their constitution have no religion – they are not confessional states – even if their citizens are highly religious, individually or together” (1999:24, 47); on the other, he even adds that “the fact that women’s status is often founded on religion, or bear a close relation to religious views, is not in itself a cause of their subjection, since other causes are usually present” (1999:110). This is surely a controversial point, among many others he affirms in *The Law of Peoples*, which are criticized by several authors.

Let us focus on the issue of religion and secularization. The point that religious views can be taken into account only if they are translated into the acceptable language of political liberalism may be valid as a description of particular regions in contemporary United States – such as New England or the Northwest. This cannot be generalized, much less globally. One may ask: Are there cases in which political principles are adapted in order to accommodate religious views? Also in the United States we find many examples of this practice, as shown by Robert Bellah in his analysis of “civil religion” (1967). Rawls could counter-argue that he is not proposing a description but rather a normative framework, a proposal on how society should be. Still, my point is that this normative ideal emerges historically from a particular comprehensive view whose roots can be identified with specific religious views regarding individuality which are indebted to European Protestantism and this conception of individuality and eventually became enshrined in a constitution. Therefore, one may characterize a kind of “constitutional privilege” of Protestantism in the United States, despite all the efforts of the Founding Fathers to frame the Constitution from a more impartial point of view. Let me expand on this point: If Christianity has a constitutional privilege in the constitutions of Western democracies, this would not be much different from incorporating *shari’a* law into constitutions of Islamic countries or upholding Confucian values as core to the political system in China. This may explain why there are various examples of legal cases, court decisions, and political practices in the United States that implicitly and explicitly reiterate mainstream



Protestantism as the norm from which minority religions or non-religious individuals and groups deviate, although the American Constitution promotes the free exercise of religious freedom and the separation of church and state as impartial measures.

I am not necessarily questioning individuality, but rather affirming that the value of individuality cannot be taken for granted. If this religious infiltration into legal and political language seems unavoidable, then it may be better to be open and upfront about it, submitting these contingencies to public scrutiny as well. In fact, today we can see that there are clear religious presuppositions to many of Rawls' concepts. With the posthumous publication of his undergraduate thesis at Princeton University, much light has been shed on his religious views as well as the implicit worldview guiding his philosophy. From today's perspective, it is possible to trace his views on justice and morality to his senior thesis, *A Brief Inquiry into the Meaning of Sin and Faith: An Interpretation Based on the Concept of Community* (2009). This text was subject to analysis in an introduction by Thomas Nagel and by other authors who reveal the likely religious roots of his deontological approach and his emphasis on basic individual rights (Gregory 2007; Habermas 2012:257–276). However, an important point in his views at this early stage of his thinking is the definition of an ethical standpoint based on the Christian doctrine of love. This means that Rawls relies on a comprehensive doctrine to establish the interdependence between individual and community and criticize an egotistical “bargain-contract society” that uses other people as means and creates a state of fear and distrust (Rawls 2009:110–113, 229). Based on this assumption, Rawls affirms the importance of a religious community and states clearly that “Christian morality is morality in community, whether it be the earthly community or the heavenly community [...] This fact means that man can never escape community, and therefore is always responsible and always under obligations” (Rawls 2009:122).

This conclusion appears to be in radical contrast with the framework Rawls established in *A Theory of Justice* (1971) and *Political Liberalism* (1993) because in previous works he questions metaphysical assumptions, upholds the separation of church and state, and replaces the religious premises of the Golden Rule with a principle of fairness. Yet, as Thomas Nagel recognizes, there is a common thread in all these proposals, which is the search for a comprehensive outlook about the social world which can also be interpreted in their relation to religious terms (Nagel, in Rawls 2009:5). For instance, Rawls' earlier views on the absolute value of the individual and the universal-egalitarian ethical obligations promoted through the Christian religion (Habermas 2012:57) are presented in *A Theory of Justice* by using the corresponding concepts of “person” and “society.

“Instead of having God as the instance for societal stability, this role is shifted to the institutions of a democratic and well-ordered society.

What can we learn from this? Although the subtle changes observed above, from *A Brief Inquiry into the Meaning of Sin and Faith* through *A Theory of Justice* to *Political Liberalism* and *The Law of Peoples* can be interpreted as a learning process and a progressive translation of religious categories into impartial political concepts, the fact that Rawls later makes room for comprehensive views actually puts him back on track and offers an important insight regarding multicultural and postsecular societies. We can actually find a coherent line in his works, which indicates a possible compatibility between religious worldviews and the views of a secularized liberal state. What we need are better global criteria to evaluate the issues at stake. A possible overlapping consensus on the universality of human rights can serve as reference for this task.

## **2.2. RELIGIOUS DIVERSITY AND THE CONSENSUS AROUND A CONSTITUTIONAL FRAMEWORK**

From a legal perspective, Martha Nussbaum brings more compelling arguments for the possibility of being upfront about religious issues, accommodating these issues into the legal framework of a liberal society, and promoting plurality and human rights beyond national limits. Although she criticizes Rawls views on human rights, especially because he uses a limiting “language of rights” and allows for discriminations against women when he accepts the legitimacy of decent nonliberal peoples in the hypothetical land of Kazanistan (Nussbaum 2006), she agrees with Rawls’ definition of justice as fairness and his proposal for an overlapping consensus. Moreover, instead of going around the issue of religion, as Rawls seemed to have done in his approach to this subject, she addresses the relationship between politics, religion, and law head on, focusing on religious equality and the right to freedom of conscience as conditions for a fair multicultural society (2008:62). She thus addresses important points that seem to be missing in political liberalism and complement her own previous writings by explicitly addressing questions of religious identity and convictions.

First, in her writings on human rights, Nussbaum questions the limits of the liberal discourses emphasizing “rights” and insists on the need to highlight the human dimension at play in global human rights, including the role of emotions, the dimension of sexuality, and the acceptance of disabilities (Nussbaum 2000, 2004b). Moreover, she questions whether only impartial individuals have rights and adds groups and particular gendered identities into the discussion. She starts with the assumption that humans are not necessarily equal (2001a:212–213),

but have differences that need to be recognized and compensated in certain situations, so that individuals and groups such as women, peoples with disability, and ethnic or religious minorities may be able to pursue their full potential as humans (2001b:97–98), claiming rights to life, bodily health, senses and imagination, emotions and friendship, and play and control over one’s environment (2001b:98–101). Because the liberal language of rights is limited and fails to address these issues, Nussbaum develops her “capabilities approach” (2001b).

Second, Nussbaum also expands human rights by relating it more directly to cosmopolitanism, which prompts her to question patriotism and criticize the limited scope of a national constitutional framework (1996). As Nussbaum has reminded us, one of the earliest and most important references to human rights is the cosmopolitanism of Diogenes of Sinope, who was one of the first to express the idea of being a citizen of the cosmos while bound by local contingencies (Nussbaum 1997). According to this view, humans are citizens of two communities: “The local community of our birth and the community of human argument and aspiration” (Nussbaum 1997:29). It is in light of these premises that we can understand how Nussbaum performs a turn to religion similar to Rawls’, but with an even greater commitment to pluralism and group identity.

Finally, in her book *Liberty of Conscience: In Defense of America’s Tradition of Religious Equality* (2008), Nussbaum expands the framework once more. She starts by explicitly affirming her identity as a Christian who later converted to Judaism and as a scholar who studies India and is familiar with the struggle of Hindu, Buddhist, and Muslim immigrants to the United States (2003:9-39; 2008:14). Based on the evidence that these religious minorities suffer discrimination and are targeted with extra burden when their convictions clash with the existing legal framework influenced by the Protestant culture in the United States, Nussbaum upholds the American tradition of “liberty of conscience” since the works of Roger Williams in the 17<sup>th</sup> century (2008:19-20, 51-58). Also here she needs to come to terms with political liberalism. For instance, she challenges a strict separation between church and state because this would lead to a situation of profound unfairness and promote an unfounded aversion to or marginalization of certain religious expressions (2008:11). Her argument, therefore, is that an implicit constitutional privilege contradicts the principles of justice proposed by Rawls. In her interpretation, the separation of church and state should be a device to protect minority religions and avoid that groups such as evangelical Christianity affirm their ideology as the state religion in the United States.

After historical considerations that lead to an analysis of how religious liberty was framed in the Constitution of the United States, Nussbaum dis-

cusses the needs of religious minorities – such as Quakers, Mennonites, Jews, and Amish, Mormons, Muslims and Jehova Witnesses –, especially when their beliefs conflict with the government requirements such as military service, revelation of private confessions, and the observation of particular holidays (2008:116-130). There are many cases involving conflicts between religious minorities and constitutional clauses aiming at accommodating differences, but constitutional processes have a tendency to penalize those who cannot articulate their claims well because they are foreigners, immigrants or minorities who do not master the “language of rights.” These groups do not have the privilege of having their worldviews projected onto the Constitution. Moreover, initiatives such as the “Pledge of Allegiance” (2008:199-214) and educational policies that impose a particular evangelical culture in public institutions, especially in the area of education, disrespect the culture of minority groups and contradict the liberal precept of liberty of conscience (2008:224ff.).

What would be the difference to highlight between Nussbaum and Rawls? In the end, Nussbaum reaffirms the primacy of political liberalism and its commitment to uphold fairness (2008:172-173), but she attempts to make it more compatible with an explicit commitment to religious equality. She sides with Rawls and accepts the idea of an “overlapping consensus” because “citizens themselves will rarely separate their understanding of the political conception from the comprehensive doctrine they love” (2008:362). Also, she considers this turn compatible with her previous work, not only because “liberty of conscience” has its background in Stoic philosophy and cosmopolitanism (2008:76-84), but also because there is a legal tradition in American culture that shows an ongoing process of more than 400 years to guarantee freedom of religion. Precisely due to this legacy, citizens need to be vigilant and avoid that this process be undermined by changing political circumstances. Nussbaum is careful enough to add a proviso that her focus on American culture is not an exercise in patriotism, but rather a celebration of the depth and ethical value of American constitutional tradition (2008:32). Yet, it is fair to say that she stops short of providing a model to promote an overlapping consensus beyond this particular context. Moreover, she does not account for cases of legal pluralism in which the precepts of different constitutional frameworks clash and require a higher instance to address such intercultural conflicts. This shortcoming gives me the opportunity to introduce Charles Taylor and review his conception of multicultural and intercultural plurality as well as his postulate of a possible universal consensus on human rights involving Western and non-Western cultures. This brings us back to the points developed earlier by Karl Jaspers.

### 2.3. THE SECULAR AGE, MULTICULTURALISM, AND THE INTERCULTURAL CONSENSUS ON HUMAN RIGHTS

Charles Taylor not only establishes a clearer dialogue with Karls Jaspers' idea of axial times, but also criticizes Rawls' liberalism and expands some of the points brought up by Martha Nussbaum regarding religious identity. Differently from them, however, he clearly affirms his hermeneutical conditionings from the beginning, controversially stating his identity as a practicing Catholic in a multicultural society as Canada. He affirmed his position early enough, in his debates on Marxism and secularization (Taylor 1958, 1960), and then radicalized a confessional tone in later writings (2007). Taylor raises provocative and controversial apologetic claims in relation to Latin Christianity, but his position has the merit of identifying hidden religious premises in accepted social developments, presenting challenges to secularism and secularization theories, and proposing the concept of "immanent frame" as the wider "context in which we develop our beliefs" (2007:549).

A first important point to reiterate is that Taylor is never shy of the deep religious roots that inform his motivations. He presents them by means of philosophical arguments indebted to the hermeneutic tradition that goes from the so-called three H's—Johann G. Hamann, Johann G. Herder, and Wilhelm von Humboldt – to the theories of meaning in Wittgenstein, Heidegger and Gadamer (Taylor 1985a). These philosophers provide him with a tool to question the overly individualistic and instrumental views of modernity in political liberalism, which occlude the anthropological conditionings of the self, forget how individual agency and identity depend on the particular language and culture of a localized historical experience, and lead to a loss of meaning, cultural expressivity, and freedom (Taylor 1991:1-12, 25-30). This leads to his differences with Rawls. Because Rawls' liberalism is the political heir of these modern views, he is the constant target of Taylor's critique: He questions liberal "atomism," rejects ethical subjectivism, and opposes the primacy of individualistic rights over collective conceptions of the good (1985b:187-209; 1995:181-202). Moreover, he takes the concepts of freedom and "recognition" [*Anerkennung*] from Hegel to develop a proposal for identity politics and group rights (Taylor 1975; Taylor and Gutman 1992).

Second, this leads to both his proximity and difference in relation to Nussbaum's position. With his proposal for group rights, Taylor's conception of communitarian plurality is not limited to a given tradition but expanded into both *multiculturalism* and *interculturalism*, a move inspired by the particular case of Québec and the constitutional debates for a multicultural Canada in the 1960s, which he connects to other facts and events in Europe (Taylor and Gutman 1992;

2012). He does agree with the importance of equality. For him, “equal recognition is not just the appropriate mode for a healthy democratic society. Its refusal can inflict damage on those who are denied it” (Taylor and Gutman 1992:36). However, he does not think impartiality is the answer. Rather, the antidote to inequality is a “politics of difference” that recognizes distinctions, opposes assimilation, and creates affirmative policies to avoid or rectify oppression (1992:58). In this regard, Taylor and Nussbaum seem to agree, but Taylor goes a bit farther.

Third, Taylor affirms that “some of the reasons that make interculturalism right for Quebec apply also to some European countries” (2012:422) and amplifies his communitarianism to the international level. For sure, Taylor is still bound to a North Atlantic context that cannot be generalized. Intercultural dialogue is not simply internal to the Canadian society or the North American context, with interesting parallels in Europe. Nevertheless, he does mention the Turkish guest workers [*Gastarbeiterinnen*] in Germany who want to be integrated in terms of citizenship but also want to maintain their cultural and religious identity. He also advances a discussion about an intercultural “consensus on human rights” in Asia (1999:124-144). In his view, the recognition of different cultural, religious, and philosophical worldviews has become available for renewed interpretation, appropriation, and renewal. By making sense of the intercultural interaction among different communities and cultures, he envisions the acceptance and implementation of human rights in non-Western societies that have denounced human rights as a Western imposition. The acceptance of the universality of human rights requires, however, an appropriate philosophical justification that recognizes the particular historical and cultural context in which human rights are being applied (1999). This can be done, according to Taylor, if we differentiate the legal understanding of human rights in liberalism from the deeper philosophical worldviews that underlie distinct legal frameworks. As we have seen, this question leads invariably to a discussion about religious worldviews.

Finally, all these elements are brought together in his account of religion and the secular age. *A Secular Age* begins by viewing secularity in way that encompasses the various forms of secularism and secularization implicitly mentioned by Rawls and Nussbaum. Taylor defines them as follows: “secularity 1” corresponds to the privatization of religion, “secularity 2” is the decline of religious practice in general, and “secularity 3” is the recognition that religious beliefs can be challenged and, therefore, need to be justified in relation to the “whole context of understanding in which our moral, spiritual, or religious experience and search takes place” (2007:2-3). Due to his own hermeneutical conditioning, Taylor concentrates on his own culture as an example, attempting to reveal the underlying foundations of his own thinking. The search for underlying worldviews has



taken various forms in Taylor's work. One example is his research on the sources of the "Self" in modern Europe, in which he reveals a particular conception of the human being that places higher value on individuality and defines society in terms of a contractual agreement among individuals who are endowed with rights (1989), but at the same time he recognizes that the goal of having an individual as the subject of rights and of establishing the foundations of society on mutual cooperation and a legal order has been achieved in other societies by other means (Taylor 1999:134). Another example is his narrative about the "secular age," in which he shows the evolution of worldviews as "social imaginary," "reveals a "disembedding" process through which a particular Protestant conception of individuality influences society in such a way that "society itself comes to be re-conceived as made up of individuals" (2007:146), and . Also here, he criticizes Rawls and political liberalism for not recognizing their own particular religious worldview and the fact that other cultures have other contingencies. Nevertheless, Taylor agrees with Rawls' proposal for an overlapping consensus as a means to affirm the universality ethics, democracy, and human rights (2007:532). This consensus requires, however, that we acknowledge "the immanent frame," "which is the conditional "sensed context in which we develop our beliefs" (2007:13). For Taylor, the very idea of a secular age is the result of a religious development that we should not neglect.

Despite the impressive breadth of his philosophical interests and the scope of his considerations on the secular age, many criticisms can be brought against Charles Taylor. For instance, many see his views as too apologetic. Moreover, his historical reading of Latin Christendom appears selective (Butler 2010:193f.), for he does not include, for example, the developments of Catholicism in Latin America or Eastern Europe. Also, he fails to account for the colonial component in his historical narrative, not realizing that what he cherishes as "Latin Christendom" is the result of the encounter with heterogeneous cultures (Mahmood 2010:285). This brings us back to the beginning of my discussion about the plurality of worldviews and the possibility of affirming their universality, provided that we avoid these types of biases by recognizing global plurality from the beginning. This is what we can learn when we compare these ideas with Karl Jaspers' decentered model of co-original philosophies and religious during the axial times. In fact, Taylor explicitly refers to the Axial Revolution to question the primacy of individual rights and affirm that "perhaps the most fundamental novelty of all is the revisionary stance towards the human good in Axial religions" (2007:152). This assertion cannot be made *en passant*, but needs to be affirmed from the beginning, so that we maintain plurality as a critical condition for a legitimate overlapping consensus.

### 3. POLITICS, LAW, AND PLURAL WORLDVIEWS IN RELATION TO HUMAN RIGHTS

Going from Rawls through Nussbaum to Taylor we can have a glimpse of various arguments for the recognition of a *plurality of cultural and religious worldviews* and the concomitant assumption of a possible “overlapping consensus” among different traditions that could accept the *universality of human rights*. Based on their positions, this consensus is only possible if human rights are not simply limited to the language of rights and if political and legal frameworks make room for the expression of fully comprehensive views – including religious worldviews. There are obvious challenges involved in maintaining both aspects together: if human rights are limited to a liberal conception of individual rights, then group identities and collective concerns may not receive appropriate attention; conversely, if emphasis is given to group rights and communitarian structures, individual autonomy may be limited. It makes sense, therefore, to have a broader heuristic that requires us to have both dimensions simultaneously.

While Rawls tends more towards individuality and has progressively opened his views to the dimension of collectivity – including the expression of religious views –, his conception of human rights appears more as a projection of a particular national framework of a liberal society upon the international area. Nussbaum makes a more decisive move towards both the recognition of individual capabilities and group rights – especially minorities with their respective religious views – while upholding the universality of an ethical and cosmopolitan position as the standard upon which individuals and groups are to be judged. Taylor criticizes the liberal emphasis on individualism but goes further in affirming the plurality of multicultural and intercultural interactions. Although he is less emphatic in his endorsing of universality, he does provide a model of recognition of otherness that has the potential to be applied globally. It is easy to see that these positions have different strengths, specific gaps, and a certain complementarity because, taken altogether, they provide different reasons to support individual autonomy, collective recognition, multicultural and intercultural dialogue, and a possible consensus on the meaning of universality. Moreover, at each juncture we find a specific understanding of religion connected to these various levels. Thus, religion can be understood as private individual faith based on freedom of conscience, collective identity based on shared beliefs, intercultural interactions based tolerance for differences, and ethical values – justified differently by various worldviews – that can claim universality if they are the result of an overlapping consensus.

Taken alone, neither of the positions we discussed can cover all of these points. Nevertheless, I believe it is possible to advance some of their ideas and articulate these various dimensions by relating them to discussions on human rights at the global level while respecting distinctive ways of understanding human rights in different cultures. In the end, all the authors reviewed affirm the possibility of an overlapping consensus regarding human rights which would also include non-western societies, provided that the involved parts offer appropriate philosophical justifications that recognize multiculturalism and are compatible with the historical or cultural context in which human rights are being applied. Thus, in the same ways as the development of modernity in Europe required an appropriation of Judeo-Christian values, basic human rights can be justified from within particular cultures that possess the potential to agree on fundamental values that can be shared across cultures. This brings us back to the framework I established at the beginning with the help of Karl Jaspers. For example, the ancient thinking of Confucius in China or the pre-Socratics in Greece was definitely metaphysical, but implied some notions of humanity and rights and duties that underlie contemporary positions. Modern European philosophy was influenced by both a Christian conception of humanity and a scientific and secularized naturalism that defined rights in a more individualistic fashion. How can we explore this perspective without falling into the problems of particularism and relativism that contradict universality? In my view, we need an even wider framework that updates the points we retrieved from Jaspers' consideration of the axial time and integrates the contributions we have from the different philosophers I discussed above.

Based on these considerations, I conclude with a simple suggestion that advances some of the points presented by the philosophers mentioned above – especially Charles Taylor – and provides a model to articulate these various issues in a programmatic way.

First, I believe it is necessary to go beyond the impression that there we are only bound to our particular community and the elements that prevail in one's historical, cultural, and linguistic horizon. Rather, I propose that we recognize that there are different simultaneous communities in interaction and sometimes even in conflict, in such a way that we can also acknowledge the possibility of learning from them because they may mirror different aspects of the universality of human rights, albeit never completely. For instance, there could be fragments of an ideal of freedom which can be brought together by means of intercultural communication. Also, an ideal universality can be conceived only as a consensual sum of these fragments available in different cultures. Moreover, there is also the need for the clarification of one's individual situation amid the plurality of communities: the existence of democratic institutions may be given in a community but an additional aspect such as the openness to and affirmative tolerance

of distinct cultural forms can be given in another. Consequently, their understanding of rights can have different but complementary dimensions.

Contemporary views on human rights are built upon deep foundations in shared community values that can be traced back to developments that occurred not only in the past decades, but also in the last centuries and millennia. As we have seen in Jaspers' considerations on the Axial Times, these positions have survived centuries of transformation and adapted to new and contemporary situations, being always in flux. To value this reality that has been understood as "the fact of pluralism" we need to account for the plurality of communities. However, it is important to realize that this plurality has at least a double dimension: I understand plurality not simply as the inner variety proper of multicultural societies but also as the outer variety that emerges through intercultural relations. This recognition of *intercultural plurality* as distinct from *multicultural plurality* brings a new set of challenges and has been the topic of intensive debates regarding human rights discourses, especially because some cultural traditions charge that the repertoire of rights defined in the new paradigm established by the *Universal Declaration on Human Rights* reflects values that go back to the European Enlightenment or to Christianity alone, thus revealing a problematic Eurocentric bias. As a result, new regional cultural discourses have emerged and appealed to specific interpretations of rights and humanity, which are now being retrieved to orient and update discourses on human rights in particular settings.

Thus, I conclude that we ought to expand our reflections on the relationship between plurality and universality in human rights according to two steps. First, we need to differentiate between inner *multicultural plurality* and outer *intercultural plurality*; second, we need to connect this plurality to philosophical paradigms that help us to differentiate, acknowledge, accept, or criticize the plurality conceptions of human rights presented in the global context. Of course, this is a proposal that needs to be worked out in more detail. But I hope to have showed, with the help of philosophers such as John Rawls, Martha Nussbaum, and Charles Taylor, that this search for a possible overlapping consensus on human rights is a promising project.

## REFERENCES

- Alessiato, E. (2011) "Human Being, World, and Philosophy in Karl Jaspers" in *Humana.Mente: Journal of Philosophical Studies*, Vol. 18, (2011): 69–8.
- An-Na'im, A. (1992) "Towards a Cross-Cultural Approach to Defining International Standards to Human Rights: The Meaning of Cruel, Inhuman, or Degrading Punishment" in An-Na'im, A. [Ed.] *Human Rights in Cross-Cultural Perspective: A Quest for Consensus* (Philadelphia: University of Pennsylvania Press).

- An-Na'im, A. (2010) *Islam and Human Rights* [Collected Essays in Law Series] (Surrey: Ashgate).
- Bellah, R. (1967). "Civil Religion in America," *Daedalus* 96 (1967): 1-21.
- Bellah, R. & Joas, H. [Ed.] (2012) *The Axial Age and its Consequences* (Cambridge, MA: Harvard University Press).
- Habermas, J. (1992) *Faktizität und Geltung* (Frankfurt: Suhrkamp).
- Habermas, J. (2004) *Der gespaltene Westen* [Kleine Politischen Schriften X] (Frankfurt: Suhrkamp).
- Habermas, J. (2012) *Nachmetaphysisches Denken II* (Berlin: Suhrkamp).
- Jaspers, K. (1919) *Psychologie der Weltanschauungen* (München: Piper).
- Jaspers, K. (1932) *Philosophie I: Philosophische Weltorientierung* (Berlin: Springer).
- Jaspers, K. (1949) *Urpung und Ziel der Geschichte* (München: Piper).
- Kymlicka, W. (1989) *Liberalism, Community and Culture* (Oxford, UK: Clarendon Press).
- Kymlicka, W. (1992) "Two models of Pluralism and Tolerance," *Analyse & Kritik* 13 (1992): 33-56.
- Mendieta, E. (2007) *Global Fragments: Globalizations, Latinamericanisms, and Critical Theory* (Albany: State University of New York Press).
- Nussbaum, M. (1996). "For love of Country," in J. Cohen and M. Nussbaum [Eds.], *For Love of Country? A Debate on Patriotism and Cosmopolitanism* (Boston, MA: Beacon Press), 3-21.
- Nussbaum, M. (1997). "Kant and Cosmopolitanism," in M. Lutz-Bachmann and J. Bohman [Eds.], *Perpetual Peace* (Cambridge, MA: MIT Press), 25-57.
- Nussbaum, M. (2000) *Women and Human Development* (Cambridge, UK: Cambridge University Press).
- Nussbaum, M. (2003) "Judaism and the Love of Reason" in Ruth Groenhout and Mary Bower (Eds.) *Philosophy, Feminism, Faith* (Bloomington, IN: Indiana University Press), 9-39.
- Nussbaum, M. (2004) *Hiding from Humanity: Disgust, Shame, and the Law* (Princeton, NJ: Princeton University Press).
- Nussbaum, M. (2006) *Frontiers of Justice: Disability, Nationality, Species Membership* (Cambridge, MA: Harvard University Press).
- Nussbaum, M. (2008) *Liberty of Conscience: In Defense of America's Tradition of Religious Equality* (New York: Basic Books).
- Rawls, J. (1971) *A Theory of Justice* (Cambridge, MA: Harvard University Press).
- Rawls, J. (1985) "Justice as Fairness: Political not Metaphysical," *Philosophy and Public Affairs* 14/3 (Summer 1985): 223-251.
- Rawls, J. (1987). "The Idea of an Overlapping Consensus," *Oxford Journal of Legal Studies* 7/1 (1987): 1-25.
- Rawls, J. (1988) "The Priority of Right and Ideas of the Good," *Philosophy and Public Affairs* 17 (Spring 1988): 251-276.

- Rawls, J. (1993) *Political Liberalism* (New York: Columbia University Press).
- Rawls, J. (1995) "Reply to Habermas" in *The Journal of Philosophy* XCII/3 (March 1995): 132-180.
- Rawls, J. (1997) "The Idea of Public Reason Revisited," *The University of Chicago Law Review* 64/3 (Summer 1997): 765-807.
- Rawls, J. (1999) *The Law of Peoples* (Cambridge, MA: Harvard University Press).
- Taylor, Ch. (1958). "Alienation and Community," *Universities and Left Review* 5 (Autumn, 1958): 11-18.
- Taylor, Ch. (1960). "Clericalism," *Downside Review* 78/252 (1960): 167-180.
- Taylor, Ch. (1975). *Hegel* (Cambridge, UK: Cambridge University Press).
- Taylor, Ch. (1985a). *Human Agency and Language: Philosophical Papers 1* (Cambridge, UK: Cambridge University Press).
- Taylor, Ch. (1985b). *Philosophy and the Human Sciences: Philosophical Papers 2* (Cambridge, UK: Cambridge University Press).
- Taylor, Ch. (1989). *Sources of the Self: The Making of the Modern Identity* (Cambridge, MA: Harvard University Press).
- Taylor, Ch. (1991). *The Ethics of Authenticity* [US 1992 edition of *The Malaise of Modernity*] (Cambridge, MA: Harvard University Press).
- Taylor, Ch. (1995). *Philosophical Arguments* (Cambridge, MA: Harvard University Press).
- Taylor, Ch. (1999). "Conditions of an Unforced Consensus on Human Rights," in J. Bauer and D. Bell [Eds.], *The East Asian Challenge for Human Rights* (Cambridge, UK: Cambridge University Press), 124-144.
- Taylor, Ch. & Gutman, A. (1992) *Multiculturalism and the 'Politics of Recognition': An Essay* (Princeton: Princeton University Press).
- Taylor, Ch. (1999) "Conditions of an unforced consensus on human rights" in Joanne Bauer and Daniel Bell (eds.), *The East Asian Challenge for Human Rights* (Cambridge: Cambridge University Press).
- Taylor, Ch. (2007) *The Secular Age* (Cambridge, MA: Harvard University Press).
- Taylor, Ch. (2012) "Interculturalism or Multiculturalism?" *Philosophy and Social Criticism* 38/4-5 (2012):413-423.
- Thornhill, C. (2011) "Karl Jaspers" in *The Stanford Encyclopedia of Philosophy* (Winter 2012 Edition), Edward N. Zalta (ed.), <http://plato.stanford.edu/archives/win2012/entries/jaspers/> last accessed on May 26, 2013.