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Anti-Enlightenment secularists are wrong on rights

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In a country virtually drowning with rights, it is ironic that religious freedom should be the last cab off the rank – and the one that seems to be facing the greatest legislative opposition.

After all, religious freedom, with its intimate linkages to the freedoms of conscience, expression and association, was at the heart of the modern conceptions of liberty that took shape in the 17th and 18th centuries; and while the very early acceptance of those freedoms in the Australian colonies did not entirely avoid sectarian conflict, it contributed powerfully to our long history of social peace.

But that very early acceptance came at a cost: like the air we breathe, religious freedom was largely taken for granted. As new rights that impinge on it were sought and granted, we became, almost without noticing it, one of the advanced democracies in which religious freedom enjoys the weakest protections.

Condemned, as religious freedom now is, to struggle against vocal and determined enemies, it is not difficult to imagine a future in which expressing many longstanding religious beliefs will be rendered illegal, as will the actions that give those beliefs practical life.

There is, however, a deeper element to the irony that now sees religious freedom so seriously threatened: it is only thanks to religion, and in particular to the fusion of Judaic legalism with

Christian universalism, that the idea of human rights emerged, eventually becoming a defining feature of the Western tradition.

No one has shown that more clearly than Jurgen Habermas, the German intellectual who has been a towering figure of the European left since the 1960s, in his recently published *Another History of Philosophy*, which will appear in English translation next year. The West's Judaeo-Christian heritage was "not a mere passing phase" in the formation of the contemporary concepts of freedom, Habermas argues in this extraordinary – if forbiddingly lengthy – book; rather, that heritage contributed their essential core and remains their vital underpinning.

The path leading from the biblical precepts to today's versions of those concepts was never simple, untroubled or pure. It was, however, the Judaeo-Christian heritage that allowed Western thought to repeatedly overcome the obstacles it encountered along the way.

For example, Thomas Aquinas's distinction between divine law, which was accessible only through grace, and natural law, which was accessible to every human being through the God-given capacity to reason, may seem of purely antiquarian interest. However, from that distinction Aquinas, and his great disciples in the Salamanca School of theology, derived not just the bedrock principle of human equality but the entirely novel, intensely controversial and eventually immensely influential contention that "heathens" – whose minds had unimpaired access to natural law – had rights as good as those of their Christian neighbours.

Equally, John Locke readily conceded that some people were not as clever as others (though bitter experience also taught him it was not the uneducated who caused society's troubles but the overweening "pretensions of power" of the "all-knowing Doctors").

Yet no matter how great the "difference in Men's Understandings" might be, "the Candle that is set up in us, shines bright enough to lead (all) to the Knowledge of their Maker", making us equally accountable to the Almighty.

And because we each bear that fearsome accountability's full brunt, we are entitled to be "equal one amongst another without Subordination or Subjection", and hence, he concluded, "cannot be subjected to Political Power without (our) Consent" – thus setting the philosophical

foundations that shaped the American Revolution.

It would, however, be wrong to believe those brilliant thinkers viewed rights in isolation from their social context. On the contrary, particularly after Europe's calamitous wars of religion had highlighted just how fragile societies could be, immense weight was placed on the need to reconcile individual claims with a peaceful, stable and secure social order. Few concepts played a greater role in ultimately achieving that reconciliation than that of "things indifferent". Referred to in Greek as *Adiaphora*, the concept, which originated with the Stoics and figured in 1 Corinthians 8:8-9, came to mean practices that were morally neutral.

Beginning with the Augsburg Interim of 1548, in which Charles V, in attempting to secure peace between Reformers and Catholics, advanced the principle of distinguishing those matters that were fundamental from those that were morally indifferent, the notion that there were many things on which we could agree to disagree without imperilling our immortal souls laid the intellectual basis for mutual toleration. Thus was born what is undoubtedly the most fundamental right of them all: the right to live in peaceful coexistence, perhaps not basking in loving friendship but at least respecting each other's continuing presence.

However, few virtues have proven harder to secure and maintain than that of indifference and its indispensable companion, charity. Nor are there many virtues that are more manifestly lacking in the secularists' attack on religious freedom.

Rather, just like the Anabaptists – who provoked Philipp Melancthon to coin for them the term "fanatic" (that is, believer in phantasms) by claiming that any concession to the principle of indifference would set off a chain of further concessions that led to eternal damnation – so our secularists, in their opposition to a legislated right of religious freedom, agitate slippery slopes that seem utterly fantastic.

How, for example, could anyone familiar with contemporary Australia seriously suggest allowing a baker to refuse to bake a cake for a same-sex wedding would unleash uncontrollable torrents of homophobia across this sunbaked land? And is it even vaguely credible to contend that if a small, entirely self-funded, religious school decided to not admit gay students, or to hire only evangelical gardeners, the consequences would be so dreadful as

to justify coercing them to do otherwise?

Perhaps those contentions are made in good faith; they are certainly not made with good sense.

Redolent of Lenin's dictum that liberty is "so precious that it must be rationed" – with none of it going to the people one detests – they reflect a view of rights antithetical to that which the Judaeo-Christian tradition did so much to forge. That view saw rights as the fences within which we can each peacefully exercise our freedoms. Instead, for today's secularists, their own rights are the bulldozers with which to crush the fences of others.

Little wonder then that Habermas, in this 2000-page masterpiece that fittingly caps a brilliant career, castigates that zero-sum mentality as an intellectually vacuous betrayal of the Enlightenment's hopes and values. Unfortunately, in an age that has managed to lose both its faith and its reason, it may take a miracle for voices like his to be heard.