

Rights & Responsibilities: A Jewish Perspective

November 2009

01/Who we are



ResponseAbility is a new cross communal organisation which bridges the gap between the two worlds of the Jewish and the secular, providing a contemporary Jewish commentary on cutting edge issues. Focusing on questions which affect the wider community, in particular in British civil society, it aims to encourage Jews to think and act ethically. ResponseAbility is 'Jewish thinking in action.'

abigail@responsability.org.uk
020 7535 3800



RenéCassin is a human rights NGO that uses historical Jewish experiences and positive Jewish values to educate and campaign on universal human rights issues, such as genocide and immigration. The group was founded in 2000 by a group of young professionals who wanted to ensure that a Jewish voice was heard speaking out for universal human rights. The charity is named in honour of René Cassin, the Jewish lawyer and Nobel Laureate who co-drafted the Universal Declaration of Human Rights.

www.renecassin.org
info@renecassin.org
020 7443 5130

02/Contents

03	Introduction
04	Jewish Reflections by Dr Raphael Zarum
05	Jewish Reflections by Rabbi Dr Tony Bayfield
07	The question of Equality
09	The question of Rights and Responsibilities
11	The question of a Statement of Values
13	Acknowledgements

03/Introduction

The Jewish community in Britain has an appreciation of the importance of both rights and responsibilities. Judaism places a great deal of emphasis on an individual's responsibilities – to themselves, their family, their community, to wider society and to God.

Jewish law specifies and codifies our many responsibilities. The values that underpin human rights are also implicit in Jewish texts; the beliefs that every single person is created in the divine image and that we are all obliged to deal justly with each other are fundamental to Judaism.

Jewish people also have a strong historical understanding of the importance of human rights, informed by our experiences as immigrants and as a people who have suffered the worst excesses of discrimination and persecution. We also remember, and are inspired by, the example of the many notable Jewish individuals who devoted their lives to the struggle for universal human rights.

In April 2009, the Government, with cross-party support, issued a Green Paper on a proposed Bill of Rights and Responsibilities. This Bill represents the first time that the idea of rights and responsibilities has been joined together in British legislation.

ResponseAbility and RenéCassin organised a symposium at the Ministry of Justice to consider the Green Paper from a Jewish perspective. We brought together a wide variety of Jewish community leaders, including lawyers, academics, rabbis, and third sector professionals. This symposium took place in June 2009, forming part of the government's official consultation process.

This report is both a summary of the discussions held at the symposium and written submissions. It focused on three main areas:

- The question of Rights and Responsibilities
- The question of Citizenship and British Values
- The question of Equality

There is a saying 'two Jews, three opinions' and we encountered a variety of perspectives on the Green Paper from the Jewish community whilst producing this report. The term 'we' is used to represent areas of unanimous agreement; differences of opinion are specified in the report.

This report offers a synopsis of the Jewish community's perspective on rights and responsibilities, which not only has relevance to those currently guiding the Green Paper through the legislative process, but for all those concerned with promoting rights and responsibilities in Britain in the future. We look forward to hearing the Government's response to the recommendations contained within this report. We also hope that this report will stimulate further discussion within the Jewish community.

Abigail Morris and Sarah Kaiser
Directors of ResponseAbility
and RenéCassin

04/Jewish Reflections by Dr Raphael Zarum

What are the consequences of this Bill for our society? The stated aim, said Jack Straw, is to 'bind us together as a nation'. But will we all commit to these ties that bind?

In Jewish Tradition, the supreme moment of national commitment was the Revelation of the Torah at Mt. Sinai. Much later, the Talmudic rabbis tried to unpack the nature of this historic commitment to divine law. They imagined a fascinating and daring conversation between God and those Israelites who stood at the foot of the mountain. "If I give you the Torah," says God, "What sureties can you give me that you will abide by it?" The virtue of their ancestors – Abraham, Isaac and Jacob – is the response. God is unconvinced and finds fault in them all. So the Israelites offer their passionate prophets as sureties, again God is less than impressed.

The reason for the divine disapproval is clear. A society cannot rely on values of previous leaders or the insight of revered visionaries when it comes to building its future. And neither can we.

But the conversation did not end there. The Israelites made one final offer, "Our children shall be our sureties." God's accepts but insists on making the consequences of this commitment palpable in a truly unforgettable way. Pregnant mothers stepped forward and their "wombs became transparent as glass so that the embryos could converse with the Creator." God faces the unborn and asks, 'Will you be sureties for your parents? Because if they do not follow My laws then it is you who will be held accountable!'

This story provides us with some much needed perspective on the proposed Bill. The children of our future will be the ones bound by the decisions of today. Politicians and philosophers may pronounce what they will, but it will be the generations to come who will live out the results. *Do we have the right to make them responsible?*

The rabbis suggested that there was a way. We must be transparent like those glass wombs. If we honestly consider our children and keep them at the forefront of our minds when we think about this bill then we can commit to it on their behalf.

The Sinai conversation has an optimistic conclusion. The unborn simply replied, 'Yes, rely on us'. The rabbis are teaching us that if we invest in our children then they will welcome the lives we build for them. Respecting health workers, caring for the environment, voting, paying taxes, turning up for jury service, and obeying the law are all ways of being a dependable citizen. And it is our children who will bind us to these rights and responsibilities.

Dr Raphael Zarum

05/Jewish Reflections

by Rabbi Dr Tony Bayfield

Justice Haim H Cohn was one of Israel's most distinguished jurists. As well as being a justice of the Israeli Supreme Court from 1960-1981, he was also Israel's delegate to the United Nation's Commission on Human Rights. His book 'Human Rights in Jewish Law' was published in 1984.

It has chapters on twenty-five of the human rights set out in the Universal Declaration of Human Rights, subdividing these into three groups – Rights of Life, Liberty and the Pursuit of Happiness; Rights of Equality; and Rights of Justice.

What is clear from even a cursory reading of the book is that each of the twenty-five human rights has a clear connection to the Hebrew Bible, particularly to the Torah (the first five books). Each area is developed in classical rabbinic law, known as *halakhah*. Clearly, the Hebrew Bible has played a significant role in the formulation of the *values* which underlie the modern concept of human rights. It has had both a direct and indirect influence, the latter through Christianity and Islam (the close relationship between the Hebrew Bible and the Qur'an is all too often overlooked).

But it would be arrogant and simplistic to suggest that Judaism is the sole source of the concept of human rights. It is interesting that Cohn gives the title "Rights of Life, Liberty and the Pursuit of Happiness" to the first fourteen of the twenty-five rights. The phrase of course, comes from the American Declaration of Independence, which has its origins in other traditions as well as the Hebrew Bible.

Cohn himself writes in his introduction: "Speaking of human rights concepts I must say at once that no explicit concept of this kind is to be found in Jewish law. It is not only that the formative sources of Jewish law precede by millennia the first enunciation of such slogans as civil liberties, citizens' rights, or individual freedom; Jewish law is in no way unique or isolated among ancient systems of law or of religion which fail to recognise human rights specifically. It is mainly that the particular structure of Jewish law *qua* religious law – with God as the central object of love and veneration, and the worship and service of God as the overriding purpose of all law – *postulates a system of duties rather than a system of rights.*" [pp17/18.]

The modern western concept of human rights exhibits, it seems to me, a very strong Christian influence. The enunciation of towering universal rights has something of the messianic about it – a universal dream of a world of equality and justice. That is not to deny the origins of messianism in the prophetic literature of the Hebrew Bible or to suggest that Judaism does not share a vision of a world of universal equality and justice. But it is to suggest that Judaism has developed a different nuance. The Hebrew Bible is dominated by the concrete – it speaks in specific instances and rarely legislates in more general terms. Furthermore, as Haim Cohn observes, the emphasis is on duties, even though these give rise to correlative rights.

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06/Jewish Reflections (continued)

by Rabbi Dr Tony Bayfield

Let me take an example.

Contemporary culture embraces the concept of charity. The word focuses on the loving emotions of the giver of the charity (*caritas*). Hebrew has no exact equivalent. The nearest we get is the word *tsedakah*, which is derived from the same root as the Hebrew word for justice. In the book of Leviticus (19, 9-10), we find a characteristic piece of concrete, specific legislation. If you are harvesting your field or gathering in the grapes in your vineyard, you may not harvest in the corners of the field or pick up fallen grapes. These you must leave for the poor and the stranger.

This is not the sonorous enunciation of a great, universal right but the articulation of a very concrete and specific duty. Furthermore, that word, *tsedakah*, which derives from the root meaning justice, also gives rise to the verb *l'hatsdik*, to vindicate. *Tsedakah* does not focus on the emotion of the giver but on the right of the recipient to receive. The small, concrete duty gives rise to an equally specific, correlative right.

We live in a highly complex 'global village', very different both from the agricultural communities of Biblical Israel and the more urbanised world of Rome and Babylon in which classical Jewish law developed. We need that large universal vision of modern human rights legislation to give substance to the values that Haim Cohn finds rooted in the Torah. But we also need the specific Jewish nuance with its emphasis on duties, specific duties imposed on individuals, community groups and governments.

The nuance emphasises that rights are indeed rights which owe nothing to the beneficence of others and everything to the highly specific duties which rest on each of us.

Rabbi Dr Tony Bayfield

07/The Question of Equality

As a minority group, the Jewish community keenly appreciates the importance of equality and diversity. The Jewish community in Britain feels fortunate to have found a home where we can practise our religion freely without impediment.

Judaism also teaches us about the nature of equality. Jewish tradition teaches that all people are created in the image of God and therefore all must be treated with equal dignity. We also have religious obligations to care for vulnerable groups.

The Green Paper raises many questions about balancing the rights of majority groups with the rights of minority groups and also brings up new concerns such as the rights of unborn generations. We believe that the Jewish experience can offer a new perspective on these questions.

We recognise that many people have multiple group identities and cannot be neatly compartmentalised. In defining the relationship of minority groups to majority groups, there is a danger of forgetting that all of us will at some point find ourselves in the minority. We are also mindful that those who are members of several minority groups are more likely to face discrimination than those who are members of one minority group.

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08/The Question of Equality (continued)

Recommendations

Equality and dignity

Dignity and equality are both important Jewish values; however the Green Paper puts huge emphasis on equality and not on human dignity. We felt that the concept of dignity should be given more weight in the Bill.

As we strive to create an equal society that treats its members as being of equal worth we must ensure that we treat everyone with dignity, regardless of whether or not they can fully participate in society. This is particularly important in the areas of health and social care. For example, treating those with dementia or special needs with respect so that their wishes are taken into account.

Civil liberties

We acknowledge that there is a tension between equality and civil liberties. The use of free speech to attack minority groups is an issue that has been long debated and is of great concern to the Jewish community. We hope that this reminder to enact our responsibilities and treat one another respectfully may help to avoid some of these problems.

Group rights

Whilst we believe that minority groups are entitled to a degree of self determination, we can't allow the rights of individuals to be restricted by the rights of groups. Human rights belong to individuals, not groups, and must be protected as such. We urge the government to work with minority groups to tackle issues where individual rights are violated, such as honour killing and forced marriages. We also recognise that there are challenges, such as equality and diversity, for the Jewish Community to address and we would encourage the Jewish community to face these questions head on.

09/The Question of Equality (continued)

Recommendations

Private and public

We believe that equalities legislation should have equal application to public bodies and private companies. We are concerned that private companies are exempted from this and existing human rights legislation. We recognise that this could raise challenging issues for some private organisations. Some religious institutions could be challenged to ask serious questions about the roles that they allow women to occupy.

The Green Paper must be robust but also flexible in these matters; religious communities should be able to govern on internal affairs, except where there is a risk that human rights violations may take place. We hope that these difficult issues are approached in a sensitive manner.

Socio-economic rights

It is a missed opportunity that the Green Paper does not attempt to legislate for socio-economic rights. If the Green Paper is intended to build on and strengthen the Human Rights Act, the most evident way of doing so would be to bring socio-economic rights into British law. It is ironic that a set of rights that is so essential in guaranteeing equality and dignity for vulnerable people and minority groups is relegated to a lesser status.

Children and vulnerable adults

Judaism places a tremendous value on protecting and educating children. We recognise that children have a special set of rights and need extra protection and welcome the Green Paper's focus on upholding these rights. But we also think that the protection of vulnerable adults, including the elderly, should be clearly detailed in the Bill.

10/The Question of Rights and Responsibilities

This Green Paper attempts to join rights and responsibilities. This raises questions about the nature of both rights and responsibilities and the relationship between the two.

There is a clear relationship between rights and responsibilities; for example, our right to a clean environment also translates into our responsibility to do what is necessary to keep the environment clean. Yet rights and responsibilities are actually very different in nature and it may be problematic to conflate the two in one document.

This Green Paper goes further than just making the responsibilities explicit that are implied in our legal rights. It envisages a more comprehensive statement of broad social responsibilities that goes beyond our obligation as defined by law.

One of the most controversial questions for Jewish respondents was 'should our rights and entitlements be in any way contingent upon fulfilling certain social responsibilities?'

11/The Question of Rights and Responsibilities *(continued)*

Recommendations

Reaffirming the Human Rights Act

We welcome government assurances that the Green Paper on Rights and Responsibilities is intended to strengthen and not to replace the Human Rights Act. We recognise the enormous impact and benefits of the Human Rights Act and applaud this commitment.

Education

We urge government to place more emphasis on education on both rights and responsibilities. In particular, it was felt that we should ensure that young people have an appreciation of both rights and responsibilities, an understanding of the rights of other groups, and of their responsibility towards wider society.

The relationship between rights and responsibilities

The vast majority of respondents felt that human rights should not be compromised under any circumstances and welcomed the Government's assurances that rights would not be made contingent upon responsibilities. Whilst we recognise that human rights are inviolable, we support the Green Paper's attempt to stress social responsibilities.

Strengthening responsibilities

We are concerned that the responsibilities detailed in the Green Paper are insufficiently defined and would be hard to enforce. We urge the government to make the concept of responsibility more robust. In the spirit of Rabbi Hillel, we should create a society in which we treat each other as we would wish to be treated ourselves.

12/The Question of a Statement of Values

It has been proposed that a statement of British values should accompany a Bill of Rights and Responsibilities.

Our respondents are proud to be British and proud to be Jewish; we greatly value the ability of the British Jewish community to play an active role in wider British society. The British Jewish community embodies the Jewish value of respecting the 'law of the land' by fully undertaking responsibilities to the state in which we live.

We also recognise that many Jewish values are compatible with those of Britain, a diverse liberal democracy. Some of the most important Jewish values are to 'love the stranger', equality before the law, and caring for the vulnerable.

The Green Paper also approaches issues of global concern, such as environmental rights, which demand a coordinated global response. We wondered if there is an implicit tension in attempting to address areas of international concern in a piece of legislation that is solely national.

Britain is a very diverse society in many respects. Our respondents see Britain's multicultural and inclusive society as a huge strength and would like any statement of values to celebrate this diversity. However, we also recognise it is also a challenge to identify common values that can unite us all.

13/The Question of a Statement of Values

Recommendations

Citizenship

Our respondents felt strongly that those who receive British citizenship should also accept key British values such as a respect for liberal democracy, diversity and the rule of law.

Education

The importance of educating our society, our media and our young people in citizenship was emphasised. We welcome the introduction of Citizenship lessons into school curriculums and we would like to see more guidance on how our young people can play a greater role in society to develop a strong sense of citizenship and values.

Environment

We welcome the government's attempt to emphasise environmental rights in the Green Paper. We are already seeing the impact of climate change and we believe that it is essential that we work now to safeguard the environment and protect our rights to clean water, housing, food, air and a safe environment. This is clearly a global issue as well a national one, and so consideration must be given to whether this bill is the most appropriate place for these crucial and extensive rights to be established. We urge the government to continue to explore environmental rights and their inter-relationship with social and economic rights.

A statement of values

We would like a statement of values to set out an aspirational vision of Britain. A statement of British values should set out a series of meaningful and important values that can stand the test of time. Our values have evolved greatly over the past decades, and those which will quickly become redundant are not worth including.

We asked a number of questions. Who would write the statement of values? What role would a statement of values play? Would it be used to define a standard of behaviour? Would it be binding in any way? Would it form a basis for a future constitutional document?

We are seeking more clarity on what this would constitute from the government. We feel that the process of developing a statement of British values could be extremely helpful in understanding the concept of Britishness.

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Jewish thinking in action

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