

The language of rights and its limits

## **My niece Butterfly has me thinking about bodies, love, and responsibility.**

by [Johnathan C. Richardson](#) in the [March 2023](#) issue



(Century illustration by Daniel Richardson)

A great deal of our present social discourse employs the language of rights. We assert various rights, and we argue with one another about who has what rights and whose rights are violated by the exercise of other people's rights.

As a Christian of African descent, I come from a long tradition that sees the language of rights as all but synonymous with what it would mean for justice to "roll down like waters and righteousness like a mighty stream." I've been the beneficiary of this tradition, and I am well aware of the significant role the language of rights has

played in the ethical development of this country.

The great Frederick Douglass steeped his crusade against slavery on the idea of natural rights. When Malcolm X spoke the now-famous phrase, “by any means necessary,” he was emphasizing a demand for the human rights of African Americans to be respected. The Black Lives Matter movement may have jettisoned the organizational structure of previous freedom-fighting organizations like the Southern Christian Leadership Conference, but BLM has maintained SCLC’s use of rights language as a viable part of a strategy for change. No Black preacher worth their salt, including yours truly, can long avoid referencing the poetic Jeffersonian line, “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights.”

But lately I have started feeling trapped by this social, theological, and personal tradition, the very one that I feel beholden to and have long believed would make possible the manifestation of love as public policy.

My personal discomfort started from seeing anti-vaxxers and anti-maskers insist with such passion that their rights were being violated by public health initiatives intended to save lives and put an end to a seemingly endless crisis. I felt hypocritical as I shook my finger at those who felt the government was violating their rights as citizens and parents by seeking to control the spread of a deadly disease. On the one hand, I felt they were misusing the rights language that I hold dear. On the other, I found myself questioning that language and wanting to appeal to something different.

In the social ethic of individual rights, people claim their rights over and against other people’s in an argument that quickly leads into a trap. Are my rights more important than yours? Whose rights matter more: the person who wants to carry a gun or the person threatened by the proliferation of guns in our society? The person who says a hateful thing on social media or the person forced to listen to such speech without recourse? “When rights are taken to be the fundamental moral reality, we are encouraged to take an ultimately degrading perspective on society,” writes Esther Reed. “No real society can exist when its citizens’ only way of relating is in terms of noninterference. The language of ‘rights’ . . . encourages us to live as if we had no common interests or beliefs.”

The debate about rights ends in a stalemate as all of us scramble to articulate our version of our rights, as if this will produce the trump card we are looking for. It is increasingly clear that the language of rights isn't doing our society much good. It has become more destructive than constructive.

In the midst of conversations I hear going on around me—conversations about vaccines, critical race theory, and a whole host of other questions about the nature of our society and its future—I find myself looking for other resources and other starting places. One of those resources is my niece, whom we affectionately call Butterfly. Butterfly suffered a brain injury due to a bout with meningitis when she was very young. She cannot speak, walk, or hear. She needs help with the daily routines of life that most of us take for granted. Since her injury and its aftermath, her experiences and those of my sister Elizabeth have suggested to me a way out of the rights-first-and-only dilemma that we find ourselves in.

It involves putting our bodies ahead of our minds. My niece's life exists in and through embodied love. Like all of us, she is imbued with the vulnerability that love makes inherent. But that vulnerability is more obvious for Butterfly, who cannot argue for her rights.

James K. A. Smith helps me understand Butterfly's contribution to the conversation. "We inhabit the world . . . not primarily as thinkers, or even believers," he writes, "but as more affective, embodied creatures who make our way in the world more by feeling our way around it." In short, humans begin their identity in the body, as a body. To be human is to feel that which may be defined as love, and it is what we love and how we love that most fundamentally define who we are.

Rights language, on the other hand, is centered in reason. It starts with the premise that reason—not love—is the fundamental mark of our humanity. It begins with the mind that reasons, not the body that loves.

In contrast to anthropologies that reduce human identity to cognitive faculties, Smith argues for an anthropology that appreciates the complexities of the human person. He traces the Augustinian model of humans as "embodied agents of desire or love." This understanding of humanity will always resist attempts to reduce the human person to rational or quasi-rational creations. Furthermore, Smith's appeal to an Augustinian anthropology shifts "the center of gravity of human identity . . . down from the heady regions of the mind closer to the central regions of our bodies . . .

our gut or heart.” Reason, in this scenario, is important but not primary: it exists to harness that “knowledge” already embedded in the body.

When Black people in this country made appeals to rights, they were arguing for themselves as fully reasonable and rational human beings endowed with those inalienable rights—in a context in which they were denied them. They had good reason to make this argument, and it did lead to some progress. But those reasons missed something essential about being human. Black people argued for their minds, but their bodies were equally precious.

As a Christian, I would argue that the language of rights not only is accompanied by a problematic anthropology but is almost always accompanied as well by the sin of pride. Pride, as Rowan Williams defines it, is an “attempt to forget or obliterate our sense of living within limits.” Williams’s definition has helped me understand for our time Augustine’s observation in *The City of God* that Adam and Eve’s eating of the apple at the behest of the serpent was not their first sin but their second: “The devil, then, would not have ensnared man in the open and manifest sin of doing what God had forbidden, had man not already begun to live for himself. . . . By craving to be more, man has become less; and by aspiring to be self-sufficing, he fell away from Him who truly suffices him.” For Augustine, Adam and Eve’s first sin was pride: the desire to live beyond divinely ordained limits.

These are simply the inherent limits of being human. But as Valerie Saiving and others have pointed out, the idea of divinely ordained limits has often been used for harm. The very need for African Americans to use rights language came from White people arguing that in Black people’s claim to equality, they were exceeding divinely ordained limits—the alleged divine ordination of the superiority of certain people over others based on skin color. The need for women to use rights language has a similar source: men’s claims about the divinely ordained inferiority of women.

I would argue, however, that rights language itself has become part of Augustine’s “ruin of pride.” We begin to argue for our rights over and against the rights of others. As White women argue for their rights against the rights of White men, who have created structures of dominance, they too frequently have done so to the neglect of Black women, who are denied the status of rights bearers. And so on: this is how the discourse works and why it has created a stalemate. When I claim my rights as the root of my dignity in this society, I claim them over and against the rights of other humans. Rights language as pride language ends up acting as a

bridge over which we cross the divine limit called the human—especially those human beings like my niece.

If we return to Butterfly, we might be able to understand why this isn't an effective social justice anthropology. Butterfly cannot argue for her rights over and against the rights of others. She can't tell you how you are trampling on her rights as you go about your life. She doesn't have the luxury of attempting to forget or obliterate her sense of living within limits. She has rights, but a rights-based social ethic might be quick to overlook her because she cannot assert her rights or fight for them.

In his essay "The Responsible Self," H. Richard Niebuhr proposes that a Christian understanding of persons is quite different from the language of rights. A person is one who is subject to the unfolding processes of the meaning of existence. A person doesn't make themselves and cannot be understood solely as a citizen whose rights we claim. Furthermore, a Christian person is specifically an ethical agent who has the capacity to respond.

Inside that context of our human lives, we are first and foremost responsive to other persons, to God, and to our circumstances. Beginning from this responsible self, my niece is immediately included. She is, without question, a responsible human being who uses her body to respond to those around her. As she is tended to and loved by other responsible selves, she grows and changes, as do they. Hence a Christian social ethic rooted in a definition of human interaction and anchored in people with disabilities like my niece exposes the dangers of equating a rights-based social ethic to a Christian one.

When we start with a responsible self rather than one imbued with absolute rights constantly in danger of being trampled by others, the conversation changes and moves forward. When Christians go to battle over their rights, they are missing this essential teaching of the divine limit of being human that connects us to one another, and they unintentionally leave the vulnerable members of the community in the lurch.

I believe that the Christian practice of confession can help Christians return to a social ethic that will move us beyond the stalemate we've helped create. Oddly enough, confession of the sin of pride has been present in our social discourse, even though we haven't recognized it as such. Take, for example, the passing of the Thirteenth, Fourteenth, and Fifteenth Amendments to the US Constitution. These

amendments—known collectively as the Civil War Amendments—were in essence a confession of the social sin of slavery and the ways it had been codified into law up until that time. Slavery was a sin rooted in pride.

*Brown v. Board of Education* was, in a certain sense, a confession of the social sin of segregation, as were the Civil Rights Act of 1964 and the Voting Rights Act of 1965. This implicit confession could be made explicit in helpful ways.

I confess, for example, that I have been so absorbed in defending my version of rights—which I believed were necessary and important, not only for myself but for others—that I forgot the lessons that Butterfly was trying to teach me: that we matter because we are embodiments of love. That we are free for and with each other. This is what I forgot to say to the anti-vaxxers and the anti-maskers: that I belong to you and you belong to me, and that’s frightening and hard to live, even harder to live than figuring out whose rights are being violated when I ask you to wear a mask. That was the sin of pride, preventing me from saying that. I forgot the divine limits that are given to us, as we are part of the same social fabric.

Christians have left the act of the confession of social sins hidden behind the state apparatus—hidden in things like amendments and laws and court cases—because we’ve forgotten that the church is not the state. Dietrich Bonhoeffer’s observations are important here: the “final breakthrough to community does not occur precisely because [Christians] enjoy community with one another as pious believers, but not with one another as those lacking piety, as sinners.” It’s our sins that connect us, Bonhoeffer argues. “All have concealed their sins from themselves and from the community,” he writes. Christians have no “good news” to share because without confession “we remain alone with our sin, trapped in lies and hypocrisy, for we are in fact sinners” who prefer our place as “right bearing” citizens to that of witnesses to our life with God.

We ask rights language to do more than it can because we forget that we are never alone. William Sloane Coffin’s line, “It is better to be together through our sin than separated through judgment,” has been traded in for another: *It is better to be separated through our appeal to our rights than together through our confession.*

Attending to confession as a social ethic within the domain of Christian moral discourse allows for the pride masquerading as rights to be exposed. If pride, according to Augustine, is the first sin, then the Christian practice of confession in

the social space serves as a prerequisite to wielding rights language rightly. In this social ethic, rights come after love. They come after belonging. If we accept Rowan Williams's definition of pride, then there is hope for redemption because confession ensures that a social ethic based upon rights language is not asked to do more than it is able to do.

We can therefore imagine how social policy might begin to be shaped by this ethic. In order for the first sin of pride to take center stage in the midst of a rights-based social discourse, the Christian must ask, "What individual and social sins have been confessed and forgiven?" before asking, "What rights do you believe have been violated?" Even more, reclaiming confession as a social practice ensures that Christian beliefs and practices remain more fundamental to our witness to Christ than our rights are. The use of rights language brings attention to the sins that have been or must be confessed, but it can never serve as the only avenue for doing so. The way we carry the gospel into our public lives is not about the rights we claim but rather about the social sins we have confessed and the responsibilities to the most vulnerable that we carry.