

## INTERPRETATION OF HUMAN RIGHTS IN THE LIGHT OF THE CHURCH FATHERS

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### Summary

*In the writings of the Church Fathers we find no detailed statements on human rights. In spite of this, their insights into human nature and the human person, and especially their insistence on the inalienability of human dignity, display an awareness of what we nowadays call natural human rights.*

Declarations about human rights usually just *enunciate* different kinds of rights. They do not explain *why* people have them. However, from the *theological* point of view, and this is what interests us here; this question is the most interesting one. On reading the Church Fathers<sup>1</sup>, we find no in-depth arguing and even less specific terminology for the human rights issue.<sup>2</sup> Does this imply that the concern for what is essential for human rights is altogether absent from their horizon? If we take a closer look at their writings, we will soon be assured that this is not the case. When dealing with human rights 'patristically', we should start from the Church Fathers' insights into human nature and the human person. But, before doing that, a short introduction.

### 1. Origins

First of all, we have to admit that it is not true that the ideals enshrined in the foundations of human rights theory are found *nowhere else* but in biblical or patristic tradition. Maintaining that would be an exaggeration. In spite of this, the notion of *human worth or human dignity*, which is the most important of these ideals, really can be found both in biblical and in patristic tradition. Furthermore, it is also not true as is sometimes claimed that the so-called Medieval Church contributed substantially to the development of the concept of human rights, as it is a *modern* concept. This is so because the struggle between Church and state<sup>3</sup> - the clash of two conflicting authorities - was not for the freedom of *each individual*, which is the essence of the very idea of human rights, but for the freedom of the *Church as an institution*<sup>4</sup> (not to be

<sup>1</sup>Church Fathers are "ecclesiastical writers in so far as they were accepted as representatives of the tradition of the Church" (J.Quasten, *Patrology*, vol. I, Utrecht-Antwerp, MCMLXVI, p. 9. A Church Father should combine 1. orthodoxy of doctrine, 2. holiness of life, 3. ecclesiastical approval and (according to Quasten) 4. antiquity. In a way, they continue in the line of the apostles and disciples of Jesus Christ.

<sup>2</sup> It goes without saying that this does not mean that there is no religious origin of important civil rights concepts.

<sup>3</sup> "It was a long and bloody battle." Charles Villa-Vicencio, "Christianity and human rights", *Journal of Law and Religion*, Vol. 14, No. 2. (1999-2000), pp. 579-600. See also R.H.C.Davis, *A History of Medieval Europe* (Longman, 1976) and Brian Tierney, *The Crisis of Church and State: 1050-1300* (Prentice Hall, 1964).

<sup>4</sup> Charles Villa-Vicencio, *ibidem*.

underestimated at all, but something quite different). During the later Middle Ages<sup>5</sup> the concept of *ius naturale* (i.e. *natural law* - denoting at that time what is naturally right) began to acquire all the more subjective meaning denoting a kind of faculty inherent in the individual or innate to human nature as such. So, the *articulated* concept of human rights started to grow sometime in the Middle Ages and continued its development gradually until it reached its present sense.

## 2. Secular or Religious

Being a *modern* concept, human rights theory is frequently seen as entirely secular, having nothing in common with biblical or patristic heritage. On the other side, there are many authors who claim that this theory has its roots specifically in the religious - if not texts - then spirit.<sup>6</sup> Both could easily be true. The American version of human rights can be shown to have its origin in the Christian reading of the natural law tradition, while the French version can be explained as stemming from rationalistic anti-clericalism, where human (or 'natural' or 'pre-political' or 'moral' or 'subjective' or 'inherent' or 'innate') rights are opposed to the alleged 'divine' rights of monarchs and popes. The former could be called the "secular humanism of western liberalism" and the latter the "anti-theistic current of the French human rights tradition".<sup>7</sup> This being as it may, what we need here is something else: a kind of *theological* understanding of the human rights complex. With that, we finally come to our issue.

## 3. Patristic insights

The essence of patristic anthropology can be expressed in just a few words by saying that *every human being is sacred*.<sup>8</sup> Formulated in this way it is at once evident that we find ourselves in a religious, not a secular, environment, because only in connection with God can that statement have meaning. Moreover, nothing more is necessary for a human being to be sacred: neither state, nor family, nor some sort of special circumstances. It is enough 1. to be a being *made in the image of God*,<sup>9</sup> and, of course, 2. that a fallen state does not deprive a human being of that image. Nothing else. And every human being, regardless of sex, race, age, colour, disability, marital or social status, ethnic or social origin, sexual orientation, language, culture, religious beliefs etc. etc. is that kind of being. The same can be

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<sup>5</sup> " ... there is no expression in any ancient or medieval language correctly translated by our expression 'a right' until near the close of the middle ages." Alasdair MacIntyre, *After Virtue*, Notre Dame, Ind.; University of Notre Dame Press, 1984<sup>2</sup>, p. 66-67. Some were more moderate: "Whether any of the Greeks had any such conceptions of moral agency, without which it would make no sense to speak of moral rights, is so far unproven." A.I.Melden, *Rights in Moral Lives, Berkeley*, University of California Press, 1988. p. 147. " ... a growing body of literature locates the origin of innate rights views in the early and high Middle Ages." Paul Marshal, "Two Types of Rights", *Canadian Journal of Political Science/Revue canadienne de science politique*, Vol. 25, No. 4. (Dec. 1992), pp. 661-676. So it seems that it is also an exaggeration to claim that the idea of human rights has its origin in the secular Enlightenment (in the eighteenth century) or even in the theologico-political thought of Ockham (in the fourteenth century - e.g.). The last results of some legal historians of the medieval period (e.g. John Witte and Charles Reid) show that the origin of the idea of natural rights can be found in the writings of the canon lawyers of the twelfth century - e.g. Huguccio (c. 1190). (See also, inter alia, Brian Tierney, "Religion and Rights: a Medieval Perspective", *Journal of Law and Religion*, Vol. 5, No.1 (1987), pp. 163-175 and Nicholas Wolterstorff, "Can Human Rights Survive Secularization?" Parts I and II, [http://www.reformedinstitute.org/news/20080126\\_2.html](http://www.reformedinstitute.org/news/20080126_2.html). 3/5/2009).

<sup>6</sup> Even if this were true, it would be entirely unacceptable for someone to try to reduce the Gospel to some kind of theory of human rights.

<sup>7</sup> See Charles Villa-Vincenio, *ibidem*.

<sup>8</sup> See, for example, Michael J. Perry, *The Idea of Human Rights: Four Inquiries* 7, Introduction (Oxford University Press, 1998) and Jean Bethke Elshtain, "The Dignity of the Human Person and the Idea of Human Rights: Four Inquiries", *Journal of Law and Religion*, Vol. 14, No. 1 (1999-2000), pp. 53-65.

<sup>9</sup> What is important here is that humans are created in the image of God, independently of *what that actually means*. So, be that image 'reason' or 'creativity' or 'morality' or 'immaterial soul' or 'love' or whatever, what matters here is the very *fact* that that human being is "in the image of God", not *what* that image is exactly.

expressed by saying that human beings simply have worth.<sup>10</sup> By the mere fact of being human, they are sacred, and being sacred in itself implies *dignity*. So, human dignity is not something derived from something more fundamental, because in this world there is nothing more fundamental than a human being (or being human). Consequently, *image, sanctity, worth, dignity*, being characteristics of being human, are all entirely fundamental.

#### 4. Individual versus Person

Further, in order to grasp the term in its fullest intended extent human rights must be understood *individualistically*.<sup>11</sup> On the other hand however, humans are *relational* beings and they are such intrinsically, not contingently.<sup>12</sup> Now, the very concept of relation, when applied to persons, entails responsibility and obligation. The teaching of the Church Fathers is that human beings are not self-sufficient monads, i.e. individuals<sup>13</sup> with no relations to others. Rather they are what they are only in communion with each other. They are mutually connected in such a way that speaking of *only* one person is possible only grammatically but not essentially. And that is so because, from the Christian perspective, one person is equal to no person.

Why is all of this relevant to the human rights issue? Because the aforementioned conclusion about the *intrinsic dignity of the human person*, which is the fruit of the exegesis and insights of patristic anthropology, shows both: 1. that human beings really have (God-given) rights, and also 2. that these rights are always in connection with obligations. Human freedom, in patristic philosophy, in contrast to most modern ideas, does not reflect some autonomous<sup>14</sup> 'choosing' ('me and my rights' along the lines of possessive atomism or individualism of the capitalist economy or liberal polity), but a responsible being endowed with a sense of duty. Church Fathers teach us that our God-given dignity (i.e. the right to be really human) and the right to freedom should not be understood as a (selfish and childish) right to do anything (a right of the 'grasping self'), but rather as a right to exercise responsibly that kind of freedom which (being the God-given freedom) always implies duties (and this is impossible without the 'giving self'). Consequently, the proper human freedom is not only a 'freedom from', but primarily a 'freedom for'. And the 'freedom for' together with 'duties' speaks of the human relational (not self-centered) character.<sup>15</sup> So here, the theological take on human rights underwent a significant transformation and redirection of emphasis towards human *obligation* that has always to be understood as going hand in hand with privileges and

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<sup>10</sup> This introduces the (practically useful) principle that all people have equal worth on the basis of their human dignity.

<sup>11</sup> Human rights are intended to protect *individuals* – I take it as an axiom. But - and I take this as an axiom too - 'individuals' does not imply 'isolated individuals'.

<sup>12</sup> Instead of 'relational' Elshtain has 'social' which we, for the present purpose, can take as essentially the same. In a way this is also the standpoint of Alasdair MacIntyre, *After Virtue*, Notre Dame, Ind.; University of Notre Dame, 1984<sup>2</sup>, p. 67.

<sup>13</sup> Christianity made an enormous shift from 'individual' to 'person' according to this logic: if an individual perishes, the species remains unaltered, but when a person dies, something unique and unrepeatable is lost.

<sup>14</sup> Cf. "From the religious point of view, human freedom is not autonomy, that is, pure self-determination; rather, it is autexousion, a graced capacity to achieve full ethical personhood and mystical participation in the life of God." Vigen Guroian, "Human Rights and Modern Western Faith: An Orthodox Christian Assessment", *Journal of Religious Ethics* 26, No. 2, 1998. p. 244.

<sup>15</sup> In my paper "Personhood and Nature: An Orthodox Theological Reflection on Human Rights", *Human Rights: Christians, Marxist and Others in Dialogue*, ed. Leonard Swidler, New York, 1991, pp. 131-140 I tried to develop a kind of theological approach to human rights, affirming that there are rights which are human, and yet are neither legal nor natural. I claimed that an example of such a right is *deification*, and that it is grounded in man's ability to exceed his nature, which is rooted in the fact 1 that God himself exceeds his nature and 2. that man is an image of such a God.

rights<sup>16</sup>.

### 5. Some patristic testimonies

If it is allowed to speak about some *sense* of natural (God-given) human rights, then we may say that we can perceive this *sense* in the writings of the Church Fathers. Let me mention but a few examples. Origen (*Contra Celsum*, V, 37) differentiates between “two kinds of law”, one being “the ultimate law of nature” and the other “the written code of cities”, and argues that if these laws come into contradiction, we should give priority to the “law of nature” which he also calls “God’s law”<sup>17</sup>. Lactantius (*Divinae institutiones*, VI, 10), speaking of faith in God and compassion with others, maintains that the purpose of faith is “unity with God”, and the purpose of compassion is “unity with our fellowmen”. The former he calls ‘religion’; the latter ‘humanitas’. Gregory of Nyssa (*Homiliae in Ecclesiastes*, 4) claims man’s natural right to freedom. Basil of Caesarea (*Sermones*) warns us that the bread, coat, shoes or gold we have, belong in essence to the hungry, naked, shoeless or needy. And if we refuse to help them, “we do them wrong”. John Chrysostom (*Homiliae in Acta Apostolorum*, 11, 3, and *De eleemosyna*, 2) teaches us that we should show mercy to the needy “not because of his virtue but because of his misfortune”. So, the means of sustenance belong to the poor not on account of their moral right or on account of any positive law, but on account of their need, i.e. just because they are human beings. *Constitutiones apostolorum*, (IV, 12,2) while allowing slavery, maintains equality by nature between master and slave. Ambrose supports the right to life and virginity, etc, etc.

What is important to add is that these patristic insights that led on to the recognition of what came later to be named as “natural human rights”, are made mainly in the course of Church Fathers’ comments on passages from the Scripture.

### 6. Humanity revealed by God

From the aforementioned, it follows that what is fundamentally human, i.e. what it means to be human (and by inference what it means to have human rights), is gradually *revealed* to us by God (starting with the Old and continuing with the New Testament and Church Fathers up to the present day). (Un)fortunately it was necessary for God himself to teach us what it means to be (really) human. Therefore, the deepest mystery of human dignity is not achieved by human intellect, but is revealed by God’s revelation, achieving its fulfillment in Christ’s incarnation. In the Old Testament vaguely, and in the New Testament very clearly appears the idea that every human being has a great, unique and equal<sup>18</sup> worth, and that the origin of this should be sought exclusively in the fact that

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<sup>16</sup> Cf. Lisa Cahill, “*The Catholic Tradition: Religion, Morality and the Common Good*”, *Journal of Law and Religion* 5, pp. 75-77 (1987); “*Theological Perspectives: Concluding Panel Discussion*”, *ibidem*, pp. 105-106 (1987).

<sup>17</sup> This antithesis, which derives its origin from Plato (*Laws*, 793 A), was a Stoic commonplace. Having differentiated thus, Origen continues: “Where the written law does not contradict the law of God it is good that the citizens should not be troubled by the introduction of strange laws. But where *the law of nature, that is of God*, [my italics] enjoins precepts contradictory to the written laws, consider whether reason does not compel a man to dismiss the written code and the intention of the lawgivers far from his mind, and to devote himself to the divine Lawgiver and to choose to live according to His word, even if in doing this he must endure dangers and countless troubles and deaths and shame. Moreover, if the actions which please God are different from those demanded by some of the laws in cities, and if it is impossible to please both God and those who enforce laws of this kind, it is unreasonable to despise actions by means of which one may find favour with the Creator of the universe, and to choose those as a result of which one would be displeasing to God, though one may find favour with the laws that are not laws, and with those who like them. If in other instances it is reasonable to prefer *the law of nature, as being God’s law*, [my italics] before the written law which has been laid down by men in contradiction to the law of God, should we not do this even more in the case of the laws which concern the worship of God?” Origen, *Contra Celsum*, Translated with an Introduction & Notes by Henry Chadwick, Cambridge University Press, Cambridge, 1979, p. 293.

<sup>18</sup> Closely connected with the notion of *equality* is the notion of *discrimination*, and especially interesting is the

humans are made "in the image of God", so that so-called "natural human rights" are rooted in the inherent (God-given) worth or dignity of each and every human being.<sup>19</sup>

## 7. Conclusion

I think that it can be shown<sup>20</sup> that we can trace the recognition of natural human rights from the contemporary statements in different declarations in the twentieth century, back to the political philosophy of the secular Enlightenment in the eighteenth century, Suarez's thought in the late sixteenth and early seventeenth century and Ockham's thought in the early fourteenth century, through the canon lawyers in the twelfth century and Church Fathers of the first millennium, back to Scripture itself.

Just as it is true that human beings in their inmost core reflect God's image no matter whether they are Christian or even religious, or simply outright atheists, it is also true that they have inalienable natural rights no matter whether they are religious or not. Therefore, leaving aside the question of the actual foundations of human rights, in matters of common action (by theists and atheists), we may conclude that whatever those foundations may be, both believers and atheists or agnostics (even if they disagree on the question of why human beings possess rights) may still join and come out together when these rights are violated.<sup>21</sup> They should react together in common awareness that there is no end, on earth or in heaven, so sacred that human beings should be used as a means for achieving it.<sup>22</sup> Behaving in this manner, they stand firm in defense of inalienable human dignity.

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notion of so called 'indirect discrimination' very successfully described as "... discrimination that is neither conscious nor intended and may not even be discernible on the surface, for instance, when something is taken for granted but still has a discriminatory impact and leads to discriminatory effects" (i.e. of violations of human rights), Johannes A. van der Ven, "A Chapter in Public Theology from the Perspective of Human Rights: Interreligious Interaction and Dialogue in an Intercivilizational Context", *The Journal of Religion*, University of Chicago Press, 2006, Vol. 86, No 3, pp. 412-41.

<sup>19</sup> On the other hand, it is through the Church that we as human beings "attain a vision of our common good in God", David Matzko McCarthy, "Catholic Social Thought: Rights, Natural Law, and Pluralism", November 1, 2004 ([http://www.samford.edu/lillyhumanrights/papers/McCarthy\\_Catholic.pdf](http://www.samford.edu/lillyhumanrights/papers/McCarthy_Catholic.pdf))

<sup>20</sup> Though of course, such a project would demand a whole book.

<sup>21</sup> From the theistic perspective, violation of basic human rights is, in essence, violation of the dignity of God's image. John Calvin understood this: "... no one can be injurious to his brother without wounding God himself". Commentaries on Genesis, Grand Rapids: Baker Book House, 1984, pp. 295-296. That is why such violation is not only a moral, but primarily an ontological sin.

<sup>22</sup> One can read this as a variation of the wise Kantian maxim pointing out that a human being may never be used as a means only but always at the same time as an end in itself (Immanuel Kant, *Groundwork of the Metaphysics of Morals*).