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The Crisis of Human Rights. On the Importance and Timeliness of their Catholic Critique

Abstract: Human rights, as they developed after the Second World War, were intended to protect the objective goods necessary for the development of the human person. As such, they represented an attempt to restore modern politics' access to the natural moral law. Although human rights are now treated as a "litmus test" for the legitimacy of democracy, their very nature is undergoing a metamorphosis. Along with demands for the recognition of abortion as a human right and same-sex relationships as marriage, they are even becoming a negation of a universal moral law. This article discusses, with reference to the Catholic critique of human rights, the possible reasons for the metamorphosis of human rights that is taking place before our eyes, as well as possible ways out of the "dead end" of the practical negation of human dignity.

Keywords: abortion, democracy, human dignity, human rights, natural moral law, same-sex relationships

Human rights are recognized as an indisputable pillar of the democratic order, a kind of condition of political legitimacy: "to the extent that governments protect human rights – notes Jack Donnelly – they are legitimate" [Donnelly 2013:12]. The successful trajectory of human rights after (and in the aftermath of) the Second World War, beginning with the Universal Declaration of 1948, was instrumental in securing the dignity of the human person in Western countries, at least until the 1960s. After initial hesitations [Pius XII 1947], the idea of human rights was also supported by the Catholic Church during the pontificate of John XXIII (1958-1963). John Paul II (1978-2005) consciously made human rights an instrument of communication between the Church and the "powerful" of this world. As Benedict XVI noted, "the idea of human rights [was regarded as] the specific weapon against

the totalitarian claim of the Marxist state and of its founding ideology, an idea that limits the totality of the state" [Benedict XVI 2018: 14].

In the context of the above, it seems a certain *faux pas* to recall that the Church's attitude towards human rights has for centuries been far from acceptance. Such an assertion would seem to contradict the claims made in the literature on the subject, which implicitly assume that human rights are an enduring heritage of the Church, undiscovered by the Popes only as a result of historical circumstances. This was explicitly articulated by Francesco Compagnoni, among others, when he argued that the brutal destruction of the Church by the Revolution made it difficult for "the Popes to distinguish valuable content from intentions or motivations hostile to religious values" [Compagnoni 2000]. But such a position raises questions. Can it indeed be simply assumed that the Popes from Pius VI to Pius XII were unable to distinguish between the "valuable" content of human rights and the hostile motives of their advocates? Might it not rather be the case that it is precisely the acceptance of the thesis of the self-evident, manifest "*per se*" value of human rights that prevents a serious treatment of the objections raised by the Church in the past?

After the Second World War, human rights allowed post-war democracies to be linked to moral rights and received the support of the Church because, in their 1948 formulation, they constituted a form of restoration of natural law "by making it a component of international positive law" [Puppinck 2021: 24]. Based on the recognition of man as a rational and moral being [Universal Declaration of Human Rights 1948], they are connected to the knowledge of human nature. They are intended to protect objective goods necessary for human development and derived from human dignity [Piechowiak 1999]. It is no coincidence that they are considered in doctrine to have existed 'from time immemorial': that is why they were 'proclaimed' rather than 'established' in the Declaration [Puppinck 2021: 75]. This ambitious concept of universal human rights, which was still quite functional in the 1960s and allowed for a moral limitation of political claims, began to undergo a transformation already in the late 1960s and very clearly in the 1970s. It seems to be approaching its goal before our very eyes: with President Emmanuel Macron's call for the recognition of abortion as a human right and with the recognition of same-sex marriage, human rights are beginning to become a legally positive negation of a universal moral right [Gierycz 2020: 89]. From an anthropological perspective, human rights begin to express an inadequate, "unconstrained" anthropology [Gierycz 2021a: 171–228].

The transformation and crisis of human rights make it worthwhile to reflect on the Church's forgotten critique of the Enlightenment concept of human rights. Although it refers to the earlier, revolutionary concept of human rights dating back to 1789, it seems to be precisely this concept to which we are *de facto* returning, notwithstanding the increasingly ritualized recourse to the UN Declaration. The hypothesis of my essay is therefore twofold. My first hypothesis is that, contrary to what some scholars argue, the Church's criticism of human rights was based on serious theoretical (theological and anthropological) premises and not on a "misunderstanding of the value" of these rights. Consequently, the second hypothesis assumes that, in the context of the progressive transformation of the idea of human rights, it is precisely in the ecclesiastical critique of the time that significant arguments can be found to explain the nature and causes of the current human rights crisis. A related question that needs to be addressed is what made it possible for the 1948 vision of human rights to undergo such a fundamental transformation.

I would like to carry out this analysis in four steps. In the first part of the text, I would like to unveil the essence of the "novelty" of human rights as expressed in the Declaration of the Rights of Man and of the Citizen of 1789, and therefore, I would say, the philosophy and, above all, the anthropology of the 1789 Declaration. The second part will briefly present the Church's reaction to this novelty. The third part will outline the transformation of human rights that has taken place since the 1970s. This will make it possible, in the fourth part, to show the convergence between the anthropological tenets of human rights of the eighteenth century and that of today, as well as the problems that this entails. Finally, I will address the hypotheses and questions raised, in an attempt to show the broader context and possible ways of overcoming the diagnosed problem.

1. The "novelty" of the "old" man's rights

If the historians who argue that Europe came into being in the early Middle Ages thanks to "baptismal rebirth" that led to the linking of the socio-political order with the order of grace [Ullmann 1977: 14–24] are correct, then the Declaration of the Rights of Man and of the Citizen of 1789 can legitimately be described, following Lorenz von Stein, as the "first basic law of the new society". The new society, i.e. one in which Christian grace is regarded as unnecessary ballast to be discarded, and in which man as man becomes the basis of order. This is natural man, secular or secularized man, i.e. emancipated from the bonds of religion [Böckenförde 1994: 115], and therefore a pagan. Of course, one could object that

pagans were not atheists. This is true, but the man of the Declaration of the Rights of Man was not an atheist either. In keeping with the spirit of the Revolution, he adhered to some form of worship: in 1789, the Cult of Reason (*Culte de la Raison*) was popular, followed by the Cult of the Supreme Being (*Culte de l'Être Suprême*), and finally – under the *Directoire* – the *Culte decadaire* and Theophilanthropy [Voegelin 1975: 172]. These 'religions', however, were by definition instrumental to power, thereby dissolving the tension inherent in Christianity between the religious and the political [Gierycz 2021b: 30-67]. As Father Guillaume Raynal, a Jesuit 'convert' to the Revolution, aptly put it, the first principle of the approach to religion is the conviction that "the state is not made for religion, but religion is made for the state". Consequently, "(t)he people, or its representative authority, has the exclusive right of judging the conformance of any institution whatever with the general interest" and that there are "(n)o other apostles than the legislator and his magistrates" [Voegelin 1975: 171–172; Voegelin 2011: 236]. From the point of view of the authors of the *Declaration of the Rights of Man and of the Citizen*, religion is not a safeguard against the omnipotence of the ruling power. On the contrary, it becomes a stable legitimization of unlimited power.

The *Declaration of the Rights of Man and of the Citizen* thus breaks with the vision of man as the image and likeness of God and thus negates the intrinsic relationship between man, who is a creation, and God, who is the Creator. This is significant because in the Christian tradition, the existence of a special relationship with God has determined the unique dignity of human beings and their radical difference from other creatures. If the logic of human dignity is alien to the logic of the Declaration, the justification for the attribution of rights to man – despite their designation as "natural, inalienable and sacred" – ultimately turns out to be the will of the "representatives of the French People, formed into a National Assembly" [*Declaration of the Rights of Man and of the Citizen* 1789]. In the Declaration, therefore, man recognizes himself as the supreme lawgiver, situating himself in the place of "that which is Supreme" [Brague 2014]. The invocation of "the auspices of the Supreme Being" does not, given the nature of this cult as described above [Szymański 2012: 74], alter the recognition of man as an end unto himself, and thus as a being that takes the place of God. Human rights at their origin thus involved an anthropological coup, and here lay the theoretical basis of the Church's dispute with the doctrine of human rights.

The consequences of 'removing God from the definition of man' in the *Declaration of the Rights of Man and of the Citizen* were serious. On the one hand, the

Declaration's anthropology is at its core atomistic or individualistic, and thus inadequate. It is characteristic that the question of marriage or family, of associations or guilds, does not appear at all. It is the State or society, conceived as a collection of individuals through which the 'universal will' is expressed, that is opposed to the individual. The 'universal will', we should add, according to Rousseau's thesis in *The Social Contract*, does not express the will of all. In this vision, therefore, neither the individual nor the collective has the final say in the state; moreover, natural communities and their rights are not included in the Declaration at all.

On the other hand, the Declaration conceives of human reason as metaphysically and morally powerless. The first problem is well illustrated by the treatment of religious freedom, which is treated not so much as an inherent right, but as a form of freedom of belief. Not only does it include (which was already a novelty) "the right to practise religion in private and in public, but also the right not to practise any religion" [Böckenförde 1994: 116], but above all it reduces faith to opinion or beliefs. This reflected the almost universal conviction in Enlightenment circles that "the religious sphere lies beyond truth and falsehood, and that the claim of the churches to teach the truth revealed by God constitutes sheer usurpation" [Salij 2021: 35]. According to the Declaration, therefore, man is not *homo religiosus*. Consequently, while the Declaration proclaims freedom of religion (and non-religion), it leaves it to the state authorities to restrict it freely, according to the criteria of "public order" defined by law (and thus determined by themselves). According to this logic, for example, the suppression of religious orders in France was interpreted as the implementation of the principle of freedom. Antoine Barnave "justified the prohibition of the creation of new religious orders with the fact that the Declaration … forbids the deprivation of personal liberty and even forbids people to deprive themselves of this liberty by taking religious vows" [Szymański 2012: 76]. True freedom cannot be limited by religious freedom!

This truly revolutionary logic reveals the moral impotence of Enlightenment reason. Freedom, according to the Declaration, does not materialize "in the realization of values or in social bonds, but is understood as freedom from all bonds, freedom that is limited only by the formal-legal powers of third parties" [Rauscher 1993: 69]. The prairie mustang also possesses such freedom: for its essence is discretion, not meaningful moral choice. The incapacity for moral discernment should not come as a surprise, since it was precisely man's relationship to God, negated by the Enlightenment, that in the European tradition was the source of knowledge of the

good and the basis of natural law. In the French Declaration, on the other hand, we find "nothing to remind us that man was created and endowed by God himself with primordial rights. When it speaks of 'inalienable' rights, it is not in the sense that Christians understand natural law. Rather, it is the Enlightenment claim that man is an autonomous being who recognizes as natural law only that which can be affirmed by reason as positive law. The source and criterion of man's rights is not his nature, but reason" [Rauscher 1993: 69]. In fact, as will become clearer in time, but follows directly from Enlightenment anthropology, the very idea of human nature is at least undermined here. In the light of the spirit of the Revolution, man was no longer seen as a constrained being with an unchanging, God-given moral and rational nature, tainted by original sin, but as an unconstrained being with a fluid and individualistic nature, who alone, in social and political processes, determines good and evil, justice and injustice [Gierycz 2021a: 171–198]. One could say that instead of *Homo sapiens*, the revolutionary spirit wanted to create an animalistic *Homo Deus*. The *Declaration of the Rights of Man and of the Citizen* is the first record of this attempt.

It should be added that the abolition of natural communities and the negation of the moral law and revealed truth, somewhat paradoxically and contrary to the rhetoric proclaiming the protection of rights, opens a wide avenue to the unlimited rule of the majority, of the elite, of the vanguard. Politics thus ceases to be a place for the realization of the common good, which always requires self-restraint and obedience to the legitimate claims of authority, and becomes a place of creation, of construction, whose shape "rests entirely" in the hands of the "nation", or more precisely, of the authority expressing the "general will". From this perspective, it is no longer surprising that the Declaration of Human Rights becomes the first chord of a total and violent revolution, described by Talmon as the driving force of totalitarian democracy [Talmon 1985].

2. The reaction of the Catholic Church

It is quite obvious that the Church must have been, and indeed was, opposed to the above-mentioned idea of human rights. As early as 1791 (or, from the perspective of the French Church, as late as 1791), Pius VI, in his *breve Quod aliquantum*, essentially devoted to the Constitution of the clergy, aptly addressed all the problems outlined above.

Firstly, he pointed out that "this National Assembly has appropriated the power of the Church, going so far as to establish so many and so very strange things that are

contrary both to dogma and to Church discipline" [Pius VI 1791], and therefore noted that the secular authority had ascribed to itself metaphysical and moral competence, thus abusing its proper powers. Before discussing specific issues, Pius VI raised a fundamental problem: here was the Assembly which considered itself to be the supreme lawgiver, not only in terms of institutional relations, but in an ontological sense: by placing itself *de facto* in the position of God. Under the guise of secularization, we are therefore dealing with the actual sacralisation of politics. The religious cults described above are one of the instruments of this process.

In the spirit of its omnipotence, the Assembly has established – the Pope goes on to note – "as a principle of natural law, that man living in society should be completely free, that is to say, that in the realm of religion he should not be interfered with by anyone, and that he should be free to think as he pleases, and to write and even publish in the press anything in matters of religion" [Pius VI 1791]. The Pope considers these statements to be "certainly strange" and legitimized only by "having come from the Assembly itself". It should be noted that the "strangeness" of the principle quoted can be understood in two ways. The first, which is historically compelling, would be linked to the fact that the principle of the Catholic State was rejected by the Assembly. The assumption here is that the Church, as the guardian of the truth of Christian revelation, cannot agree to concede any rights to false claims [Böckenförde 1994: 58]. It should be noted, however, that the Pope does not directly address this question in the quoted passage (on the contrary, it is later dealt with extensively, e.g. in his criticism of the abolition of the principle of the dominant Church in France). In this passage of the *Breve*, the Pope addresses a theoretical rather than an institutional issue. Namely, he raises a question concerning the relationship between the State and the Church as the guardian of religious truth. The passage can therefore also be read as an objection to the treatment of religion as a form of freedom of belief, and thus as an objection to the anthropological thesis that undermines the status of man as *homo religiosus* and treats religiosity as a kind of private caprice; a space of free human choice where metaphysical truth is irrelevant, and its advocates have no right to "interfere" with man. It appears that the dispute here was over the concept of man, as the rest of the quoted paragraph suggests. For Pius VI goes on to ask: "But what greater folly can be imagined than to consider all men equal and free in such a way that nothing is left to reason, with which man is primarily endowed by nature and by which he is distinguished from animals?" [Pius VI 1791]. The accusation of stupidity does not refer to the thesis of human freedom and equality (which, by the way, was far from absolute in the *Declaration*: the

first article explicitly states that social distinctions are acceptable, although they "may be based only on considerations of the common good"). Rather, it refers to a naturalistic understanding of this equality and freedom that erases the proper sense of human nature and treats man simply as one of the animals (as Rousseau argued in his *Discourse on the Origin of Inequality*).

Contrary to the anthropological position of the *Declaration of the Rights of Man*, the Pope defends the moral and metaphysical capacities of human reason. While agreeing that God "has left man in the power of his own decisions", and therefore respecting – as Vatican II would later put it – the legitimate autonomy of politics, the Pope pointed to its limits, which are the God-given "laws and commandments", the observance of which is necessary for the "health" of man, tainted by original sin. On the other hand, while acknowledging that "the use of reason belongs to man", he pointed out that this leads man to recognize his Supreme Creator, as well as to recognize that man himself "and all his things are derived from Him" – ultimately allowing man to "align the standard of his life with the enlightenment of reason, the principles of nature and the maxims of Religion". It should be stressed that it was not the theses on the role of reason or the autonomy of politics that the Pope objected to, but the way in which this role was understood. The dispute concerned, on the one hand, the scope of reason: Pius VI took the position of a clearly broader understanding of it than that of the Assembly. On the other hand, the dispute concerned the meaning of autonomy. The latter, in the logic of the Declaration, meant not so much political autonomy as ethical autonomy.

Finally, Pius VI took issue with the individualistic view of man. With obvious irritation, reflecting his conviction of the self-evidence of the truths he had to defend, the Pope took a stand on the vision of man as an individual: "Moreover, – the Pope asked, rhetorically – who does not know that man was created not only to live as an individual, but also to live for the good and benefit of others? Therefore, weak as human nature is, it is reciprocal to need the work of others for one's own preservation, and it is for this reason that God endowed man with reason and speech so that he might know and be able to ask for help and, when asked, to offer it. Hence, by nature itself, men were induced to come together and unite in society" [Pius VI 1791]. The defence of the natural character of society and the state, which negated the contractual theses of the Enlightenment, was another point of anthropological contention with Enlightenment philosophy. The Pope unceremoniously exposed the fact that, as a contemporary political

philosopher put it, "The enduring weakness of political philosophy descended from Hobbes and Locke is due to this one great falsehood: It pretends that political life is governed largely or exclusively on the basis of the calculations of consenting individuals (…)" [Hazony 2018: 82].

To sum up, Pius VI, while demanding respect for moral rights and the true nature of man, demanded that freedom be linked to law and that authority be linked to obedience to norms not derived from that authority. He thus emphasized that "in order for men to unite in civil society, it was also necessary to establish a form of government through which these rights of liberty were bound by the laws and the supreme power of the rulers", whose power "does not derive so much from the social contract as it does from God Himself, the Creator of law and justice" [Pius VI 1791]. This undeniable defence of the monarchy also has a more profound meaning. It reminds us that power, including royal power, is limited: it is the guardian of justice, but it does not create its criteria.

3. The modern transformation of human rights

As mentioned in the introductory remarks, the redefinition of marriage, as voiced *expressis verbis* in the *Charter of Fundamental Rights of the European Union*, or the demand to recognize abortion as a human right is the culmination of a process of metamorphosis of human rights that has been clearly visible since the 1970s. The turning point in this process was the judicial denial of the protection of human life in the prenatal phase and the consequent legalization of abortion in the USA in 1973. Within a few years of this ruling, France, Italy, Luxembourg, Norway, etc. adopted similar solutions. By the mid-1980s, almost all of Western Europe had legalized some form of abortion, which, it should be added, had been systemically legalized much earlier in the countries of the then Eastern Bloc. These changes were accompanied by the development of international sterilization programmes [Kornacki 2018] and finally – at the end of the 20th century – the rise of euthanasia and biotechnology legislation. In parallel, since the 1990s and the development of gender theory and ideology, there has been a change in the understanding of non-discrimination and a redefinition of marriage and family. All of this, it should be emphasized, has taken place within the human rights discourse.

On the one hand, new categories of rights began to emerge in the field of human rights. Of particular importance were the so-called "reproductive and sexual human rights" (RSHR), introduced in the 1970s. Within this framework – in

addition to concerns about women's perinatal health – "care" was taken to ensure access to abortion [Kropiwnicki 2008]. Although the Western states failed to include abortion in the official definition of human rights at the UN conferences in Cairo and Beijing, this has *de facto* been done at the review conferences and in the political practice of the UN and related international organizations [cf. UN 2022; CEDAW 2023]. From this perspective, Emmanuel Macron's proposal quoted above is merely the official expression of a conviction that has long been shared by a large part of the political elite.

Still on the other hand, a systematic 'redefinition' of rights has been taking place. For example, between 6 and 9 November 2006, a meeting of human rights activists and experts from 25 countries at Gadjah Mada University in Yogyakarta (Indonesia) adopted the so-called 'Yogyakarta Principles'. Formally, it was a legally and politically non-binding document adopted without any governmental or intergovernmental legitimacy. However, it served a specific purpose. It was to "reconstruct international human rights standards in relation to sexual orientation and gender identity" [Wieruszewski 2009: 16]. This is worth emphasizing: the aim was to reconstruct rights based on two concepts unknown in the human rights framework: sexual orientation (nowhere defined until the adoption of the Yogyakarta Principles) and gender identity. The practical and political importance of the "Principles" can hardly be overestimated. They "discover" – with obvious exaggeration, undeniable even to their authors[1] – in universal human rights, more than a hundred commitments in the field of "LGBT rights". The "Principles", partly due to the personal authority of their authors and partly due to the clever publicity given to this declaration, rapidly became a reference document not only for LGTB rights movements, but also for international human rights protection agencies (e.g. the EU Agency for Fundamental Rights). As a result, newly constructed 'human rights' referring to new concepts (such as gender identity, sexual orientation, etc.) began to set standards of protection. The simplest example of the 'implementation' of new, 'reconstructed' standards can be seen, for example, in the wording of the right to marry (Article 9) or the understanding of non-discrimination (Article 21) in the EU Charter of Fundamental Rights, which stand on the antipodes of the text of the Universal Declaration of Human Rights [Gierycz 2020].

[1] As Roman Wieruszewski, one of the co-authors of the 'Principles', notes, "in drafting this document, an attempt has been made to reconstruct the standards that are legally binding on States … I am aware, however, that reading some Principles may raise doubts whether this is, in fact, a reconstruction or rather a construction" [Wieruszewski 2009: 18].

An outline of the anthropology of "human rights in transition"

How should we understand the nature of the transformation process outlined above? Firstly, we should note that this is no small matter. If human rights, as they were conceived in 1948, were based on natural law, it was precisely through the protection of life and marriage, among other things, which are at the heart of natural law. In the *Summa Theologica*, St Thomas, in his attempt to define the main principles of this law, refers in the first place to the desire common to all living things to preserve life and health, which leads to the conviction that "whatever is a means of preserving human life and of warding off its obstacles belongs to the natural law". Secondly, Aquinas notes, "those things are said to belong to the natural law, which nature has taught to all animals", e.g. the union of man and woman, the rearing of children, etc. Both by rejecting the conviction that by protecting these goods we are realizing the principle that "good is to be done and ensued, and evil is to be avoided" [Thomas Aquinas 1965: 59-60; St Thomas 1984: 32], and, for example, by adopting the conviction that by refusing to redefine marriage or to guarantee access to abortion we are acting against the good of man, we are going against not only Christian moral convictions, but against the moral traditions of humanity [Ratzinger 2005: 48; Ratzinger 2006: 31]. This means that human rights lose their rootedness in the objective good of man and thus break the connection with human nature.

It is noteworthy, therefore, that a legislator, this time an international legislator, is, in fact, assuming the same role and acting in the same way as the members of the Constituent Assembly of 1789. This legislator is thus once again on the barricades of an anthropological coup. Let us recall that man, in the light of the spirit of the Revolution, was no longer seen as a constrained being with an unchanging, God-given nature, including the capacity for moral cognition, albeit also tainted by original sin. Instead, ma was seen as an unconstrained being with the fluid and individualistic nature, formed internally by social and political processes, including human rights. Instead of *Homo sapiens*, in the course of the Revolution, a *Homo Deus* was to emerge. This is precisely the point of the changes – this time gradual – in the logic of modern human rights. In essence, through these changes, man (the legislator) is attempting to use his authority to define the human good and human nature: to take a decision of a metaphysical nature, an authority that belongs to God.

The danger of such a process, despite all the attempts by Jacques Maritain and others to protect the Universal Declaration of Human Rights against it, was

written into the 1948 concept of human rights from the outset. This has been well described by Gregor Puppinck. He notes that the idea was that "the transfer of human rights from the national to the international legal order made it possible, so to speak, to restore their universality and to ensure their better protection vis-à-vis national authorities" [Puppinck 2021: 24], thus offsetting the risks associated with the French experience of 1789. However, making human rights as a moral right an element of international law simultaneously exposed them "to the risk of being redefined by its bodies" [Puppinck 2021: 24]. Here we touch upon the fundamental question of the practical decoupling of human rights from supra-positive legitimacy: "What is important in a modern democracy is not that, today, it recognizes such and such «human rights» as codified in a «declaration»: what is important is that it can legitimately, in accordance with its own self-imposed legitimacy, cease to recognize them tomorrow" [Madiran 1977: 34]. Maritain's proposal that, given the inability to agree on the justifications of practical principles, human rights should express only those principles [Maritain 1968: 66-69] ultimately meant their common prescription, with the tentative hope of a "deep adherence of men's consciousness to practical principles like those" he recalled above [Maritain 1968: 69].

In the construction of human rights, reference to God as the source of rights was deliberately avoided from the outset. This problem was pointed out by Pius XII in a letter to President Truman in 1947: "What is proposed is to ensure the foundations of a lasting peace among nations. It were indeed futile to promise long life to any building erected on shifting sands or a cracked and crumbling base. The foundations, We know, of such a peace – the truth finds expression once again in the letter of Your Excellency – can be secure only if they rest on bed-rock faith in the one, true God, the Creator of all men. It was He who of necessity assigned man's purpose in life; it is from Him, with consequent necessity, that man derives personal, imprescriptible rights to pursue that purpose and to be unhindered in the attainment of it…" [Pius XII 1947]. Pius XII's request was ignored.

It is hard not to notice that an almost identical debate took place 55 years later. The question of the meaning of European values and the anthropology behind them was put to the EU by John Paul II in the context of the 2001-2003 constitutional debate. In the summer of 2003, he devoted, *inter alia*, a series of Sunday addresses prior to the Angelus prayer to this question, pointing out that for citizens living in a community based on a constitution, it is crucial to understand the ultimate source of their rights; that it is politically important to see that their rights do not

come from a government but from God. Méndez de Vigo, one of the members of the Convention's praesidium, commented rather coolly on the Pope's remarks: "You would expect the Pope to say something like this. However, (…) I think it is important to make reference to values generally" [Coss, Banks 2002]. And this is precisely what was done in the Constitutional Treaty, which later (with minor changes) became the Lisbon Treaty: no reference was made to God or Christianity, but a specific 'general' reference was made to values. The Union – it seemed to many – was trying not to 'take the floor' in the anthropological debate, not to make a decision on the sources of values. The result, however, was the transformation of their content in the *Charter of Fundamental Rights*. It is worth noting that the pace was faster, but the direction of the changes was the same as the transformation of human rights in the United Nations.

But it is not only the rejection of the reference to God, the practical deification of the legislator, the adoption of an intra-worldly perspective of human dignity, and the doubt about the epistemic capacities of human reason in the moral field that link the situation of human rights today with the original situation of 1789. It is also linked through the attitude towards religious freedom and the profound individualism of human rights.

It is worth noting that, as was the case with the *Declaration* of 1789, religious freedom today is being subjected to treatments that radically limit the possibilities of exercising it. It is no coincidence that the European Bishops cooperating in the framework of the Commission of the Bishops' Conferences of the European Union *COMECE*, in 2022 "noted with concern the «negation of the fundamental right to conscientious objection, which is an emanation of freedom of conscience» as the rights of health institutions to refuse to provide certain services, including abortion, was weakened, or even denied" [COMECE 2022; Zengarini 2022]. The most spectacular attempt at such a limitation to date was the report prepared by the Social, Health and Family Affairs Committee of the Council of Europe entitled *Women's access to lawful medical care: the problem of unregulated use of conscientious objection*. Not only did this report represent "a very clear tendency to consider the autonomy of the patient and her right of access to services as a higher value than the doctor's right to freedom of thought, conscience, and religion", but it explicitly called for an obligation to violate the doctor's conscience and to legally oblige the doctor to perform an abortion in a life or health threatening situation and when it is not possible to refer to another doctor who is willing to perform the procedure. Although "the authors of the draft resolution used euphemisms in the form of

terms such as 'women's reproductive health', the content of the report clearly indicates a desire to provide greater access to abortion at the expense of restricting the right of conscientious objection of health care professionals" [Pawlikowski 2011: 329]. Although the above-mentioned report was ultimately rejected by the Parliamentary Assembly of the Council of Europe, the logic expressed in it has been accepted not only by a number of resolutions of the European Parliament, but also by European governments, including the government of the Republic of Poland. For example, the Minister of Health, Izabela Leszczyna, announced that the National Health Fund (NFZ) would make its funding of gynaecological and obstetric units conditional on their guaranteeing access to abortion because "a medical entity does not possess conscience" [X 2024].

On the other hand, it can be observed that defining man and his rights in the context of new concepts such as "sexual orientation" leads to an "individualization" of the human being, whose social dimension becomes merely a matter of choice and preference. It is possible to defend the thesis that the *Universal Declaration* conceives of man as a social entity rather than as an individual. The justification for such a claim is the recognition in the 1948 Declaration of the fundamental role of monogamous marriage and the family built on it as the primary community. The complementarity of the sexes and the natural sexual attraction to a person of the opposite sex (man to woman and woman to man) do not constitute, in the sense of the *Declaration*, an act of preference or orientation, but a fact which has its moral (and thus linked to the objective good of the human being) and social significance and which requires positive legal protection. Marriage is therefore considered a necessary good for the development in humanity of man and woman, and their descendants (the family). It becomes an object of protection as a key element in guaranteeing the conditions of life that correspond to human dignity. Society – precisely as a natural community – appears "in the extension" of marriage and the family, which is recognized in Article 16 as the fundamental group unit of society. Consequently, the harmony of the sexes is seen here as the basis for the harmony of society.[2] However, if we reject the belief in harmony of sexes and divide humanity according to sexual orientation, as is done, for example, by the *Charter of Fundamental Rights* and the 'Yogyakarta Principles', which modify the meaning of human rights, the whole logic of the above becomes untenable. Man becomes

[2] It is worth adding that it is only from the perspective of the family that the meaning of the brotherhood referred to in Article 1 seems to become clear. The concept has no meaning outside the category of the family, that is, a community of which one is a member not by choice but by nature.

an individual for whom marriage and family are no longer natural, necessary for full development, but one of the options of life that expresses his preferences; moreover, the meaning of both concepts (marriage, family) is no longer clear. It is therefore not by chance, and in keeping with the prevailing logic, that the *Charter of Fundamental Rights* does not place the right to marry in the chapter on "Dignity", but in the chapter on "Freedoms".

Concluding remarks

Although the circumstances of the Revolution and the attempts to destroy the Church were clearly not conducive to its recognition of, to use Compagnoni's phrase, the 'value' of human rights, the reasons for the Church's opposition to the idea of human rights were much more serious from the outset. The "original sin" of human rights was linked above all to the atomistic, intrinsically atheistic and reductive anthropology on which they were based, which placed human rights in opposition to natural law. The Church's critique of this theoretical and anthropological dimension of human rights has not only lost none of its relevance, despite the passage of more than 200 years, but even seems to reveal its prophetic character. In the nineteenth century, no one could have imagined today's interpretations of human rights. The Church, on the other hand, was able to see the structural flaw in the very concept formulated at that time, the full significance of which only now seems to be revealed to us. With the continuing transformation of human rights since the 1970s, the arguments for their acceptance by the Church, which may have been convincing before the 1960s, now seem fragile. As we see abortion, euthanasia, same-sex unions as marriage, surrogate motherhood, the creation of human-animal hybrids, etc. being legalized in the name of human rights, it is hard not to return to the remarks of Pius XII. In 1947, he warned: "Once the State, to the exclusion of God, makes itself the source of the rights of the human person, man is forth-with reduced to the condition of a slave, of a mere civic commodity to be exploited for the selfish aims of a group that happens to have power". It seems, therefore, that it is in this "exclusion of God" from the grounding of human rights that lies the ultimate reason for opening up their formula, developed in 1948, to a far-reaching transformation, even a return to the formula initiated in 1789. In the end, human rights, even those protected internationally, are unable to stop political *hybris*. On the contrary, they become its tool if they are not anchored in a higher order than the human order.

Obviously, the problem is not only that of enshrining the *Invocatio Dei* in this or that document. It concerns above all the spiritual state of our societies, which no longer seems to allow us to follow moral imperatives that are also obvious to

natural reason. The "«silent apostasy» on the part of people who have all that they need" [John Paul II 2003, n. 9], which sociologists call secularization, seems to make truths that were obvious to Hippocrates appear as unethical absurdities to many modern minds. An interesting explanation of this process was given by Alain Besançon. He wrote: "Natural religion opens our eyes to nature, biblical revelation teaches us about God the Almighty Creator (…), the Messiah makes God dwell among us in his own person. This Trinity forms three orders, analogous to Pascal's orders in the sense that the higher order contains the other two, but the lower order does not contain the one above it. The Old Testament does not deny the natural truth contained in pagan religion, it only shatters what obscures the truth in it, such as idols. Christ declares that he did not come to abolish the law, but to fulfil it. What does heresy do? It narrows the field of vision. In the place from which one devours with one's eyes all that one's sight can discern in the realm of religion; the heretic's vision is limited by blind spots and distorted images of what one ought to see. The heretic-pagan no longer sees nature as it is; the heretic-Jew no longer sees the Covenant, that is, neither God nor nature; the heretic-Christian no longer sees nature, no longer hears the Law or the Prophets, and no longer understands either the revelation of the Gospel or the tradition of the Church. The heretic of the higher level does not fall into the orthodoxy of the lower level. The deformation of his vision affects all the spheres above which he is supposed to have been elevated" [Besançon 2017: 66–67].

Perhaps it is precisely the transformation of the idea of human rights, this most serious modern limitation on the action of the authorities, which before our eyes is becoming an instrument of that authority and is beginning to contradict the most fundamental moral recognitions, that most eloquently reveals the indispensability – in a civilization built in dialogue with the Christian faith – of the reference to God in order to guarantee that the affairs of "this world" are managed in a way that is benevolent to man. In a world devoid of the *sacrum*, the *profanum* is sacralized and our cognitive faculties are impaired. At the same time, and as a consequence, human rights become detached from the objective good of the concrete human being and become an instrument of ideological struggle. The question arises: if the transformation of human rights can ultimately be read as one of the consequences of secularization, is there any escape route in today's world, or are we condemned to an ever faster downward spiral?

Discovering and naming the roots of the problem opens up the possibility of showing ways out of the 'dead end'. This was done not long ago by Benedict XVI.

In his work, he brought together, as it were, the Church's reflections to date and proposed a remedy that might also be acceptable to agnostics and atheists [Pera 2006]. In this last book before his election as Pope, Cardinal Ratzinger wrote: "In the age of the Enlightenment, the attempt was made to understand and define the essential norms of morality by saying that these would be valid *etsi Deus non daretur*, even if God did not exist. (…) At that time, this seemed possible, since the great fundamental convictions created by Christianity were largely resistant to attack and seemed undeniable. But that is no longer the case. The search for this kind of reassuring certainty, something that could go unchallenged despite all the disagreements, has not succeeded. Not even Kant's truly stupendous endeavors managed to create the necessary certainty (…) [T]he attempt, carried to extremes, to shape human affairs to the total exclusion of God leads us more and more to the brink of the abyss, toward the utter annihilation of man. We must therefore reverse the axiom of the Enlightenment and say: Even the one who does not succeed in finding the path to accepting the existence of God ought nevertheless to try to live and to direct his life *veluti si Deus daretur*, as if God did indeed exist. (…) This does not impose limitations on anyone's freedom; it gives support to all our human affairs and supplies a criterion of which human life stands sorely in need" [Ratzinger 2006: 50–52]. One may add: starting with human rights.

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