

CHRISTIAN ANTHROPOLOGY AND THE EFFECTIVENESS OF HUMAN RIGHTS OF AN ECONOMIC CONTENT

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In these pages we shall explore an issue so common and general that it receives absolutely no consideration. This lack of consideration represents a flagrant contradiction in the principles and attitudes of humans, and particularly those who, at a national and international level, have the function of managing the *res publica*, agreeing on and setting its objectives, on the one hand, whilst controlling the execution and achievement of these objectives, on the other.

We refer, naturally, to the recognition and solemn proclamation of certain rights corresponding to human persons, as people, when in fact such declarations in not a few instances, are mere public tokens, a theoretical reference not reflected in the real world. In that real world, the subjects find themselves deprived of many formally declared rights, and such a situation does not trouble the conscience and will of those who could and should oversee their effectiveness and efficiency.

Less than six months ago the entire world, and particularly the developed world, celebrated the sixtieth anniversary of the Resolution of the General Assembly of the United Nations by which the Universal Declaration of Human Rights was adopted and proclaimed. The text, coming in the wake of the Second World War, had the explicit aspiration of building a world in freedom, a world in which justice would reign and peace would be guaranteed. This could only be achieved by virtue of the recognition of the fundamental rights of man, of all men and women, without distinction. Hence, all the peoples and nations who came together reaffirmed their faith in the 'dignity and value of the human person', which constitutes the basis of such rights.

Sixty years subsequent to the proclamation of such faith in the rights, the dignity and the value of the person, it is necessary to question the effects

of that reaffirmation of faith, at a time when it is easy to demonstrate the denial of the most essential human rights in many countries and the fact that other rights are not guaranteed in virtually any country within the current world context. Herein, we shall focus on human rights of an economic nature, the proclamation of which has not been translated into political, economic and social reality.

It is surely true that other rights, perhaps those most essential for the very existence of man – the right to life itself – have been diminished in numerous legal systems under different pretexts. These pretexts include: the concept of human life, the moment at which life begins, the alleged conflict between the right to life of the unborn and right of the mother to terminate pregnancy, etc. We witness the regulation of abortion, or indeed, the right to decide the moment at which a life should be terminated, in the case of euthanasia, where the concept of the dignity of the person is identified with physical or mental state. Here it is right to unmask the creation of a legal structure which, with a large dose of pharisaism, attempts to justify the negation of a human right – the right to life¹ – by means of elaborate arguments, which add nothing to the dignity of life but rather clothe the perversion in a mantle of legality, a legality bereft of any basis apart from the positivism of the will of the legislator, in the absence of any other reference.

It is indeed true that different levels of recognised human rights can be distinguished, especially if we consider their transcendence, but it is no less true that they must enjoy legal protection in order to be exercised with full guarantees. When this does not occur, it is necessary to examine the underlying reasons. Perhaps the items contained in the Preamble to the Declaration are accepted formally but without any conviction on the part of the signatories.

Its wording, on the other hand, leaves no room for doubt. *Whereas* recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world...

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have

¹ United Nations, *The Universal Declaration of Human Rights*. Resolution adopted by the General Assembly of the United Nations on 10th December 1948, art. 3. Literally *Everyone has the right to life, liberty and security of person.*

determined to promote social progress and better standards of life in larger freedom'.² It is clear that *intrinsic dignity* is an attribute that belongs to the human being himself and cannot be subject to the decision of third parties, regardless of whether such third parties constitute a majority or a unanimous group.

The term *human family*, used in the Declaration to refer to the members of humanity, is the express acknowledgement of a common origin, as children of the same Father, united by common paternity in a brotherhood, a *fraternity*, which should be the distinguishing feature of our common behaviour. The text of the Declaration itself states: 'All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood'.³

Before entering into considerations of the greater or lesser effectiveness of the human rights we wish to examine, we would like to emphasise the clarity of the text of the Declaration and its unequivocal meaning. It is obvious, and this can be deduced from the literal nature of the text, that the peoples of the United Nations, through their representatives, were conscious that they were not legislating for the purposes of creating or endowing humanity with rights that would guarantee peaceful co-existence. They were, rather, compiling and rubberstamping in the form of a Universal Declaration, the express acknowledgement of rights corresponding to all men and women in equality, because of the simple and marvellous fact of their being men and women. These are inalienable rights inherent to them, whose existence does not depend on the will of another man or other men and women, however wise, prevalent or powerful these others might be.

The greater the degree to which we accept this characteristic of the rights included in the Declaration, the greater the doubt with respect to the scant efficiency of their application in some cases and the fact that they are completely ignored in others. Even more humiliating for humanity is the lack of unanimous and effective outrage at the systematic violation of human rights in not a few countries. This is true even of those rights which constitute the motto on the frontispiece of the Universal Declaration: 'life, liberty and security of person'.

² United Nations, *The Universal Declaration of Human Rights*. Resolution adopted by the General Assembly of the United Nations on 10th December 1948, Preamble.

³ United Nations, *The Universal Declaration of Human Rights*. Resolution adopted by the General Assembly of the United Nations on 10th December 1948, art. 1.

REGARDING THE NATURE OF HUMAN RIGHTS

Also known traditionally as Natural Rights, these rights correspond to and form an inseparable part of the human person, the human person as a creature created in the image of the Creator, privileged amongst the beings of the Creation and the only living creature loved by God for himself.⁴ Based on these postulates, Fray Luis de León said, ‘...though God created all things with order and composed an admirable harmony between them, he did not leave man without a concerto, nor wished him to live without rules or be in dissonance with his music... On composing this universal concerto, as a clear mirror image, he pointed to man with his finger and said to him: “Do you see? This is it. Here you can clearly understand that your welfare is to obey my law and your wisdom to know it; here you will find that you have your law; here you will see that by virtue of this law, like all other creatures, you will be in consonance with all aspects of the world; here you will come to understand that, if you break this law, you will be in dissonance with such aspects, you will contradict them and they will become your enemies... and in the same way that I embedded within the very being of other creatures the law to be followed, to you I gave the intelligence to understand my commandments; and in the same way that other creatures follow the intentions of the law, your intelligence is given to serve my law; and in the same way that their entire vocation and actions are devoted to following this law, your entire knowledge and life consists of such service”’.⁵

This higher law that governs the life of man, as part of the project of his creation, has had a permanent presence in humanity, as a vital reference for each individual and for the community as a whole. This can be inferred from the writings that form part of our knowledge. This need is manifest in cultures of profound belief, such as those committed to paganism.

The vision of the problem in classical Greece and Rome

The Greek texts are impregnated with petitions to the gods, be they petitions for mercy in the face of human injustice, or framework references for

⁴ *Vide* Second Vatican Ecumenical Council Pastoral Constitution *Gaudium et spes*. Rome 07.12.1965, num. 24. Literally: ...*man, who is the only creature on earth which God willed for itself...*

⁵ Fray Luis de León, ‘Exposición al Libro de Job’. Chap. XXVIII. In *Obras completas castellanas de Fray Luis de León*, vol. 2. Biblioteca de Autores Cristianos. 5th Revised Edition. Madrid 1991.

the regulations governing life in community. In Homer, the Greek playwrights and the philosophical schools, there are constant references to a superior wisdom, to the configuration of a higher order that inspires the temporal order of things and therefore limits the will of the *polis* and their government, in order to better guarantee the reign of justice.

In that sense, Sophocles provides us with a very expressive reminder in a scene in which Antigone, who had buried her brother Polynices in contravention of the decree of Creon, the king of Thebes, is asked by the latter, 'and you dared to transgress these laws?' She exclaims, 'it was by no means Zeus who so decreed, nor was it the justice that cohabits with the divinities below... And I did not believe that your proclamations carried such weight that, being mortal, one could pass over the firm and unwritten laws of the gods... I could not, for fear of the opinion of any man, pay the punishment for this before the gods...'⁶ This is a clear argument that the law emanating from the King of Thebes must be subordinate to the ruling of a higher order, the eternal law of the gods. Here we have two levels, one of permanence – the eternal law of the gods – and the other of contingency, transience and opportunism – the prohibitive decree of Creon.

There are also numerous passages in Virgil's *Aeneid* that feature references to laws of a higher order, emanating from the gods for the order of man. Passages along the following lines: 'Do not be afraid Citerea... Aeneas... will unleash a great war in Italy and he will strike fierce peoples and impose laws and walls upon their men'; '...the greying Fides, and Vesta and Quirinius with his brother Remo will give their laws...'; speaking of Aeneas, he said that, 'he imparted justice and laws to the people...' (Book I). In another section, '...and he gave them laws...' (Book III). Also, '...he would give his laws to the entire globe...' (Book IV). With greater expressivity, he said '...he will indicate the forum and give laws to the fathers there gathered...' (Book V). '...first from heavenly Olympus came Saturn, fleeing from the arms of Jupiter and expelled from the lost kingdom. He established that rebellious and disperse people on the high mountains and gave them laws' (Book VIII). Finally, '...the merciful Aeneas... cried out to his people... Repress your anger! The pact is already agreed and all its laws are fixed' (Book XII).⁷

⁶ Vide Sófocles (491 B.C. – 406 B.C.), *Antígona*. Editora Nacional. Madrid 1977; margin numbers 449-459, p. 188. (*Author's translation*).

⁷ Publius Virgilius Maro (70 B.C. – 19 B.C.), *Eneida*. (*The Aeneid*). Books I, III, IV, V, VIII and XII. Edit. Planeta. Barcelona 2000. (*Translation into English by the author*).

But of all pagan thinking, it is perhaps Cicero who most brilliantly represents the concept of a higher law, independent of the will of the legislator and providing the legislator with a framework. Cicero said, 'legal science should not take as its source praetorian Edict, as practically all do today, or the Twelve Tables, as the ancestors did, but rather the essential philosophy itself'.⁸ This essential philosophy is the main source of inspiration behind legislative activity and must be adhered to.

More specifically, he said elsewhere that, 'True law is an upright reason, consistent with nature, applicable to all, constant, enduring, whose precepts lead to the fulfillment of duties and whose prohibitions distance man... It is not legitimate to suppress this law, or partially derogate it, or abrogate it entirely. Nor can we be exempted from this law by the will of the senate or the people. Nor should we seek a Sixth Elio to explain and interpret this law. Nor can it be different in Rome and in Athens, today or tomorrow. On the contrary, there will always be one single law for all peoples and times, enduring and immutable; and there will be one god as a master or chief, common to all, to the author of such law, judge and legislator. He who disobeys flees from himself and will suffer the maximum penalty for having shunned human nature, however much he manages to escape from what he considers punishment'.⁹

Cicero clearly speaks of a single law for all, an immutable and enduring law, whose author is a unique god, master and chief of all. Furthermore, he adds that whoever disobeys this law, which constitutes an integral part of human nature, *flees from himself*, meaning that he will not find peace and

⁸ Marcus Tullius Cicero (106 B.C. – 43 B.C.), *De Legibus*. I, 5. Centro de Estudios Políticos y Constitucionales. Madrid 2000, p. 69. The original text is as follows: *Non ergo a praetoris edicto, ut plerique nunc, neque a duodecim tabulis, ut superiores, sed penitus ex intima philosophia hauriendam juris disciplinam putas.* (Translation into English by the author).

⁹ Marcus Tullius Cicero (106 B.C. – 43 B.C.), *De Republica*. III, 22. Edit. Gredos. Madrid 1984, p. 137. The original text, ist: *Est quidem vera lex recta ratio, naturae congruens, diffusa in omnes, constans, sempiterna, que vocet ad officium jubendo, vetando a fraude deterreat... Huic lege nec abrogari fas est neque derogari ex hac aliquid licet, neque tota abrogari potest; nec vero aut per senatum aut per populum solvi hac lege possumus, neque est quaerendus explanator aut interpret ejus alius; nec erit alia lex Romae, alia Athenis, alia nunc, alia pothac, sed et omnes gentes et omni tempore una lex et sempiterna et immutabilis continebit, unusque erit communis quasi magister et imperator omnium Deus; ille legis hujus inventor, disceptator, lator; cui qui non parebit, ipse se fugiet ac, naturam homini aspernatus, hoc ipso luet máximas poenas, etiam si cetera supplicia, quae putantur, effugerit.* (Translation into English by the author).

will suffer the maximum penalties for *having shunned human nature*. For to disrespect a law intrinsic to man himself is to disrespect man, all men and therefore, human nature itself.

The nexus with that law, emanating from a single god, common master of all, is what determines the justice of the laws because ‘it is absurd to think that all that is determined by the customs and laws of the people is just. And if they are the laws of tyrants? If the Thirty Tyrants in Athens had wished to impose their laws or if the people of Athens had been happy with the tyrannical laws, would that make such laws just?... There is a single Law that unites the community of all men, and it is made up of but a single law, and such law is the just criterion that rules or prohibits. Whosoever ignores it, be it written or not, is unjust’.¹⁰

And what Cicero says regarding the will of tyrants, he also extends to the popular masses, though their votes might numerically far outweigh those cast by people of correct judgement. He is, therefore, conclusive in his judgement of the aims of such legal positivism, when he says, ‘If rights were founded on the will of the people, the decisions of princes and judges, robbery would be legal, forgery would be legal, the falsification of testaments would be legal, provided this was sanctioned by the votes and willingness of the masses. And if the will and opinion of the foolish is such that they, with their votes can pervert the nature of things, why then can they not sanction as good and healthy, what in reality is evil and pernicious?’¹¹

It is clear that Cicero believes laws to be founded on more permanent elements, on that single law for everybody – of which he spoke – permanent

¹⁰ Marcus Tullius Cicero (106 B.C. – 43 B.C.), *De Legibus*. I, 15. Centro de Estudios Políticos y Constitucionales. Madrid 2000, p. 93. The original text, is as follows: *Iam vero illud stultissimum, existimare omnia iusta esse qua escita sint in populorum institutis aut legibus. Etiamne si quae leges sint tyrannorum?. Si triginta illi Athenis leges imponere voluissent, et si omnes Athenienses delectarentur tyrannicis legibus, num idcirco hae leges iustae haberentur?... Est enim unum ius quo devincta est hominum societas et quod lex constituit una, quae lex est recta ratio imperandi atque prohibendi. Quam qui ignorant, is est iniustus, sive est illa scripta usquam sive nusquam.* (Author’ translation).

¹¹ Marcus Tullius Cicero (106 B.C. – 43 B.C.), *De Legibus*. I, 16. Centro de Estudios Políticos y Constitucionales. Madrid 2000, p. 95. The original text, is: *Quodsi populorum iussis si principum decretis, si sententiis iudicum iura constituerentur, ius essent latrocinari, ius adulterare, ius testaments falsa supponere, si haec suffragiis aut scitis multitudinis probarentur. Quodsi tanta potestas est stultorum sententiis atque iussis, ut eorum suffragiis rerum natura vertatur, cur non sanciant ut quae mala perniciosaque sunt, habeantur pro bonis et salutaribus?* (Translation into English by the author).

and immutable, emanating from a single god and substantially linked with and serving as sustenance to human nature itself. Other references are weak, ephemeral, voluble, based on the moods of princes, legislators or voters, with varying levels of knowledge or ignorance, and should not form any basis on which to found the community in which men live together.

It can be inferred that in both Classical Greece, with explicit petitions to their gods and the will emanating from them as the principal rectors of civic order, and the paganism of the blossoming Rome, with that call to the rules of a higher order, certainly higher than the will of princes and public servants, and also superior to the will of the people, that what is being demanded in terms of good governance for the *res publica*, is that the scope of legislative provisions be subject to permanent, common rules of a higher order and in accordance with human nature itself. Such rules, by definition, could not be the work of man, but rather must emanate from divinity, irrespective of our concept of this divinity. Such divinity must, naturally, be a higher being than the rest of humanity.

The people of Israel in the Old Testament

The experiences of the chosen people differ substantially from those of pagan Rome and Classical Greece. Cicero's references to the need for a common origin, a common god for all and permanent and immutable principles emanating from them, are the basis upon which the life of the people of Israel unfolds. With faith in a single God, Jehovah, creator of the world and all within it, known by means of the messengers and the prophets, who at all times instruct on the truth that has been revealed. From God emerges, as a living source, the supreme Law which should guide the conduct of the people, in order to be in accordance with his will. The goodness or evil of a human act will, therefore, depend on compliance with or failure to observe the revealed Law, which as such, is contained in the Holy Book and read in public and interpreted for the testimony and instruction of those who listen to it so that it can be put into practice.

The references to this Law of God, Law of Jehovah, occasionally Law of Moses and also, Law of the fathers, etc. are constant throughout the books that comprise The Old Testament, though it is important to note that we are speaking of the same Law in all cases; the Law that maintains the order of the Creation and to which created beings are subject, in accordance with its objectives. In some cases, these references are passages in which the necessity to observe the Law is proclaimed. This is true, for example, when

the Lord addresses Joshua in the following terms: 'Be strong and stand firm, for you are the man to give this people possession of the land which I swore to their ancestors that I would give them. Only be strong and stand very firm and be careful to keep the whole Law which my servant Moses laid down for you. Do not swerve from this either to right or to left, and then you will succeed wherever you go' (*Jos* 1:6-7).

To this call of Jehovah, there is a response, in some cases with a formal commitment in writing of the entire community, promising to follow the path laid down: '...have joined their esteemed brothers in a solemn oath to follow the law of God given through Moses, servant of God...' (*Ne* 10:30). In more than a few cases, it takes the form of an order to follow the path set out by the Law of God. An example is the order of David to his son Solomon, charging him with the construction of the Temple and which ends as follows: '...may Yahweh give you discretion and discernment, may he give you his orders of Israel, so that you may observe the Law of Yahweh your God' (*1 Cro* 22:12).

On other occasions, there is reference to the good arising from compliance with the Law of God or the bad arising from failure to obey. '...the kindly hand of his God was over him. For Ezra had devoted himself to studying the Law of Yahweh so as to put into practice and teach its statutes and rulings' (*Ezr* 7:9-10). In contrast, 'All these curses will befall you, pursue you and overtake you until you have been destroyed, for not having obeyed the voice of Yahweh your God by keeping his commandments and laws which he has laid down for you. They will be a sign and a wonder over you and your descendants for ever' (*Dt* 28:45-46).

We are speaking, therefore, of a law that is not the product of a whim on the part of men, leaders or people, kings, princes, judges or plebeians, but a law revealed by God to man. 'Yahweh said to Moses, "Come up to me on the mountain. Stay there, and I will give you the stone tablets – the law and the commandment – which I have written for their instruction"' (*Ex* 24:12). A Law revealed to man by God through Moses, a law that is innate in man and forms part of his very being, as a human person called to follow the path set out by the Creation: 'Wisdom comes from the lips of the upright, / and his tongue speaks what is right; / the law of his God is in his heart, / his foot never slips' (*Ps* 37:30-31).

If this Law is given by God to man, it is unnecessary to add that it is for all mankind; a common law for all, as Cicero would claim in the simple logic of the political administration of a community 'Yahweh spoke to Moses and said, "Speak to the Israelites and say... There will be one

law for you, members of the community, and the resident alien alike, a law binding your descendants for ever: before Yahweh you and the alien are no different". One law, one statute, will apply for you and the alien' (*Nb* 15:1-2, 15-16).

A single rule embedded in the heart of man, who tends towards its observance by virtue of his very nature, though it is true that freedom enables him to distance himself from it. These are the conclusive words of the Book of Jeremiah: 'Look, the days are coming, Yahweh declares, when I shall make a new covenant with the House of Israel (and the House of Judah)... Within them I shall plant my Law, writing it on their hearts. Then I shall be their God and they will be my people' (*Jr* 31:31 and 33). This rule, like any commandment, must be spread and made known so that it can be complied with or responsibility can be assumed for its rejection. Therefore, there are also multiple passages that describe the efforts and dedication of the peoples in spreading knowledge of the content of the Law of God. By way of example, it is sufficient to remind ourselves of the narration of how Jehoshaphat, in the third year of his reign, sent out his officials and with them the priests, 'They gave instruction in Judah, having with them the book of the Law of Yahweh, and went round all the towns of Judah instructing the people' (*2 Cro* 17:9).

In conclusion, the people of Israel lived with a knowledge, both of themselves and of the world, very different to that of their Greek and Roman contemporaries. The knowledge of a single God, Jehovah, the creator of man and all creatures, who manifested himself to the people through his messengers, and made known his doctrine, the Law of God, so that man could observe it faithfully and completely. Furthermore, mankind created by God assumes the prerogative or privilege of having been created in the image of God himself and God has entrusted him with the care of the creation, above all other created beings. The text of Genesis says: 'God said, "Let us make man in our own image, in the likeness of ourselves, and let them be masters of the fish of the sea, the birds of the heaven, the cattle, all the wild animals and all the creatures that creep along the ground". God created man in the image of himself, / in the image of God he created him, / male and female he created them. God blessed them, saying to them, "Be fruitful, multiply, fill the earth and subdue it. Be masters of the fish of the sea, the birds of the heaven and all the living creatures that move on hearth". ... And so it was. God saw all he had made, and indeed it was very good' (*Gn* 1:26-28, 30-31).

The contribution of Christianity: the iusnaturalist school

The incarnation of God in his son Jesus Christ, his birth, childhood and adolescence, his public life, his passion, Death and Resurrection, form a permanent testimony, through the will of the Father, to show man the way to salvation. In his own words: 'I am the Way; I am Truth and Life. / No one can come to the Father except through me' (*Jn 14⁶*). A way that appears secure to us because it is based on the mission of redemption of Jesus Christ, incarnate for that purpose: to free a people who had fallen into sin, founding a new alliance of reconciliation by forgiveness, which emerges from the commitment of the Son of God, his blood and his death, for the definitive triumph of the Glory, in the Resurrection.

Also expressive are the terms in which Saint Paul addresses the Hebrews: 'We have then, brothers, complete confidence through the blood of Jesus in entering the sanctuary, by a new way which he has opened for us, a living opening through the curtain, that is to say, his flesh' (*Heb. 10¹⁹⁻²⁰*). Herein lies the great difference of man in Christianity: a man who feels himself redeemed and with a project for life whose end is in its origins, i.e., the salvation, the meeting with the Father, beginning and end of all that is created. A path that manifests its presence to the eyes of humanity, like the most vivid of realities, whilst at the same time offering the greatest security, given that it simply leads to the Father, through the Son who redeemed us and showed us the road to salvation. Let us not forget that until Jesus Christ revealed himself to us as the road to the Father, only the High Priest had access, once a year, to the Saint of Saints.

In this way, man broadens his horizons and cooperates with and continues the work of the Creation, whilst, as the privileged being of the Creator, he is at the centre of his own creative project. Hence, the opening of that human horizon to transcendence, that is to say, to God. Man, according to the Pontifical Council for Justice and Peace, '...is open above all to the infinite – God – because with his intellect and will he raises himself above all the created order and above himself, he becomes independent from creatures, is free in relation to created things and tends towards total truth and the absolute good. He is open also to others, to the men and women of the world, because only insofar as he understands himself in reference to a "thou" can he say "I". He comes out of himself, from the self-centered preservation of his own life, to enter into a relationship of dialogue and communion with others'.¹²

¹² Pontifical Council for Justice and Peace, *Compendium of the Social Doctrine of the Church*. Libreria Editrice Vaticana, Città del Vaticano 2004, num. 130.

The *other*, is seen by the Christian as an opportunity to enter into perfection. The project of salvation acquires all its magnitude when we place it in humanity, and loses its meaning if we reduce it to a purely individual dimension. The 'I', as the horizon of life, is so reductionist that it ultimately denies itself. Before the image of a Christ offering himself up for all of us, there is no place for an exclusive or individualistic attitude in Christian life. Man is by nature a social being and therefore, he is sociable. He is called to a life in common, to enrich the community with his contributions and to be enriched by the contributions of the community. '...God did not create man as a solitary, for from the beginning "male and female he created them" (*Gen* 1:27). Their companionship produces the primary form of interpersonal communion. For by his innermost nature man is a social being, and unless he relates himself to others he can neither live nor develop his potential'.¹³

This sociability of man is based on an attribute given by God in order to distinguish him from other created beings: the rationality attached to freedom. Man is capable of thinking for himself and relating his thoughts to the environment of people and things in which his material, immaterial and spiritual life unfolds, for man is body and soul, matter and spirit. The words of John Paul II are clear: 'The spiritual and immortal soul is the principle of unity of the human being, whereby it exists as a whole... as a person. These definitions not only point out that the body, which has been promised the resurrection, will also share in glory. They also remind us that reason and free will are linked with all the bodily and sense faculties. *The person, including the body, is completely entrusted to himself, and it is in the unity of body and soul that the person is the subject of his own moral acts.* The person, by the light of reason and the support of virtue, discovers in the body the anticipatory signs, the expression and the promise of the gift of self, in conformity with the wise plan of the Creator'.¹⁴

This unity of being, body and soul, had already been described by Saint Augustine on asking himself about man. 'What is man? A rational soul with a body... – Before he says – A rational soul with a body does not make two people but rather a single man'.¹⁵ The union of body and soul is a substan-

¹³ Second Vatican Ecumenical Council, Pastoral Constitution *Gaudium et spes*. Rome 07.12.1965, num. 12.

¹⁴ John Paul II, Encyclical letter *Veritatis splendor*. Rome 06.08.1993, num. 48.

¹⁵ Saint Augustine, 'In Iohannis Evangelium' XIX, 15, pp. 512-513. Literally, *Quid est homo? Anima rationalis habens corpus... Anima habens corpus non facit duas personas sed unum hominem*. In *Obras de San Agustín*, Vol. XIII. – *The text among scripts is mine* –. Bi-

tial union, in which there is an indisputable hierarchy. The soul gives life to the body and God gives life to the soul. Similarly, the soul is spiritual and it is endowed with memory, understanding and will, attributes which do not constitute three lives, but rather a single life and substance.¹⁶

The body is not a simple instrument, a simple tool designed for the achievement of external objectives. On the contrary, it forms part of our very nature; indeed, we cannot forget that it was God himself who created it and, therefore, it is called to serve those ends for which it was created. When the body is separated from the paths that lead to the creator, it becomes the prison of the soul, inextricably linking it to its corruption. When this is not the case, the body enables man to connect to the material world and affords him the opportunity to exercise virtue using his own free will.

It is the spiritual dimension that exalts man above all other created beings. It is in his interior that man will come to know the Truth, and in its light, he will feel himself, not to be a mere appendix or anecdote of the creation, but rather a central part of it. '...man is not wrong when he regards himself as superior to bodily concerns, and as more than a speck of nature or a nameless constituent of the city of man. For by his interior qualities he outstrips the whole sum of mere things. He plunges into the depths of reality whenever he enters into his own heart; God, Who probes the heart, awaits him there; there he discerns his proper destiny beneath the eyes of God'.¹⁷

He decides his own destiny insofar as, by design of the Creator, he enjoys freedom. Thus, man can be defined as an *animal insecurem*, by comparison with the rest of the animals whose evolutionary possibilities are predetermined by their nature. The rich possibilities of man are shown externally through multiple expressions, but uncertainty, even within certainty, is also part of the human reason. Man is a doubting being, erroneous, uncertain, conscious of his limitation, his ignorance and his shortcomings. When he makes a decision, he does so with caution, for fear of

biblioteca de Autores Cristianos. Madrid 1955. (Translation into English by the author). In analogous sense, 'De quantitate animae' XIII, 22; also in 'De moribus Ecclesiae', I, 27, 52.

¹⁶ Vide Saint Augustine, 'De Trinitate' Book XI, Chapt. 4.7, pp. 624-628. In *Obras de San Agustín*, Vol. V. Biblioteca de Autores Cristianos. Madrid 1956. (Translation into English by the author); also 'Confesiones' Book X, Chapt. VI on, pp. 478 and on. In *Obras de San Agustín* Vol. II. Biblioteca de Autores Cristianos. Madrid 1955.

¹⁷ Second Vatican Ecumenical Council, Pastoral Constitution *Gaudium et spes*. Rome 07.12.1965, num. 14.

erring amidst the uncertainty he feels. He is uncertain that even the simplest information is entirely within his possession.¹⁸

This does not invalidate the principle of *nihil volitum nisi precognitum*. What we mean is that in ourselves, decisions of a diverse nature are produced. In effect, there are decisions that correspond to a reality, which, as far as we are aware, can be considered fully known and only error proves that our knowledge was not complete. But there are also those which are either pre-conscious decisions, on which we do not consider any possible contradiction, or decisions taken within the darkness of our knowledge. Therefore, following Hartmann, we can state that while, on the one hand, our freedom is an indication of our similarity to God, on the other, it shows our great inferiority to him.¹⁹

The great number of possibilities shown by man in his being and deeds leads us to conclude that his creation is of a singular rather than repetitive nature. That is to say 'Man exists as a unique and unrepeatable being, he exists as an "I" capable of self-understanding, self-possession and self-determination. The human person is an intelligent and conscious being, capable of reflecting on himself and therefore of being aware of himself and his actions. However, it is not intellect, consciousness and freedom that define the person, rather it is the person who is the basis of the acts of intellect, consciousness and freedom. These acts can even be absent, for even without them man does not cease to be a person',²⁰

It is the subjectivity of man that ultimately configures him. His conscience and freedom lead him to construct, by virtue of his deeds, his own story, a story that differs from that of any other similar creature. Hence, it is impossible to reduce the immense human wealth to rigid formulae or schemes governing thoughts or actions. In this sense, Ortega is quite right when he states '... "human life", our life, the life of each and every one of us, has nothing to do with the biology or science of organic bodies... The primary and true meaning of the word "life" is not, therefore, biological but

¹⁸ Vide Carl Menger, *Principles of Economics*; with an introduction by Frank H. Knight. Free Press. Glencoe, Illinois, 1950. Also with an introduction by F.A. Hayek. New York University Press, New York 1981.

¹⁹ Vide Nicolai Hartmann, *Das Problem des geistigen Seins: Untersuchungen zur Grundlegung der Geschichtsphilosophie un der Geisteswissenschaften*. Walter de Gruyter & Co. Berlin 1933, pp. 143 and on. There is another edition from 1962, by the same editor.

²⁰ Pontifical Council for Justice and Peace, *Compendium of the Social Doctrine of the Church*. Libreria Editrice Vaticana. Città del Vaticano 2004, num. 131.

biographical, a meaning it has always had in common language. It signifies all that we do and all that we are, that terrible task... of sustaining ourselves in the universe, of carrying or moving oneself amidst the things and beings of the world. "Living is, indeed, dealing with the world, addressing it, acting within it and being occupied by it".²¹

It is the unrepeatable singularity of man, that biographical rather than biological dimension, which gives rise to the imperative respect for his dignity when he cultivates and develops within himself the sociability that forms the community of persons. This dignity is inherent to him because he has been created in the image and likeness of God and, therefore, must be recognised, valued and protected by all, in the interests of a correct social order, in which personal order prevails over real order.²²

The variety and variability of the external world, and even the internal world, with which man interacts, would present itself to man as a *totum revolutum*, as a confusing amalgam, if it were not for the mediation of this idea of order, not as a mere subjective guideline, but as a harmonic structure, a scheme of true connection amongst things. 'Where plurality exists without order, there is confusion' in the words of Saint Thomas.²³

This concept of order refers us to the concept of the end. Every being has a natural inclination and sufficient disposition to the achievement of the end that is inherent to him and this end orders his behaviour. The end implies a sense of good. In turn, in every subject, true good is to be found in the achievement of his own end, that end which is the reason for his creation, that is, the end that represents the fullness of his essence. Hence, our tendency to achieve that end, or those ends, that are in accordance with our rational and free nature, is, in other words, our tendency towards good. The words of Saint Augustine tell us that good rests on the same concept as being: 'In quantum sumus, boni sumus'.²⁴ Likewise, Saint Thomas Aquinas said that: '...all beings, as such are good, not to exist and not to be good is

²¹ José Ortega y Gasset, 'Misión de la Universidad'. Revista de Occidente. Madrid 1930; p. 109. (Translation into English by the author).

²² Vide Second Vatican Ecumenical Council, Pastoral Constitution *Gaudium et spes*. Rome 07.12.1965, num. 26.

²³ Saint Thomas Aquinas, *Summa Theologiae*. Ia, q.42, a.3. Biblioteca de Autores Cristianos. Fourth edition. – Reprint –. Madrid 2001; Vol. I, pp. 409-410. (Author's translation).

²⁴ Saint Augustine, 'De doctrina christiana'. I, 32, pp. 98-99. In *Obras de San Agustín* Vol. XV. Biblioteca de Autores Cristianos. Madrid 1957. (Author's translation).

the same'.²⁵ On another occasion, he said: "good is what everyone desires" Indeed, as the reason for good is the end... all to which man feels naturally inclined is seen by reason as good, and as an end, something that must be procured. We therefore find, above all in man, an inclination he has in common with all substance, consistent with the fact that all substance, by nature, tends to preserve its own being'.²⁶

From all this, it is inferred that human conduct will be appraised by the degree to which it achieves those ends which are an inherent part of its very nature. Therefore, in the same way as in speculative understanding we consider the principles governing a determined situation, when we enter the realm of practical understanding, of man's actions as a subject agent, the ends to which the action and its kindness are directed – that is, its essential relationship with the being – are what are relevant in terms of the moral or ethical-legal appraisal of man's deeds.

Those ends, to which man feels a natural inclination, are presented to man as ends to be achieved, ends to which he will direct his actions to enable their attainment, that is, to arrive at good. We are saying, therefore, that in the conscience of the subject, the ends to be pursued are not neutral. On the contrary, they generate duties. Indeed, if there were no ends to be achieved, ends that appealed to the will of the subject and motivated his action, the duties assumed by the subject and to which he configures his itinerary in order to accomplish them, would not exist. And lastly, if there were no duties to be undertaken by the subject, rights would not exist. Rights that ultimately come down to the authority which should be guaranteed to those subjects, so that they have at their disposal the necessary means to enable them to fulfil their duties and, therefore, achieve the established ends.

If every created being has a mission to accomplish, a function to carry out towards which he aspires, the natural inclination of man will be to devote himself to his end, which is to participate in the Glory of God. We are not the owners of our destiny, but we have conscience and freedom with respect to such destiny. Our properly formed conscience allows for free discernment. Such freedom can deny the appeals of the conscience, as hap-

²⁵ Saint Thomas Aquinas, *Summa Theologiae*. Ia, q.48, a.1. Biblioteca de Autores Cristianos. – Reprint –. Madrid 2001; Vol. I, p. 473. (Author's translation).

²⁶ Saint Thomas Aquinas, *Summa Theologiae*. Ia-IIae, q.94, a.2. Biblioteca de Autores Cristianos. – Reprint –. Madrid 2001; Vol. II, p. 732. (Author's translation). In an analogous sense, vide also, Ia-IIae, q.18, in the same volume, pp. 177-190.

pened in the Garden of Eden (*Gn* 2:16-17, 3:6),²⁷ but with this denial, man would contradict himself, his very nature and his own end. In the terms of Genesis, he would be *doomed to die*.

In effect, 'God, on conceiving the essence of creatures, gives them an end and a direction, and though they are temporary, the divine reason must consider them and understand them as an eternal concept. One God, one idea, one will, one law; but several sectors in the application of that law. The eternal law projects itself over the organic and animal world and, as we rise through its scale, we perceive certain immediate reactions and visions which give the subject the appearance of autonomy and personality; it finally falls on man, and influences two powers, understanding and will. These are capable of recognising the eternal law and freely adjusting to it, but may also, by virtue of the risk inherent in human liberty, violate it temporarily, though in the end they will not elude its sanction'.²⁸

Saint Thomas defined the eternal law as 'the will of divine wisdom as the guiding principle of every deed and movement'.²⁹ In other words, it is the will of divine wisdom in the ordering of all things to their ends, or the reason for the order governing all creation. Saint Augustine had already defined it as 'divine reason or will of God, which commands the preservation of the natural order and forbids its perturbation'.³⁰

We are speaking of a law, the eternal law, aimed at the complete order of the universe, at the ends of creation itself, and therefore, at created beings. On contemplating the embedding of the eternal law in the human creature, we find ourselves before the Natural Law. It is indeed true that natural laws

²⁷ The literal text is as follows: 'Then Yahweh God gave the man this command, 'You are free to eat of all the trees in the garden. But of the tree of the knowledge of good and evil you are not to eat; for, the day you eat of that, you are doomed to die'...

The woman saw that the tree was good to eat and pleasing to the eye, and that it was enticing for the wisdom that it could give. So she took some of its fruit and ate it. She also gave some to her husband who was with her, and he ate it'. The text is from 'The New Jerusalem Bible'. Doubleday, New York 1990.

²⁸ José Cortés Grau, *Curso de Derecho Natural*. Editora Nacional. Madrid 1953, pp. 195-196. (Author's translation).

²⁹ Saint Thomas Aquinas, *Summa Theologiae*. Ia-IIae, q.93, a.1. Biblioteca de Autores Cristianos. – Reprint –. Madrid 2001; Vol. II, p. 723. (Author's translation). The original text says: *Ratio divinae sapientiae, secundum quod est directiva omnium actuum et motionum*.

³⁰ Saint Augustine, *Contra Faustum*, XXII, 27, p. 540. The literal text, is: *Ratio divina vel voluntas Dei, ordinem naturalem conservari iubens, perturbari vetans*. In *Obras de San Agustín* Vol. XXI. Biblioteca de Autores Cristianos. Madrid 1993. (Author's translation).

can be understood as those laws that govern all creation. However, when we speak of the Natural Law, we are referring to the eternal Law, in accordance with the concept outlined above, insofar as it takes account of and affects human creatures, insofar as it governs human deeds. Saint Thomas defined it as, ‘...participation of the eternal law in the rational creature...’.³¹

We call it natural because it forms part of our very nature, because we can come to know it through the natural forces of reason and because we have a natural inclination to observe it. Such observance results in our satisfaction, while failure to observe it brings us discomfort and remorse. In this way, the legal order is no more than a sub-system within the universal order to which it belongs. When we endeavour to judge a deed or behaviour in terms of morality or justice, our reason is the second criterion. The first is none other than the eternal law.³² In this sense, when we observe the rule, we are not creating it, but simply confirming it. In contrast, when we break the rule, we are not abolishing it. We are simply eluding it, as if it did not exist, until remorse imprisons our conscience.

Saint Thomas expressed this in the following terms: ‘...the first principle of practical reason is that which is founded on the notion of good, and it is formulated thus: “good is what everyone desires”. In consequence, the first precept of the law is: “good must be created and sought after; evil must be avoided”. And on this are founded the remaining precepts of the Natural Law, so that what has to be done or avoided falls under the precepts of this law insofar as practical reason naturally understands it as human good’.³³ Let us not forget, to avoid confusion, that the concept of human

³¹ Saint Thomas Aquinas, *Summa Theologiae*. Ia-IIae, q.94, a.2. Biblioteca de Autores Cristianos. – Reprint –. Madrid 2001; Vol. II, p. 732. (Author’s translation). In an analogous sense, vide also, Ia-IIae, q.18, in the same volume, pp. 177-190.

³² With quite a lot of differences, this was the underlying sense of the exclamation of Antigone in answering the interpellation of Creonte because of having unfulfilled a prohibitive ordinance (*Vide footnote 6*), or the statement of Cicero that the rights cannot be founded in the will of the people, of the princes or in the sentences of the judges (*Vide footnote 11*).

³³ Saint Thomas Aquinas, *Summa Theologiae*. Ia-IIae, q.94, a.2. Biblioteca de Autores Cristianos. – Reprint –. Madrid 2001; Vol. II, p. 732. (Author’s translation). The text is as follows: *...primum principium in ratione practica est quod fundatur supra rationem boni, quae est: ‘Bonum est quod omnia appetunt’. Hoc est ergo primum praeceptum legis ‘quod bonum est faciedum et prosequendum, et malum vitandum’; et super hoc fundantur omnia alia praecepta legis naturae, ut scilicet omnia illa facienda vel vitanda pertineant ad praecepta legis naturae, quae ratio practica naturaliter apprehendit esse bona humana.*

good is not whimsical, random or dependent on the transient and gratuitous opinion of each man. On the contrary, it is intrinsically linked to the end which is a natural part of the human condition.

The primary fundament of the Natural Law is the eternal Law, which accommodates the ends and possibilities of human nature. Natural cannot be interpreted as irrational, all that is the product of a spontaneous outbreak or uncontrolled impulse, because human nature is rationality and freedom above all other things. Rationality and freedom prevail over lower impulses, which in no way separate man from other animals, animals guided by instincts or uncontrolled or irrational reactions. If man acts in contrary to his reason he is contradicting himself. From the stoics, through Cicero's *vera lex, recta ratio*, through all the Scholastics, and through Grotius's *dictatum rectae rationis*, the rationality of the human being forms the basis of iusnaturalism. Nonetheless, it must be added that human reason does not create the order. Rather it affords the opportunity of coming to know it. Therefore, it cannot have regulatory power in the same way as the Natural Law. Reason is the instrument for the discovery of the Natural Law and the means by which to understand its conclusions.

NATURAL LAW AND HUMAN RIGHTS

Is this merely a question of terminology? If that were so, it would not be worth devoting any attention to its study. Indeed, part of the doctrine used the term Rational Law to refer to Natural Law, as we have outlined above. The intention of this terminology was to link the legal phenomenon to man's rationality. It was, however, clearly given to understand that this law was embedded in the very nature of the human being, created in the image of God as a free and rational being. This is fully consistent with the human profile outlined in Christian anthropology. Nevertheless, the term human rights, at least in the way it is used, and given the diverse attitudes apparent in their application, generates, at the very least, a doubt which becomes a necessary ingredient for the confusion.

It is indeed true that in the Preamble to the Universal Declaration of Human Rights, it is established, as has been mentioned previously, that '...the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger

freedom'.³⁴ It is also obvious that if one has a clear concept of the *dignity and value of the human person*, there is no possible confusion because this concept is necessarily based on the fact of having been created in the image of the Creator. A privileged creature, on whom is bestowed authority over all that is created, and who is entrusted with caring for the garden for the purpose of cooperating in the work of the creation.

What is relevant, and worrying on a personal level, is that the replacement of the term Natural Law by Human Rights coincides with the beginning of the secularisation of life in community, and even more so, with the laicist empire in public life. This is why the proliferation of different interpretations of Human Rights is unsurprising, despite the fact that they are clearly expressed in the Declaration. Even the most indisputable rights are the object of constant offence. Pseudo-scientific arguments are used to justify such infraction, and the construction of these arguments shows the rejection of the basic principle of the recognition and respect for human dignity as it is understood by Christian anthropology, and as it can be understood from the underlying meaning of the term itself.

Let us reflect on the pages contributed by so-called scientific literature to decide the moment at which life commences and the time of its ending, for the simple purpose of casting humanity into the abyss of abortion and euthanasia. The discussion to justify abortion centres on the number of weeks of gestation or the presence of malformations in the unborn, which leads to the practice of abortion – euphemistically referred to in some countries, such as Spain, as *voluntary interruption of pregnancy* –.

Are we really before inalienable human rights inherent to the human person, representing Natural Law and in turn participation in the eternal Law? Or, on the contrary, are we faced with the codification of some rights agreed on by a concerto of nations, based on the express will of the legislators, more often than not with reservations of conscience, in order to decide the scope of their application? The risk is alerted by Benedict XVI: 'Experience shows that legality often prevails over justice when the insistence upon rights makes them appear as the exclusive result of legislative enactments or normative decisions taken by the various agencies of those in power. When presented purely in terms of legality, rights risk becoming weak propositions divorced from the ethical and rational dimension which is their foundation and their goal. The *Universal Declaration*, rather, has

³⁴ *Vide* the reference made to footnote 2 at the beginning of this paper.

reinforced the conviction that respect for human rights is principally rooted in unchanging justice, on which the binding force of international proclamations is also based. This aspect is often overlooked when the attempt is made to deprive rights of their true function in the name of a narrowly utilitarian perspective'.³⁵

Hans Kelsen rejects the iusnaturalist concept of Natural Law because this entails, for him, an anarchic element, the reference to a Law superior to the positive laws emanating from State institutions. Such reference, according to Kelsen, diminishes the relevance of the latter and therefore, the authority of the State that enacts such laws. He, therefore, considers Natural Law as the expression of a forced and anarchic order.³⁶ According to him, this is due to the impossibility of reconciling the world of 'be' with that of the 'ought to be'. What is natural pertains to the former; that of the *sein* – that of *be* –, and what is legal or regulatory belongs to the world of *sollen* – that of the *ought to be* – according to Kelsen.

For Christianity, the question of Human Rights – accepting this name, which is by no means unworthy of their content – leaves no margin for doubt or distortion: '*...the roots of human rights are to be found in the dignity that belongs to each human being.* This dignity, inherent in human life and equal in every person, is perceived and understood first of all by reason. The natural foundation of rights appears all the more solid when, in the light of the supernatural, it is considered that human dignity, after having been given by God and having been profoundly wounded by sin, was taken on and redeemed by Jesus Christ in his incarnation, death and resurrection'.³⁷

And when we speak of 'all people', we mean precisely that, all men and women, regardless of their condition. In the eyes of God, there are no differences based on race, intelligence, strength, etc. In Saint Paul, 'You have stripped off your old behaviour with your old self, and you have put on a new self which will progress towards true knowledge the more it is renewed in the image of its Creator; and in that image there is no room for distinction between Greek and Jew, between circumcised and uncircumcised, or

³⁵ Benedict XVI, *Address to the General Assembly of the United Nations*. New York 18.04.2008; paragraph 8.

³⁶ *Vide* Hans Kelsen, *Die Philosophischen Grundlagen der Naturrechtslehre und des Rechtspositivismus*. Pan-Verlag. Charlottenburg 1928, p. 10. In their own words: *Das Naturrecht ist Seiner Idee nach zwangsfreie, anarchische Ordnung*.

³⁷ Pontifical Council for Justice and Peace, *Compendium of the Social Doctrine of the Church*. Libreria Editrice Vaticana. Città del Vaticano 2004, num. 153.

between barbarian and Scythian, slave and free. There is only Christ: he is everything and he is in everything' (*Col* 3:9-11, *in the same sense Ga* 3:28).

Accepting the situation as such, human rights do not arise from the will of men, or from public authority, or from the privilege of the few to legislate for the many. Rather, they emanate as a consequence of man and the plan God his Creator has for him, and the nature of human rights is deduced from the very nature of man. John XXIII expressed this in the following terms: 'Any well-regulated and productive association of men in society demands the acceptance of one fundamental principle: that each individual man is truly a person. His is a nature, that is, endowed with intelligence and free will. As such he has rights and duties, which together flow as a direct consequence from his nature. These rights and duties are universal and inviolable, and therefore altogether inalienable'.³⁸

They are *universal* because they belong to all humanity and individually to each person who makes up humanity. Human rights in their entirety and the specific right to exercise them correspond to each person. Society as a whole must respect the rights of each of its members and has the duty to oversee the effectiveness of such rights, so that recognition of them is not an empty pronouncement. The duty of all is, has been and will be, not to fall into the error of believing that Human rights constitute a closed and rigid code for a particular moment in history. This is a danger which may result from articulated documents that remind us of the benefits of any codification. The essential immutability of the Natural Law is linked to the immutability of human nature itself.

Human Rights progress and develop the virtualities that correspond to their own principles. They assimilate historical environments and endow them with the structure of universal order. Therefore, the static vision of Human Rights should be replaced by a dynamic concept, in touch with living reality, which after all is based on the development of the human person to whom they pertain. It can therefore be said that Human Rights are perfected in the manner of an idea that undergoes the process of becoming reality. This entails values which in themselves exist. Their existence cannot be denied but the appreciation we have of these principles and their formulation as laws comes from putting them into practice.

An excellent demonstration of what we are saying is to be found in the words of Benedict XVI to the United Nations: '...As history proceeds, new

³⁸ John XXIII, Encyclical letter *Pacem in terris*. Rome 11.04.1963, num. 9.

situations arise, and the attempt is made to link them to new rights. Discernment, that is, the capacity to distinguish good from evil, becomes even more essential in the context of demands that concern the very lives and conduct of persons, communities and peoples. In tackling the theme of rights, since important situations and profound realities are involved, discernment is both an indispensable and a fruitful virtue'.³⁹

It cannot be denied that the unfinished process of creation, in which man participates through his activity, constantly presents new scenarios that demand new responses, ones that only man can provide with correct judgement. Our reason is a constantly developing power that can enable the appreciation and knowledge of rights that have their basis in the dignity of the person to be updated in every historical moment. This does not mean the creation of new rights, but rather perception of the ramifications of the essential right of the person whose personal dignity and inherent rights are recognised and respected.

This is why His Holiness Benedict XV appeals to *discernment* as an instrument for such updating, for such development of the only nucleus, human dignity, as a source of all human rights. Once again, the leading role in the process lies within man himself. '...Discernment, then, shows that entrusting exclusively to individual States, with their laws and institutions, the final responsibility to meet the aspirations of persons, communities and entire peoples, can sometimes have consequences that exclude the possibility of a social order respectful of the dignity and rights of the person. On the other hand, a vision of life firmly anchored in the religious dimension can help to achieve this, since recognition of the transcendent value of every man and woman favours conversion of heart, which then leads to a commitment to resist violence, terrorism and war, and to promote justice and peace'.⁴⁰

In order to efficiently guarantee Human Rights, it is therefore essential that their origin and basis be placed in the *transcendental value of all men and women*, in what we have called the recognition of the dignity of the human person as such. This principle guarantees the essential immutability of human rights. It is the guarantee that the capriciousness that can arise from the changing situations of life does not alter the substance of Rights that belong to the human person by virtue of his very humanity.

³⁹ Benedict XVI, *Address to the General Assembly of the United Nations*. New York 18.04.2008; paragraph 9.

⁴⁰ Benedict XVI, *Address to the General Assembly of the United Nations*. New York 18.04.2008; paragraph 10.

Although we have entrusted discernment, which is the same as reason, and the conscience of the creature with the work of developing human rights in a historical context, both as regards time and place, the possibility of errors of reason or conscience cannot be overlooked. Therefore, man must endeavour to build an informed conscience which he will have at his disposal for faithful accomplishment of the end, as a co-operator in the work of the creation. This is why, John Paul II, aware of the possibility of deeds being affected by errors of conscience said that: ‘...in order to have a “good conscience” (1 Tim 1:5), man must seek the truth and must make judgments in accordance with that same truth. As the Apostle Paul says, the conscience must be “confirmed by the Holy Spirit” (cf. Rom 9:1); it must be “clear” (2 Tim 1:3); it must not “practise cunning and tamper with God’s word”, but “openly state the truth” (cf. 2 Cor 4:2). On the other hand, the Apostle also warns Christians: “Do not be conformed to this world but be transformed by the renewal of your mind, that you may prove what is the will of God, what is good and acceptable and perfect” (Rom 12:2)’.⁴¹

This possibility of error leads us to state that when Benedict XVI proposes discernment as the instrument for the development of Human Rights, he is not speaking of simply any discernment. On the contrary, paraphrasing John Paul II, he is specifying an informed discernment; discernment based on truth. Ultimately, a discernment based on man, on his origins and his end.

From all we have said, and following the line of John XXIII, Human Rights, by their very nature, are *inviolable*, since, to violate them is tantamount to denying the transcendental dimension of the human person and his inalienable dignity. Because Human Rights are inviolable, the respect of the entire community for such rights and the exercising of such rights must be guaranteed. Any right, whatever it may be, which fails to beget obligations of the community for its efficient application, is a statement bereft of content. The guarantee of its exercise, the demand for which is even greater when we speak of the rights of the person, is linked directly to the human condition itself; it is, therefore, distant, because this is insufficient, from the will of legislators and authorities, whose power is limited to the recognition of rights and to their observance for the purpose of a correct order in life in common. This authority does not extend to the creation of rights or to their concession.

⁴¹ John Paul II, Encyclical letter *Veritatis splendor*. Rome 06.08.1993, num. 62.

In addition to all this, they must also be *irrenounceable and inalienable*. Human Rights do not form part of the commerce of man. They cannot be renounced, as this would be tantamount to renouncing the human condition itself – a gift from God – nor can they be passed on because, being universal, the acquirer is already the owner of a full right, equal in extension and intensity. They are not tradable goods, because, in addition to renouncing his own dignity, the man would be availing of a right that God had entrusted to him to be exercised and administered correctly.

At this juncture, a question arises that has been present from the beginning. Is respect for Human Rights, all human rights, guaranteed by the man of today, in the awareness of the inalienable dignity of every human person? In the light of the Universal Declaration of December 10th 1948, is the determination to ensure their defence and efficiency deeply rooted in man? In other words, can it be said that this manner of being, this Christian anthropology, impregnates the consciences and guides the actions of the peoples of today?

A REFERENCE TO HUMAN RIGHTS OF ECONOMIC CONTENT

At the beginning of our reflections on the specific nature of human rights that enter the realm of economic activity, an activity placed at the service of man, I am overtaken by a series of doubts regarding the phenomenon that condition and, at the same time, are conditioned by the decisions of the human person when he chooses amongst alternatives in a rational manner. And all this from a perspective that requires little elaboration, given that these rights clearly have very limited, if any, effectiveness in the world of social and economic reality. Consequently, these lines will give rise to more open questions than answers regarding the problems underlying the area under study.

Efficiency is expected of any rule, to such an extent that a rule lacking efficiency might well be considered as non-existent. At best it is reduced to a mere guide on human conduct to be followed or not, as the case may be, by individuals, with no other result than the one produced deep within each actor.

It is, therefore, worth examining the nature of the rights proclaimed in the Universal Declaration of 1948. It is said of these rights, and it could hardly be otherwise, that their owner is the person. His dignity and intrinsic value is solemnly recognised and the rights are founded on his attributes. The declaration could not be more expressive: 'Everyone is entitled to

all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status'.⁴²

When the Declaration proclaims that the person is the possessor of *all rights*, it is simply stating an utterly irrefutable principle: that the rights contemplated, and those that might derive from their updating in times to come, constitute a single and integral whole. Therefore, it is inconceivable to attend to the guarantee of some rights and not to that of others. It is even less conceivable that the possession of some universally recognised rights is acknowledged, while that of others is denied. Such a supposition would be the equivalent of saying that some persons are born superior to others and that, because of their superior human condition, they possess more rights. In the Declaration itself at the beginning of the section dealing with provisions, it is clearly established that 'All human beings are born free and equal in dignity and rights'.⁴³

To divide the recognised and proclaimed rights into fragments of themselves, in such a way that there is greater stimulus to respect some in preference to others, would be equivalent to denying the very essence of Human Rights: the human person. In the words of Benedict XVI '...the universality, indivisibility and interdependence of human rights all serve as guarantees safeguarding human dignity. It is evident, though, that the rights recognized and expounded in the *Declaration* apply to everyone by virtue of the common origin of the person, who remains the high-point of God's creative design for the world and for history. They are based on the Natural Law inscribed on human hearts and present in different cultures and civilizations. Removing human rights from this context would mean restricting their range and yielding to a relativistic conception, according to which the meaning and interpretation of rights could vary and their universality would be denied in the name of different cultural, political, social and even religious outlooks'.⁴⁴

It is evident that Human Rights, insofar as they belong to the human person, have the same entity as that human person: unity, integrity, indivis-

⁴² United Nations, *The Universal Declaration of Human Rights*. Resolution adopted by the General Assembly of the United Nations on 10th December 1948, art. 2.

⁴³ United Nations, *The Universal Declaration of Human Rights*. Resolution adopted by the General Assembly of the United Nations on 10th December 1948, art. 1.

⁴⁴ Benedict XVI, *Address to the General Assembly of the United Nations*. New York 18.04.2008; paragraph 6.

ibility and, therefore, plenitude in the person, whose ownership of these rights derives from his dignity. This being so, what reason exists for certain rights to be given, at least in terms of social perception, a higher rank than others? It can be seen how respect is claimed for these rights, when those perceived to be of a higher rank are contravened. However, we must sadly state that their perception as having a higher rank does not result in the guarantee of their universal respect. I refer to the right of each individual to life, liberty and security of person (art. 3 of the *Declaration*), or to create a family (art. 16 of the *Declaration*), or to the recognition of their legal personality (art. 6 of the *Declaration*), or to be protected by the law (art. 7 of the *Declaration*), or the right to nationality (art. 15 of the *Declaration*), or to circulate freely and set up a residence (art. 13 of the *Declaration*), or the right to property, individual and collective (art. 17 of the *Declaration*), or the right to education and that of parents to choose the type of education for their children (art. 26 of the *Declaration*), etc.

It is clear that, in the case of all these rights and others omitted, in order to be brief, there is a social and public awareness of the duty to respect them and faithfully comply with them. This is true to the point that when they are not fulfilled in a given nation, cunning explanations are sought to cover up such infractions. In some cases, arguments of a scientific nature are offered, whilst, in others, reasons related to opportunity or convenience are present. Sometimes, it is simply declared that the rights are fully in force, when it is obvious that they do not enjoy any protection whatsoever.

Distinct consideration is given to the effective guarantee of other rights proclaimed in the Declaration and, as with most of those mentioned previously, they are incorporated literally into the different constitutions, which, as such, constitute the Law enacted by a superior order, which is the inspiration for legal-positive legislation. Let us consider, for example '...right to social security and... to realization... of the economic, social and cultural rights indispensable for his dignity and the free development of his personality',⁴⁵ or '...right to work, to free choice of employment... to protection against unemployment... to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity...'.⁴⁶

⁴⁵ United Nations, *The Universal Declaration of Human Rights*. Resolution adopted by the General Assembly of the United Nations on 10th December 1948, art. 22.

⁴⁶ United Nations, *The Universal Declaration of Human Rights*. Resolution adopted by the General Assembly of the United Nations on 10th December 1948, art. 23.

Perhaps the most ambitious of the human rights of an economic nature is represented by the proclamation in the Declaration that, 'Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services...'.⁴⁷

The description of each of the rights declared could not be more unequivocal. All have a positive content and, though the quantitative extent of protection could be subjected to some examination, it is indisputable that they are related to the dignity of the human person. Therefore, nobody should be the object of humiliation as a result of the degree of effectiveness of these rights. Furthermore, every right of a person, gives rise to a duty on the part of the rest of the community to protect that right, make it effective and ensure its complete fulfilment.

If this is the case, if the rights proclaimed in the Universal Declaration of 1948 are personal, inherent to the human person owing to the dignity that is part of him, if they are inalienable and irrenounceable, what can be said of the millions of people in the world suffering from unemployment, when every person has a right to work, and a substantial number of unemployed have neither benefits nor subsidies to alleviate their situation, when unemployment protection in order to guarantee standard of living is an established right?

Something similar could be said regarding the right to housing or clothing, ultimately, the right to a *decent standard of living*, corresponding to the dignity of man, when we see a third world, a world somewhat euphemistically called developing world, where there is a lack of the most essential necessities for the basic subsistence of human beings: hunger, disease, violence, death, extermination... these are situations also shared, almost in their entirety, by a fourth world, situated within the first world, living in the margin and ending up in exclusion. Where is the voice to claim the effectiveness of what is proclaimed in the Universal Declaration? Who is willing to listen to the voice of those who have no voice? Could it be that the proclamation is a necessary part of a political Declaration, when there is an underlying consensus that nothing can be done and that these are situations that must be fatalistically accepted?

Perhaps we are faced with the comprehensive statement of Adam Smith: 'Each sovereign, expecting little justice from his neighbours, is disposed to

⁴⁷ United Nations, *The Universal Declaration of Human Rights*. Resolution adopted by the General Assembly of the United Nations on 10th December 1948, art. 25.

treat them with as little as he expects from them. The regard for the laws of nations, or for those rules which independent states profess or pretend to think themselves bound to observe in their dealings with one another, is often very little more than mere pretence and profession. From the smallest interest, upon the slightest provocation, we see those rules every day, either evaded or directly violated without shame or remorse'.⁴⁸ In all probability, we are in a situation similar to that described in the text of the Scottish author: *rules evaded or violated, in the absence of shame or remorse*.

Since twenty centuries ago, we have been instructed in the universal destiny of goods, given that the goods of the Creation were created for all humanity and not just part of it. We are given the example of the Samaritan taking pity on and coming to the aid of the beleaguered man he meets along the way; we are offered the image of greatness presented by the opportunity given by the poor, to sit them at our table so that we might share with them the goods with which God has favoured us; we are taught the sense of fraternity and the practice of virtue as instruments that bring man closer to his perfection; we are encouraged to share, not just the superfluous, but also the necessary. Has this entire seed fallen on infertile ground? Is the enjoyment of full rights for some compatible with the lack of many such rights for others? Does the employed person know and appreciate the feeling of frustration and social marginalisation of the unemployed, particularly the long-term unemployed? Similar questions can be asked of each and every member of a community, because, in the words of John Paul II, when defining solidarity, this '...it is a firm and persevering determination to commit oneself to the common good; that is to say to the good of all and of each individual, because we are all really responsible for all'.⁴⁹

Nobody can remain distant from this reality because, in the ancient theory of law, every right in itself gives rise to a duty. The owner of a right is entitled to exercise it, with no limitations beyond those deduced as the configuration of the extent of its field of effectiveness. But, at the same time as this legal entitlement enables the owner to exercise that right, the converse of this right is the obligation or duty that falls on the community and is represented by the coherence of life with the right that is exercised. This implies a necessary respect for the rights of others and the exercise of such

⁴⁸ Adam Smith, *The Theory of Moral Sentiments*. Edited by D.D. Raphael and A.L. Macfie. Liberty Classics. Indianapolis 1982. Part VI, Section II, Chap. II, paragraph 3; p. 228.

⁴⁹ John Paul II, Encyclical letter *Sollicitudo rei socialis*, Rome 30.12.1987, num. 38.

rights and also the obligation to ensure that the exercise of this right is effective and not simply a token of goodwill or a proclamation bereft of content. It must be borne in mind that '...Every basic human right draws its authoritative force from the Natural Law, which confers it and attaches to it its respective duty. Hence, to claim one's rights and ignore one's duties, or only half fulfil them, is like building a house with one hand and tearing it down with the other'.⁵⁰

Therefore, we must all strive to ensure that rights of an economic nature are also efficient in the real world and are not reduced to simple speculation. Is this possible with the man of today? Adam Smith's presentation of the motivation of individuals hardly inspires hope: 'It is not from the benevolence of the butcher, the brewer, or the baker, that we expect our dinner, but from their regard to their own interest. We address ourselves, not to their humanity but to their self-love, and never talk to them of our own necessities but of their advantages. Nobody but a beggar chooses to depend chiefly upon the benevolence of his fellow-citizens. Even a beggar does not depend upon it entirely. The charity of well-disposed people, indeed, supplies him with the whole fund of his subsistence. But though this principle ultimately provides him with all the necessaries of life which he has occasion for, it neither does nor can provide him with them as he has occasion for them'.⁵¹

It is in Adam Smith's work itself that we discover the confirmation of a quite different personality. These, the butcher, the baker and the brewer, are engaged in productive activities in a competitive market, a market that ensures the efficient allocation of scarce resources. An efficient allocation whose guarantee is based on the fact that these are economic activities carried out with economic goods, goods that can be exchanged on the market through the use of the price mechanism. But man has more noble spheres of action, which cannot be placed within the simple framework of the market subjected to the mechanism of prices. Underlying such behaviour is altruism, the commitment to others, the desire to help others. In this behaviour, selfishness gives way to a preference for the interests of others.

⁵⁰ John XXIII, Encyclical letter *Pacem in terris*. Rome 11.04.1963, num. 30.

⁵¹ Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations*. General Editors R.H. Campbell and A.S. Skinner. Textual editor W.B. Todd. Liberty Classics. Indianapolis 1981. Vol. I, Book I, Chap. II, Paragraph 2; pp. 26-27.

Smith says: 'The wise and virtuous man is at all times willing that his own private interest should be sacrificed to the public interest of his own particular order or society. He is at all times willing, too, that the interest of this order or society should be sacrificed to the grater interest of the state or sovereignty, of which it is only a subordinate part. He should, therefore, be equally willing that all those inferior interest should be sacrificed to the grater interest of the universe, to the interest of that great society of all sensible and intelligent beings, of which God himself is the immediate administrator and director'.⁵²

In the light of this passage, the existence of a duality of sentiments in the human person can be asserted, as can the fact that they may be in some way compatible. Models which, distant from their principles, they communicate with each other and form part of wider spheres.

One model would be that presented by the butcher, the baker, and the brewer who, committed to the rational and efficient use of scarce resources, allow themselves to be guided by this end, the end of efficiency for the purposes of achieving the best possible result for their activity: to achieve, with the minimum resources, the maximum satisfaction for the greatest possible number of members of the community. The guiding lights – paths to follow – and the warning signals – areas to be avoided – are provided spontaneously by the market, in its own dimension and with its most visible instrument, none other than the mechanism of prices.

When the best has been achieved in the use of those resources, therefore resulting in the greatest accumulation of wealth for the community as a whole, we are faced with a second model, that of gratuity or a preference for the general interest over the individual interest. In this model, selfishness is renounced and gives way to benevolence, an attribute of the wise and virtuous. This model has the mission of ensuring that the wealth generated, benefits the entire community and not just part of it, with the rest left to live in poverty.

Why not trust everything to the market in the first model? Could man live with the avoidance of the consequences that the behaviour of the butcher or baker, carried out in exclusivity, would have for humanity? Or, in other words, would these characters omit such considerations when confronted by the poverty of their neighbours?

⁵² Adam Smith, *The Theory of Moral Sentiments*. Edited by D.D. Raphael and A.L. Macfie. Liberty Classics. Indianapolis 1982. Part VI, Section III, Chap. III, paragraph 3; p. 235.

If we consider the right to work that is proclaimed, does it not seem logical that the baker, brewer and butcher would be willing to reduce their personal salaries – perhaps also with a reduction in working hours – so that their children could have access to a job, without the need to increase the total wage bill? Given that salary determines the cost of the work, and therefore limits the possibilities of production in the market, by way of this procedure, the son would also exercise his right to work, without the need to contravene the laws of economic efficiency in the use of resources. Making the right to work effective involves making effective the fulfilment of the person as a co-operator in the work of the Creation and in the service of society itself. This is not achieved by unemployment benefits or subsidies, which must always be considered a last resort and used as an instrument by which the economic system attempts to alleviate the situation of the unemployed person, who is a victim of the failure of the system.

We cannot confuse what is central with what is an accessory, though the latter can frequently become a priority when the former fails. The terms used in Genesis are particularly eloquent as regards the place occupied by man in the Creation and, therefore, the mandate he receives from the Creator. ‘Man has to subdue the earth and dominate it, because as the “image of God” he is a person, that is to say, a subjective being capable of acting in a planned and rational way, capable of deciding about himself, and with a tendency to self-realization. As a person, man is therefore the subject of work. As a person he works, he performs various actions belonging to the work process; independently of their objective content, these actions must all serve to realize his humanity, to fulfil the calling to be a person that is his by reason of his very humanity’.⁵³

The fulfilment of man in his humanity is what work seeks to achieve; this is the man that feels himself to be a co-operator in the project of the Creation; it is the man who feels himself useful to society, to the community to which he belongs; it is the man who grows in skills, in knowledge, thereby cultivating the attributes and talents given him by God.

What prevents this from being possible? The answer lies in the selfishness of the butcher and his colleagues, contemplated in the text of Smith. A selfishness that creates the situation that leaves one of their sons unemployed, and who knows how many sons of those unacquainted to them. The latter are, however, their brothers in a community of men known as the *human family*.

⁵³ John Paul II, Encyclical letter *Laborem exercens*. Castelgandolfo 14.09.1981, num. 6.

And what we have said with respect to the right to work could also be said of the right to decent housing. Will the baker achieve ease of conscience living in certain comfort, in the knowledge that his son and grandchildren lack a home and wander errantly each day in search of refuge? Would he not reduce his comfort in order to share with them a modest dwelling? And is it so difficult that the benevolent attitude he shows to his son might be extended to other members of the community, be they acquaintances or not, who suffer similar shortages?

If what we are saying, appears to at least bear some proximity to the real world, it is easy to accept that deep down within man lie two tendencies engaged in a permanent struggle: the path of selfishness, which undoubtedly can provide short-term and ephemeral satisfaction, and the path of gratuity, of commitment, of benevolence, which in both the short term and the long term enable a greater degree of happiness. This is because the latter path is appropriate to man and only he has access to it. The horizon of man cannot be reduced to a purely material scheme, one similar to the role of raw materials or goods produced in economic activity or even the role carried out in such economic activity by living beings of the animal or vegetable world. Man, because of his dignity, occupies a privileged place above the rest of what is created and, therefore, his superiority shines within him: a superiority that enables him to appreciate and possess what exists outside the material world. Ludwig von Mises expresses this in a very natural manner: 'It is arbitrary to consider only the satisfaction of the body's physiological needs as "natural" and everything else as "artificial" and therefore "irrational". It is the characteristic feature of human nature that man seeks not only food, shelter, and cohabitation like all other animals, but that he aims also at other kinds of satisfaction. Man has specifically human desires and needs which we may call "higher" than those which he has in common with the other mammals'.⁵⁴

If we consider what is pursued by an action, any action and every action carried out by man, we shall have no difficulty in including amongst the objectives of human action, those of a higher rank, those needs or desires which, in the words of Mises, are *higher*, more in keeping with man, that is, the immaterial and spiritual objectives. '...Acting man is eager to substitute a more satisfactory state of affairs for a less satisfactory... The incentive that impels a man to act is always some uneasiness...

⁵⁴ Ludwig von Mises, *Human action. 'A treatise on economics'*. William Hodge and Company Limited. London, Edinburgh, Glasgow, 1949; pp. 19-20.

But to make a man act, uneasiness and the image of a more satisfactory state alone are not sufficient. A third condition is required: the expectation that purposeful behaviour has the power to remove or at least to alleviate the felt uneasiness. In the absence of this condition no action is feasible...⁵⁵

Indeed, was it not a feeling of discomfort that drove the butcher to share his job with his unemployed son? And was it not discomfort that moved the baker to reduce his physical comfort to provide a decent dwelling for his son and grandson? Then, unless their behaviour was irrational, it has to be concluded that the well-being or degree of satisfaction afforded by their actions is, in both cases, greater than the discomfort suffered by them owing to the decrease in salary, in one case, and the reduction of comfort, in the other.

Perhaps the problem lies in the possible asymmetry between the *micro* consideration, applied to the closest relations in a very narrow social circle, and the *macro* consideration, affecting humanity as a whole, which nonetheless we are not embarrassed to identify as the human family.⁵⁶ It is clear that from the individual perspective, the macro task of guaranteeing the efficiency of all human rights, including those of an economic content seems daunting and in fact, in all probability, it is. Nonetheless, for the achievement of this objective, individual conduct, in addition to the direct rewards produced, serves, in an indirect manner, as an example and stimulus to those who contemplate such conduct and who, considering it to be exemplary, opt to emulate it.

Smith clearly distinguishes the two levels and the duties pertaining to them. He states: '...The administration of the great system of the universe, however, the care of the universal happiness of all rational and sensible beings, is the business of God and not of man. To man is allotted a much humbler department, but one much more suitable to the weakness of his powers, and to the narrowness of his comprehension; the care of his own happiness, of that of his family, his friends, his country: that he is occupied in contemplating the more sublime, can never be an excuse for his neglecting the more humble department'.⁵⁷ The conviction that from the micro

⁵⁵ Ludwig von Mises, *Human action. 'A treatise on economics'*. William Hodge and Company Limited. London, Edinburgh, Glasgow, 1949; pp. 13-14.

⁵⁶ *Vide* United Nations, *The Universal Declaration of Human Rights*. Resolution adopted by the General Assembly of the United Nations, on 10th December 1948; Preamble, first paragraph.

⁵⁷ Adam Smith, *The Theory of Moral Sentiments*. Edited by D.D. Raphael and A.L. Macfie. Liberty Classics. Indianapolis 1982. Part VI, Section II, Chap. III, paragraph 6; p. 237.

sphere, macro objectives can be achieved, has been ever-present in the work of the Scottish economist.

To a large extent, this principle is responsible for the frequent confusion regarding Adam Smith's individualism and his formulations favouring selfishness and self-benefit as the single and ultimate driving force of economic activity. The reality is quite different and in it the good of the community, the common good, is present and plays a decisive role. Another matter is to consider whether this objective of the common good is guaranteed more on the basis of individual behaviour or on the basis of a hypothetical collective activity. In this context, let us remind ourselves of a passage in the *Wealth of Nations*: 'Every individual is continually exerting himself to find out the most advantageous employment for whatever capital he can command. It is his own advantage, indeed, and not that of the society, which he has in view. But the study of his own advantage naturally, or rather necessarily leads him to prefer that employment which is most advantageous to the society'.⁵⁸

The true objective is, therefore, the *employment most advantageous to the society*, though Smith considers that this is best achieved, albeit it not consciously, by each member of society making the most beneficial use of resources for themselves as individuals. We cannot forget that for the classical world there is no qualitative disassociation between the singular person and the community as a whole. The difference is merely quantitative.

An equivalent dimension is to be found in a text of Ricardo, in which he states: 'Under a system of perfectly free commerce, each country naturally devotes its capital and labour to such employments as are most beneficial to each. This pursuit of individual advantage is admirably connected with the universal good of the whole. By stimulating industry, by rewarding ingenuity, and by using most efficaciously the peculiar powers bestowed by nature, it distributes labour most effectively and most economically: while, by increasing the general mass of productions, it diffuses general benefit, and binds together by one common tie of interest and intercourse, the universal society of nations throughout the civilized world'.⁵⁹ Ricardo is con-

⁵⁸ Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations*. General Editors R.H. Campbell and A.S. Skinner. Textual editor W.B. Todd. Liberty Classics. Indianapolis 1981. Vol. I, Book IV, Chap. II, Paragraph 4; p. 454.

⁵⁹ David Ricardo, *The Principles of Political Economy and Taxation*. London: John Murray, Albemarle Street, 1817. Third Edition 1821. In Sraffa, Piero (Ed.) 'The Works and Correspondence of David Ricardo'. Vol. I, *On the Principles of Political Economy and Taxation*. Cambridge University Press, Cambridge 1951, pp. 133-134.

cerned with universal welfare, which, given the qualitative relationship identity between the universal and the individual, the former is achieved more efficiently by means of the latter. The subject is ultimately better capable of appraising and coming to know the true dimension of the latter.

When we go from what pertains to the individual to the realm of the common and, when it comes to judging the efficiency or inefficiency of economic human rights, we must question ourselves on the stimuli that cause man to act in one way or another in his economic activity. In all probability, this question had a permanent place in the analysis of the Classical economists, and hence, their observations and conclusions.

Is man this subject committed to humanity and separated from the self, in order to achieve greater welfare for society as a whole? How then can we explain the incentives and disincentives of material, power or dominion nature, which are constantly at work in the conditioning of the decision of the economic subject? It is indeed true that universal good, the guarantee and effectiveness of human rights for each and every man, should be the most powerful stimulus to ensure that the action of the human person is aimed at benefiting all humanity.

Nonetheless, it is true that selfishness, envy, resentment, are present in the human mind and they awaken the least noble of passions and sentiments in the person. They lead him to distance himself from the project of life that distinguishes him from the other beings of the Creation, as a rational and free being in the image of the Creator. This is true to such a degree that perhaps there is not an abundance of those people exclusively motivated by humanity and benevolence.⁶⁰ Such people require no other incentive to act in the benefit of society and the image of the privileges and inequality of some people or groups does not represent a disincentive to their action. Their ultimate aim is the good of the community.

What can be done in the face of actions exclusively determined by self-interest, in the absence of the common good? Can the sociability of the human person, essential to the Creation, continue to be affirmed when man acts in his own interests, and pays no heed to the common good? Can the wealth and well being of the individual, the motives behind economic materialism, displace within the person his commitment and responsibility to the human family? There is absolutely no room for doubt: '...The economy

⁶⁰ *Vide* Adam Smith, *The Theory of Moral Sentiments*. Edited by D.D. Raphael and A.L. Macfie. Liberty Classics. Indianapolis 1982. Part VI, Section II, Chap. II, paragraph 16; p. 233.

in fact is only one aspect and one dimension of the whole of human activity. If economic life is absolutized, if the production and consumption of goods become the centre of social life and society's only value, not subject to any other value, the reason is to be found not so much in the economic system itself as in the fact that the entire socio-cultural system, by ignoring the ethical and religious dimension, has been weakened, and ends by limiting itself to the production of goods and services alone'.⁶¹

It is, in effect, the absence of moral values, those values that determine the condition and greatness of the human person, which determines the state of matters at this point in time. This is the cause of the weakness and injustice at the heart of the human family itself. This is the cause of the lack of guarantee for the complete effectiveness of human rights, including those of an economic nature. This is the main problem confronting humanity. With great vision, Paul VI said: 'Human society is sorely ill. The cause is not so much the depletion of natural resources, nor their monopolistic control by a privileged few; it is rather the weakening of brotherly ties between individuals and nations'.⁶²

Of course, this is the common denominator of many of the ills of humanity and the principal cause of the elusion of commitment to human rights in their entirety. It is, more specifically, the cause of the ineffectiveness of human rights of an economic nature. In the absence of fraternity, the economic sphere becomes a field of competitive struggle rather than cooperation, a field that favours the prevalence of the strongest and the exclusion of the weakest.

It will be thought that the guarantee of human rights, which is the specific preoccupation of these pages, can only be achieved through determined public action, which would solve a problem that private action has been unable to deal with. The reality does not inspire hope. Public Sector activity during the twentieth century and the beginning of the twenty first has been wide and deep, and I do not wish to say that it has had no any favourable effect. Nevertheless, this action, which ultimately comes down to levying the income of the subjects in the form of direct or indirect taxes to boost the public budget in order to spend such public resources on goods and services for the good of the community, is also influenced by the effects of providing incentives and disincentives to the individuals as regards pro-

⁶¹ John Paul II, Encyclical letter *Centesimus annus*. Rome 01.05.1991, num. 39.

⁶² Paul VI, Encyclical letter *Populorum progressio*. Rome 26.03.1969, num. 66.

ductive efforts and the creation of income and wealth, without which the Public Sector would be totally sterile.

Such attitudes as the elusion of entrepreneurs and professionals regarding the possibilities of job creation and of income generation, as a result of a disincentive caused by what they consider an excessive fiscal burden, or, on the contrary, the lack of interest of an unemployed person to look for a work position, determined by the incentive for him to perceive a subsidy without any effort, show how the political measures better guided to the common good, bring us just to the opposite results, when they are applied in a community guided by material ends, neglecting man's own nature in its social dimension and committed with the good of the human family.

It is not to the Public Sector where we must address our action. I do not mean that it cannot have a positive result, albeit always a partial one, and indeed it has had some positive effect. As John Paul II said, it is on man, and not on the system or structures, that we must place the responsibility and focus the appeal. It is necessary to get rid of the *old man*, so that the *new man* can appear. It is necessary to recover the countenance of the *Imago Dei* with which he is endowed through the will of the Creator. For this, there is only one way: the conversion that determines a change of attitude. 'For Christians, as for all who recognize the precise theological meaning of the word "sin", a change of behaviour or mentality or mode of existence is called "conversion", to use the language of the Rihle (cf. *Mk* 13:3-5, *Is* 30:15). This conversion specifically entails a relationship with God, with the sin committed, with its consequences and hence with one's neighbour, either an individual or a community. It is God, in "whose hands are the hearts of the powerful" and the hearts of all, who, according his own promise and by the power of his Spirit, can transform "hearts of stone" into "hearts of flesh" (cf. *Ezek* 36:26)'.⁶³

CONCLUSION

Humanity has always needed the reference of a Law coming from a superior order to the laws dictated by man. There are two reasons for this: the first is to illuminate the legislative activities of the institutions to which such legislation has been entrusted and the other, of no less importance, is

⁶³ John Paul II, Encyclical letter *Sollicitudo rei socialis*. Rome 30.12.1987, num. 38.

to enable the community to use this reference provided by the superior Law to determine the justice or injustice of laws passed by men. Otherwise, how and by what benchmark, could the community decide whether a law passed by a parliament or even by a referendum of all the people was an unjust law? Should the most aberrant and destructive law for humanity itself be considered just simply because it has been passed by the competent authority?

The Universal Declaration of Human Rights of 1948, and the texts deriving from it in several spheres, represents a formal commitment from the signatory nations to respect the rights therein proclaimed. It also serves as a reminder of the minimum specific objectives, which must be guaranteed to make real the recognition and protection of the human person, every human person. '...it is necessary to recognize the higher role played by rules and structures that are intrinsically ordered to promote the common good, and therefore to safeguard human freedom. These regulations do not limit freedom. On the contrary, they promote it when they prohibit behaviour and actions which work against the common good, curb its effective exercise and hence compromise the dignity of every human person'.⁶⁴

Even with the presence of the Universal Declaration, it must be acknowledged that much remains to be done. A good number of the rights proclaimed therein are only partially complied with, whilst others are totally ignored. Amongst the latter, special mention must be given to human rights of an economic content. The difficulty is evident and perhaps the final result will be seen at the end of a long educational process. These rights are subject to the economic decisions of the subjects and therefore, fall under the influence of elements which provide incentives or disincentives for the action of the individual itself; actions related to productive effort, the objective of well-being, the actions of benevolence, magnanimity, solidarity, etc. with the rest of the community.

It is a question of commitment to the common good, in preference to the interests of individual good; it is a question of feeling the interdependence of the human family in its entirety, in the same way as interdependence is felt with the family in its narrower and more limited sense.

The Public Sector, with its activity aimed at ensuring the efficiency of these rights can be of great help, though it must not be forgotten that this

⁶⁴ Benedict XVI, *Address to the General Assembly of the United Nations*. New York 18.04.2008; paragraph 3.

activity involves a fiscal effort, on the one hand, and benefits for the least favoured, on the other. Neither case is exempt from the perverse effects that may arise as a consequence of the above-mentioned incentives and disincentives for the affected parties and which could make public activity sterile or at least narrow the field in which it can be applied.

Full guarantees would be achieved from the conversion of man. A conversion in which man, precisely because of his dignity, ceases to be enslaved by economic and material matters and the short-term in an individual dimension, and makes effective his sociability, committing himself to the good of the community, to at least the same degree to which he is committed to his individual good, and radiates generosity, commitment and solidarity, certain in the knowledge that he will be a greater man, a greater brother and a greater son of God. The rest, sustenance, carnal needs give rise to the lowest instincts of beings and are felt and pursued also by the other mammals of the Creation. Man is the only being capable of rationally resisting the temptations that attract perishable objectives, perverse attitudes, which denigrate and humiliate the human person, rather than exalting the dignity that is his greatest asset.

This new man will guarantee the complete efficiency of human rights and particularly those of an economic nature, in order to guarantee the effective reality of Human Rights in their entirety; without this entirety, the observance of Human Rights does not exist.

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