

RELATIONSHIPS BETWEEN HUMAN RIGHTS CONCEPT AND RELIGIOUS VALUES

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The situation in today's world is characterized among other things with activation of religion. This conclusion made once by sociologists (1) does no longer provoke any serious objections. It is a different matter that this activation of religion, sometimes referred to as “resurgent religion”, has taken various forms depending on the specificity of a religion itself or its habitat.¹⁰⁴

The activation of religion is manifested in particular in its growing participation in societal life including politics. Agents and mouthpieces of the religious awareness have become participants in public discussion and political process - something totally uncharacteristic of the recant past in the European cultural space. This tendency requires that a very close attention should be given to the inner logic of religious consciousness as related to non-religious or secular consciousness.

In my brief paper I would like to compare the modern concept of human rights in its dominating secular version and the understanding of a human being characteristic of the religious awareness. I mean by religion mainly the European Christian tradition within which and at the same time in the polemic with which the modern idea of fundamental human rights and freedoms has been formed.

The expression “human rights” presupposes an anthropological perspective, that is, it poses the question of what the human being is. An answer to this question depends on the view of the human being in the universe, in face of cosmos, history, the peers, etc. In other words, any understanding of the human being presupposes a certain worldview or an answer to the question: what is the world in which the human being lives and, accordingly, what is his own existential world (*Lebenswelt*)?

What view of the world can be discerned behind the modern secular concept of human rights?

¹⁰⁴See: Peter L. Berger ed. *The Desecularization of the World: Resurgent Religion and World Politics*. Washington, DC: Ethic and Public Policy Center, 1999.

This concept is based on natural law. Every human being has certain rights and freedoms by birth, by belonging to the human race (or homo sapiens). Accordingly, the source of these rights is nature giving birth to the human being or the world as nature.

Nature has endowed the human being with intellect, and in his relations with the peers and nature itself, the human being acts as the creator of culture - a reality radically different from nature itself. In the space of culture, the subjects of human rights, that is, all who were “born as human beings” are equal and sovereign participants in common life. For the inherent rights and freedoms to be realized a community of equals needs a certain culture of relationships, that is, a certain convention, which is represented, along with others, by the convention of human rights.

In other words, human beings themselves establish laws of common life, since there is nothing in the world except for natural space and holders of human rights. The human individual is not just the principal but also, value-wise, the last element of social reality, a sovereign entity which cannot be divided in any way or confused or merged with other entities. Human rights in the true sense are individual rights.

It is not difficult to show that the anthropology and accordingly the worldview underlying the human rights concept are essentially different from the religious anthropology and worldview.

In the religious picture of the world, natural cosmos is not a self-sufficient reality, for it is God the Creator who stands behind it. Moreover, the place of the human being is determined by the fact that he is one of the creations and at the same time a special creation. *Imago Dei*, the image of the Creator himself - this is the primary definition of the human being. Reason and free will are characteristics of this image assumed by the human being by birth. However, the true source of these characteristics is God. For this reason, their value is determined by the fact that they make it possible for the human being to respond to God's call to divine communion and divine likeness. Properly speaking, it is this call addressed by God to the human being that makes him what he is. At the same time, this call means that “a born human being” should yet become the human being in the full sense, that is, the human being in unity with God.

Therefore, from the religious perspective, the human being is not a self-sufficient whole, and his basic equality with others is, on one hand, equality of “initial conditions” and on the other, equality of calling. Interpersonal relations therefore are understood not as

relationships of sovereign individuals who have to build a conflictless *socium* with the help of some convention setting rules for co-existence, but, ideally of course, a fellowship, a family, which is a family precisely because it has a common heavenly Father.

This patriarchal, or if you wish, paternalistic idea of human community is hardly consistent with the pragmatic understanding of human rights. But the point here is not the contrast between ideal and reality. The concept of human rights is essentially ideal as well because it is never implemented in full measure. It has also a lofty ethical pathos, saying: Respect the freedom of the other as your own and do not do harm. A “medical” motive can be heard here with its task to heal and do all possible to prevent one subject of rights from inflicting wounds on the other. That is, the case in point is the health of society.

This health of society, however, is supposed to be built “from below” on the volitions of individuals who have a fundamental distance between them. For the religious awareness, quite the contrary, community is built “from above”. The essential difference is that, while human equality is recognized in both cases, community is understood differently. In one case, it is a free association formed by a contract or “constitution”, while in the other case, it is a given co-belonging to a single common space of life and calling. It applies to the created natural world, a religious (church) community and, ideally, to the “polis” community, that is the Earthly City.

There is also a clear difference in the understanding of choice. The secular concept of human rights is built on the ideology of liberalism, of free choice made by an individual on the basis of his preferences. Religious consciousness is built on the ideology of duty determined by the religious calling. To sharpen the point, in the former case, choice is made out of what is possible, while in the latter, the impossible has been pre-chosen, in the sense that the human being is called to overcome the reality of his nature and the reality of the world by seeking God through spiritual effort.

For instance, human rights ensure to each an opportunity for holding any beliefs, for choosing any worldview as his individual view of the world and for constructing a new one. But in the religious space, the choice of belief or faith is made only once to set the mind working within the choice made. While in both cases the human being structures his own *“existential world”*, in the first case, it is an individual “world”, even if it may be close in something to the “worlds” of other individuals, while in the second case, the world is at the

same time individual and super-individual, extending to the boundaries of God-created cosmos and the entire human race and including the Creator himself.

There is another point associated with freedom and creative work. From the point of view of secular individualistic approach, human rights give the human being a possibility for creating new things in natural and social space. The new is possible precisely because its creator, the human being, possesses of inherent freedom. In this sense, he is called to create new things, and culture itself is nothing else but a product of human creative work, human self-action in the natural world.

It is different in the religious awareness. Here the human being is also called to creative work, but he acts in the created world and in the face of God. This means that any activity which comes into conflict with the inherent order of the world and with human calling as “the image of God” does not only lose its value but becomes negative, contrary to God. The creation of the new is quite legitimate only within a common religious understanding of the world, that is, within a tradition which for the ideology of a free and sovereign individual presents precisely an obstacle and ultimately an enemy suppressing freedom.

The above description of religious awareness and its particular aspects is certainly highly sketchy. Moreover, this scheme does not reflect the diversity of religious awareness types even within Christianity. It reflects rather the structure of the religious understanding of the human “existential world” characteristic of the Eastern Christian tradition.

Within the given topic I would like to draw your attention first of all to the contrasts which become evident in comparing the ideology underlying the present dominating concept of human rights with the system of ideas characteristic of a certain type of religiosity. Indeed, the public discussion on human rights today has been joined by spokesmen of precisely this traditional religious awareness.

What reaction is to be expected to this religious worldview from supporters of the concept of human rights and freedoms that has prevailed since the later 20th century? A religious logic for them is normally something dangerous, if not hostile. Indeed, the human rights concept evolved in history in parallel with secularization of the public space and culture as a whole. It all began with the assertion of religious freedom according to the principle of *cujus regio, ejus religio* (“whose rule, his religion”). But today another maxim, an extreme though, is increasingly heard: “Where religious freedom begins, human rights

end”. It means that religion is not supposed to go beyond its private space and should remain *Privatsache*, a “private affair” of the sovereign individual whose freedom should not encroach on the equal freedom of others.

This concern for freedom of the other is quite understandable, as going beyond personal beliefs and experiences, religiosity can become a factor of discrimination against both adherents of different religious beliefs and non-religious or anti-religious beliefs. That is why a common religious practice is recognized as legitimate only within essentially private religious associations, whose status is not different in fact from that of philatelist societies.

Also understandable is the argument presented in this case, whereby only secular principles of civic relations can prevent conflicts between adherents of different confessions and religions in the context of express religious pluralism characteristic of Western societies. It is still in question however whether the means offered by fundamentally secular concept of human rights are suitable to achieve this goal.

The socio-cultural dynamics we witness today both in the global and European space shows that the legal instruments developed for crossing the Rubicon, which was World War II for Europe and the world as a whole, no longer correspond to the present realities, because today we are apparently crossing another Rubicon.

It would be a mistake to believe that the present activation of traditional and non-traditional religions is just a movement back, a manifestation of archaism. If it is archaism in a certain worldview, than it is new archaism, that is, a result of the historical process, a reality of the new cultural era which some describe as “post-modern”.

The cultural, including political, space of the “European” *socium*, which has extended globally, witnesses a return of religious traditions. Contrary to the confidence of some in the power and finality of secularization, these traditions has continued throughout the “secular” period both in the “underground” of private religiosity and in the areas of supposed Westernization. They are coming out today, bringing with them the awareness of God, an integral worldview and imperatives of religious life, including morality, which have as their source not the individual of this world but the transcendent Creator of the world.

Recalling the famous slogans, one can say that after Nietzsche's “death of God” and Michel Foucault's “death of man”, a historical time of the public “resurrection of God” and, accordingly, the religious understanding of man, has come. It is to religion that the human being often turns in a search for his identity not just in a community of individuals but in an

utterly “individualized society”, as Zygmunt Bauman put it. He does not find the uniqueness offered by the human rights concept to be sufficient, for he wishes to hear the call of God and is ready to find his own place in the coordinate system offered by religious tradition. It is necessary therefore to understand the inner logic of religious traditions.

Does it mean that the secular concept of human rights, which now has its own tradition, becomes out-of-date in face of religion returning to the public sphere? I believe this question cannot have an unequivocal answer. What actually can be recognized as out-of-date are the claims to universality and “eternity” made by the worldview and ideology underlying this concept, that is to say, the specific and historically conditioned substantiation of the idea of fundamental and inalienable rights of the individual. The very idea of human dignity and inherent freedom does not appear to be at issue in the dispute between religious and secular consciousness. There is just a conflict of interpretations.

At the same time, this conflict of interpretations revealing a conflict of worldviews and anthropologies is a serious challenge to both sides to have no simple solution. The evidence is the polemic about the conception of the so-called collective rights. Even if the notion of collective or group rights is recognized as legitimate by the theory and practice of law, interpretations of this notion in the context of secular and religious awareness can radically, if not fundamentally, differ. From the religious perspective, collective or “common” rights cannot be reduced to a totality of individual rights according to the principle that a whole is not a sum of its parts. But from the perspective of the classical secular paradigm of human rights as essentially individual, it is the individual who represents an integral “entity”, who must be protected against any attempts of other, super-individual “entities” to absorb it.

From the perspective of existing legal theories, this collision appears to be insoluble. However, from the perspective of the very idea of law, which has as its task to ensure an effective regulation of social relations, the solution of this collision is nothing more than a practical task. It is, if you wish, a task of historic significance. The urgency of this task is evident, for instance, in the light of the recent developments which provoked a global response as it concerned freedom of expression, on one hand, and insult of religious belief, on the other. Extreme reactions displayed by both sides do not remove the problem itself as it cannot be reduced to manifestations of radicalism. The problem lies rather in the novelty of

the situation where both sides work in the same space whose integrity has not been ensured by the necessary consensus.

I believe in this situation the sides should meet each other halfway, explaining their attitudes in a real dialogue and elaborating ways of settling conflict, both already existing and emerging before our eyes. It has to be a practical solution to be followed by a legal one; for historically, the establishment of legal norms has always followed new social realities.