

Department of International Affairs

HUMAN RIGHTS AND THE CATHOLIC CHURCH

Reflections on the Jubilee of the Universal Declaration of Human

Rights

1998

Reflections of the Catholic Bishops of England and Wales on the Jubilee of the Universal Declaration of Human Rights, proclaimed by the United Nations General Assembly, 10th December 1948.

Human Rights Today

1) This is the era of human rights: rights observed and protected by international agreements and institutions, and rights horribly violated by acts 'crying out to heaven for vengeance'. It is timely, at the close of one millennium and the beginning of the next, for members of the Catholic community of England and Wales to reflect together on what needs to be done to strengthen human rights, internationally and at home. We are pilgrims together on a journey towards peace and justice. The doctrine of human rights has become an essential tool for charting the course of that journey.

In many parts of the world, human rights are in crisis. In many others, where the situation may not seem so critical, commitment to their observance may still be too shallow to withstand a serious future challenge from totalitarianism or militarism. Even in Western democracies, excessive concentration on rights to the detriment of duties could undermine people's confidence in the philosophy of rights to the point where it can no longer offer protection to the vulnerable. Thoughtless or undifferentiated extension of claimed rights into new areas risks eventually rendering the language of human rights unusable: when everybody holds a trump card, in effect nobody holds a trump card.

Therefore, there needs to be a further informed debate about the content and meaning of human rights. The use of rights terminology needs discipline and care, especially since rights sometimes come into collision or competition with one another, so that some rights must give way to others with a higher status or priority. Therefore, some ordering of rights becomes essential, unless every right is to be deemed absolute and beyond question. To put the matter positively, a properly critical understanding of human rights can offer humanity a universal moral code. That is an important achievement which the Catholic Church, like others, can aim at.

2) The fiftieth anniversary of the *Universal Declaration of Human Rights* is an appropriate occasion for Catholics to examine their consciences in these matters, and to renew their resolve to work for the building of the Kingdom of God, which requires peace and justice as its basis. As the present Pope demonstrates in almost every proclamation he makes, human rights have become central to the Church's mission in the world. They figure prominently in many of his encyclicals and apostolic letters, as they do in his overseas pastoral visits. In issuing this statement, the bishops of the Catholic Church in England and Wales respond to the Pope's leadership and offer their contribution to the wider understanding of human rights. They are confident that the whole Catholic community supports this intention.

A Catholic Vision of Human Rights

3) The two most important statements of rights are probably the 1948 *Universal Declaration of Human Rights*, which this document commemorates, and the *European Convention on Human Rights*, which binds the member nations of the Council of Europe to a common commitment to the safeguarding of rights throughout the continent. Britain has been involved since the *Convention's* inception in 1950, and it is now to have binding force in British law.

In such statements as these, human rights are of different kinds. Some rights intend to protect the individual against undue intrusion (including that from the state), such as the right to speak freely, more commonly termed 'freedom of speech', or the right to privacy: in principle, these are directly enforceable by law. Other rights, for instance the right to a decent education or the right to enjoy one's cultural heritage, can usually only be delivered by means of political action: accordingly, they may be difficult to translate into a legal claim except in extreme cases.

4) The Church recognises these several kinds of right. A comprehensive Catholic 'charter of rights' was first expressed in Pope John XXIII's encyclical letter of 1963, *Pacem in Terris*, from which the following summary has been constructed. Human rights, said John XXIII, include the right to life; the right to bodily integrity and to the means necessary for the proper development of life, particularly food, clothing, shelter, medical care, rest, and the necessary social services; the right to be looked after in the event of ill-health, disability, widowhood, old age, unemployment; the right to a good name; freedom to investigate the truth, and freedom of speech and publication; freedom to pursue a choice of career; the right to be accurately informed about public events; the right to share in the benefits of culture; the right to receive a good general education; the right to raise children, which belongs primarily to the parents; the right not only to be given the opportunity to work but also to enjoy the exercise of personal initiative in that work; the right to a just wage; the right to the private ownership of property including that of productive goods; the right to meet together with others and to form associations; the right to freedom of movement; and the right to take an active part in public life, and to make a contribution to the common welfare. Pope John then adds a crucial consideration (nn. 28, 30):

"The natural rights of which we have so far been speaking are inextricably bound up with as many duties. ... These rights and duties derive their origin, their sustenance, and their indestructibility from the natural law, which in conferring the one imposes the other. ... It follows that in human society one's natural right gives rise to a corresponding duty in others; the duty, that is, of recognising and respecting that right. ... 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."

5) In their statement in 1996, *The Common Good and the Catholic Church's Social Teaching*, the bishops of England and Wales develop the argument that authentic human rights are expressions of the fundamental right to life, and that the recognition of rights is non-discriminatory. To claim a right for myself means my claiming it for others too (nn. 36-37):

"Individuals have a claim on each other and on society for certain basic minimum conditions without which the value of human life is diminished or even negated. Those rights are inalienable, in that individuals and societies may not set them at nought: in Catholic terms those rights derive from the nature of the human person made in the image of God, and are therefore in no way dependent for their existence on recognition by the state by way of public legislation. These rights are universal. The study of the evolution of the idea of human rights shows that they all flow from the one fundamental

right: the right to life. From this derives the right to those conditions which make life more truly human: religious liberty, decent work, housing, health care, freedom of speech, education, and the right to raise and provide for a family. ... Catholic moral theology tells us that it is the destiny and duty of each human being to become more fully human. A society which serves human rights will be a society in which this true human growth is encouraged.

"Every member of the community has a duty to the common good in order that the rights of others can be satisfied and their freedoms respected. Those whose rights and freedoms are being denied should be helped to claim them. Indeed, human rights have come to represent that striving for freedom from tyranny and despotism for which the human spirit has always yearned."

6) Three other themes inherent in the Church's understanding of human rights may be mentioned briefly here. The first theme reflects Catholic belief that two vital truths about human persons must always be held together.

- Firstly, all persons are unique, irreplaceable, destined for transcendent life, and so are not just units of some larger mass or entity, who could properly be treated as interchangeable, or merely as the instruments of another's purpose. (For example, each person is embodied: all our thoughts and perceptions are inseparable from our senses, from their openness to the world and their active response to it. It follows that everyone's experience is unrepeatable.)
- Secondly and equally important, everyone is a person-in-relationship whose well-being cannot be attained alone, and whose life can never be considered apart from the many relationships (more or less intimate or enduring) that make up its fabric.

In practice, the individual person and the community will always have claims against each other: and their rights might often be in tension. Nevertheless, their true fulfilment goes together. Neither an individualism that denies the claims of community, nor a corporate prosperity that excludes the well-being or dignity of individual persons, is ultimately tolerable.

7) The second theme is that Christians learn from the Gospel that life itself is not only a human right, but is also, and in fact firstly and ultimately, a divine gift. In the words of Jesus in John 10:10, "I have come that they may have life and have it to the full". This unique gift is something that only God can take back, and therefore the right to life does not entail the right to suicide or euthanasia.

8) The third theme inherent in the Church's understanding of human rights reflects the characteristically Catholic understanding that divine revelation and human reason ultimately confirm one another, since both of these express truth or are oriented to it. Restating this understanding is, in fact, the aim of Pope John Paul II's encyclical letter of 1998, *Fides et Ratio*, which begins by likening faith and reason to "two wings on which the human spirit rises to the contemplation of truth". Later, *Fides et Ratio* characterises the relationship between philosophy and theology as that of a circle (n. 73):

"Theology's source and starting point must always be the word of God revealed in history, while its final goal will be an understanding of that word which increases with each passing generation. Yet since God's word is Truth (cf. John 17:17) the human search for truth - philosophy, pursued in keeping with its own rules - can only help to understand God's word better."

Accordingly, Pope John XXIII, in *Pacem in Terris*, showed how the contemporary language of civil and political rights was capable of being received into the heart of Catholic social teaching. There it has been given a philosophical foundation that it has

sometimes seemed to lack in secular discourse, on the basis of 'natural law theory'. In this context 'natural law' refers both to the use of human reason to work out the conditions necessary for individuals to live harmoniously together in community, and also the moral sense that guides people in their conduct towards one another, what St Paul called "the law engraved on their own hearts to which their conscience bears witness" (Romans 2:15).

9) There has recently been increased interest in the Catholic Church in founding a doctrine of human rights on revelation, on the doctrines of creation and of the Incarnation. While the natural law or philosophical approach enables the Catholic Church to reach an identity of interest with those of other faiths, or of none, appealing to revelation enables bridges to be built in this area with other churches which have no natural law tradition. And Christian tradition constantly appeals to revelation in this way, as when Pope John Paul II's first encyclical *Redemptor Hominis* (1979, n. 10) declared: "How precious must humanity be in the eyes of the Creator, if it 'gained so great a Redeemer', and if God 'gave his only Son' in order that humanity 'should not perish but have eternal life'". The natural law approach and the use of Scripture do not contradict, but reinforce, each other in the weight to be given to human dignity, and hence to rights.

10) This account of a Catholic perspective on human rights should not be taken to assert the existence of an exclusive or separatist 'Catholic position'. On the contrary, the Catholic Church wishes to deepen its collaboration with those in other Christian churches with similar concerns, those of other faiths likewise, and secular bodies working in the human rights field, as it has learned from them too. Pope John Paul II has often praised those who work tirelessly in the field of human rights. In his greeting to members of a Colloquium on Human Rights and the Church in 1988, for example, the Pope spoke of an 'apostolate of human rights'. He wished to encourage "all those who are engaged in this form of service ... which is favourable to ecumenical collaboration as well as to constructive dialogue among persons and groups who do not share the same faith but who are disposed to work together to promote human dignity wherever it is threatened".

One fruit of such work has been the complementing of the *Universal Declaration on Human Rights* by a series of conventions which seek to ensure its observance (since the *Declaration* is not itself a formally binding treaty): conventions, for example, on torture, on racial discrimination, on women, on children. In addition, the United Nations has a High Commissioner on Human Rights, whose responsibility is to pursue the implementation of the Declaration. The bishops of England and Wales would express their own warm appreciation for these efforts, not least to those groups based in Britain. In this context, Amnesty International surely deserves special mention.

Human Rights in History

The Developing Understanding

11) The historical development of human rights has roots in both religious and secular discourse. St Thomas Aquinas (1224-1274) is often regarded as a major contributor to a new philosophy of humanity that recognised the proper boundaries between the individual and the community, which is the basis of a philosophy of individual rights. The universality of these ideas is underlined by the fact that Aquinas himself was influenced by Greek classical philosophy and by the thinking of Jewish and Muslim philosophers of his time, as well as by his own Christian tradition.

Since this document is written from the perspective of England and Wales, it is worth noting that, even before St Thomas, human rights are acknowledged in the *Magna Carta* of King John of England (1215). For instance Clause 39 states, "No free man shall be arrested or imprisoned or disseised [i.e. 'dispossessed'] or outlawed or exiled or in any way victimised, neither will we attack him or send anyone to attack him, except by the

lawful judgement of his peers or by the law of the land"; and Clause 41 states, "All merchants shall be able to go out of and come into England safely and securely and stay and travel throughout England".

In this respect, the *Magna Carta* saw the beginnings of a tradition of legal, civic and political rights that endures today in the constitution of many states throughout the world, and in major instruments of human rights which are currently in force in international law. Article 5 of the *European Convention on Human Rights*, for instance, has clear echoes of Clause 39 of the *Magna Carta* when it states, "Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save ... in accordance with a procedure prescribed by law". Again, Article 13 of the *Universal Declaration of Human Rights*, echoing Clause 41 of the *Magna Carta*, states that "Everyone has the right to freedom of movement and residence within the borders of each state"; and "everyone has the right to leave any country, including his own, and to return to his country".

These rights proclaimed in the *Magna Carta* also find echoes in the words of Pope John XXIII, as for instance where he declares: "Every human being has the right to freedom of movement and of residence within the confines of his or her own State" (n. 25). And the *Magna Carta* is held to be the source of the concept of *habeas corpus*, a legal procedure that enables the courts to overrule illegal detention. The writ of *habeas corpus* was one of the weapons used in the campaigns against slavery in Britain and the United States.

12) In the English-speaking world, the development of 'the rights of man' was later accelerated by the misuse of arbitrary and undemocratic authority, usually by monarchies. It had been these abuses which precipitated the *Bill of Rights* in England in 1689 and the *Declaration of Independence* by the United States in 1776; both these events in turn influenced the French Revolution in 1789.

At the same time, however, many lawyers and philosophers doubted whether such rights really existed. This was partly because they were reluctant to appeal to the idea of natural law, which they associated with religion, and particularly Catholicism. So the idea of the universal 'rights of man', which had such explosive political consequences in the eighteenth century, was somewhat obscured in the nineteenth: in part because of this natural law dimension, but also, more pragmatically, because it ran contrary to the colonial expansion which impelled many of the major European powers at that time and which would have been severely undermined by too sensitive a recognition of the rights of 'subject peoples'.

In the past, too, the Roman Catholic Church has sometimes seemed to side with those who opposed the very idea of human rights. On the Continent of Europe, those who promoted them most strenuously, especially in the eighteenth and nineteenth centuries, were often motivated by an anti-clerical spirit, and argued for an individualistic conception of liberty that was insufficiently balanced by the requirements of social responsibility, or any acknowledgement of the common good. In reaction, Church documents of the same period sometimes reflect a suspicion of any secularly founded notion of rights. In the *Syllabus of Errors* of 1864, for example, Pope Pius IX asserted that it was erroneous to argue the necessity for such rights as free speech and freedom of religion. Section 3 of the *Syllabus* denies "that every man is free to embrace and profess the religion he shall believe true, guided by the light of reason". But by the end of the nineteenth century, Pope Leo XIII's encyclical *Rerum Novarum* was freely using rights language in its discussion of the family, work and the employee, marriage, the possession of property, and equal participation in citizenship irrespective of class or wealth: "Rights indeed, by whomsoever possessed, must be religiously protected" (n. 29).

13) In this century, the Second World War renewed political interest in the idea of human rights (a term which replaced 'the rights of man' in order to include both sexes unambiguously). Especially important was the notion that political rulers, regardless of what democratic or legal authority they possessed, did not have unlimited freedom to treat their own citizens, or conquered peoples, however they wished. The Nuremberg war crimes prosecutions established the principle that political leaders were answerable for breaches of human rights to a higher court. Leaders accused by international tribunals could no longer plead state sovereignty as a defence to such charges, and neither could their subordinates plead obedience to lawful orders.

The international community was slow to translate those principles into new institutions, though the end of the Cold War has seen more progress. War crimes tribunals have been set up in connection with Rwanda and Bosnia; and the *Rome Treaty*, enacted in 1998, will, for the first time, produce permanent institutions with international jurisdiction over war crimes and crimes against humanity.

14) Within the Catholic Church, the Second Vatican Council saw further developments in the Church's treatment of human rights, culminating in its declaration on religious liberty, *Dignitatis Humanae*, promulgated by Pope Paul VI in December 1965. This was a watershed in the Catholic understanding of the right to freedom of conscience, one of the most important of human rights. *Dignitatis Humanae* stated (n. 2):

"This Vatican Council declares that the human person has a right to religious freedom. This freedom means that all are to be immune from coercion on the part of individuals or of social groups and of any human power, in such wise that no one is to be forced to act in a manner contrary to his own beliefs, whether privately or publicly, whether alone or in association with others, within due limits.

"The council further declares that the right to religious freedom has its foundation in the very dignity of the human person as this dignity is known through the revealed word of God and by reason itself. This right of the human person to religious freedom is to be recognised in the constitutional law whereby society is governed and thus it is to become a civil right."

Note that the Council derives human rights both from Scripture - "the revealed word of God" - and natural law - "by reason itself".

15) More recently, Pope John Paul II's message in celebration of the World Day of Peace, 1st January 1998, celebrates this fiftieth anniversary of the *Universal Declaration of Human Rights*. His statement is especially striking in that it refuses the more cautious or conservative interpretation of human rights according to which they have a two-tier structure in which socio-economic rights are somehow secondary and, by implication, dispensable. The Pope writes (n. 2):

"Certain shadows however hover over the anniversary, consisting in the reservations being expressed in relation to two essential characteristics of the very idea of human rights: their universality and their indivisibility. These distinctive features must be strongly reaffirmed, in order to reject the criticisms of those who would use the argument of cultural specificity to mask violations of human rights, and the criticisms of those who weaken the concept of human dignity by denying juridical weight to social, economic and cultural rights."

The analytic force of the Pope's unified interpretation of human rights is evident: for example, some of the social, economic and cultural rights specified in the Catholic

tradition would pose a profound challenge to many of our contemporary global patterns of trade. *The Common Good* likewise emphasised the importance of such economic rights, in noting how severe poverty inevitably undermines the right to active participation in the life of society. The present Government's establishment of a 'Social Exclusion Unit' with a broad policy remit seems to indicate a similar awareness.

Historical Experience

16) Since this section has so far considered the development of human rights from a theoretical perspective, something must be said about historical experience, once again from the perspective of England and Wales. The Catholic community here knows very well what it is to be deprived of rights over a number of centuries. It cherishes the memory of its heroic martyrs and many more, both individuals and communities, who suffered in defence of the Catholic religion. It must also be acknowledged that in the name of the Catholic religion terrible wrongs were done, for example, to Protestants at the time of the Reformation in Great Britain as elsewhere (although 'human rights' language would not have been used to describe those abuses). That the Reformation settlement and the suppression of the 'old religion' were accomplished largely by force is an explanation, but in no way a justification.

Pope John Paul II writes in the Bull of Indiction of the Great Jubilee of the Year 2000 (*Incarnationis Mysterium* 1998, n. 11):

"It must be acknowledged that history also records events which constitute a counter-testimony to Christianity. Because of the bond which unites us to one another in the Mystical Body, all of us, though not personally responsible and without encroaching on the judgement of God who alone knows every heart, bear the burden of the errors and faults of those who have gone before us."

Current Issues and Challenges

17) It would be facile to assume, in noting past failings, that all is now well. As moral sensitivities in both Church and society gradually change, there are sure to be new areas where shortcomings, previously hidden from our eyes, become visible.

On the one hand, there are human rights failings which Catholics and others can see but which the majority in society is still blind to, for instance in the identification of abortion as a denial of the right to life. The apostolate of human rights certainly includes persuasive and persistent concern for this most fundamental of all human rights. There are also movements which the Church can, after reflection, support. Instances are the trend towards the abolition of capital punishment; the growing unwillingness to regard war (and, in particular, nuclear war or the undiminished retention of nuclear weapons) as legitimate means of defending a just international order; and the gradual acceptance that an international court with global jurisdiction is necessary to limit the claims of national sovereignty. All these movements and measures are intended to promote or safeguard human rights.

On the other hand, there may also be failings within the Church which at present are more apparent to those outside it than to those within. Responsible bodies in the Church can never stop examining their own procedures and performance to ensure that human rights are observed, both in letter and spirit, in all they do.

18) Two issues requiring continuing reflection may be named here:

- this document has noted above the clear difficulty that rights often stand in tension or conflict with one another, and therefore that their application or enforcement needs to be carefully discerned in each case and measured against the criterion of the common good. No two systematically conflicting rights can be simultaneously absolute. However, groups, and particularly minorities which seek from society the protection or enhancement of their interests, often understandably seek to lay claim to a 'right'. It is therefore necessary to consider whether some rights might be spurious or illusory. Such a task will be delicate and controversial. For example, Catholics and others would argue that the 'right to have children' implies the right not to be prevented from having children but does not imply the right to all imaginable procedures to overcome infertility. It is, therefore, realistic to recognise that Christians, in being guided by the sense that life is sacred, and sharing with others the belief that the right to life is foundational, might well have to set themselves against other social groups in their interpretation of rights. To destroy life can never be a right and is always an evil.
- the second difficult area concerns the relationship between rights and duties, or responsibilities. Some significant current attempts to construct an ethic of global responsibilities would attribute to such responsibilities a certain symmetry with universal human rights. The philosophical and ethical debate will be complex, but at least it can be said that there is no simple reciprocity between rights and duties. The respect due to the whole of creation, consistently stressed in biblical revelation, certainly implies that human beings have the duty to treat animals, for instance, with respect and care: this duty does not of itself settle the important question of whether animals have 'rights'.

19) However difficult these debates and explorations prove to be, Catholics can and must take part in them. The service of human rights to which all Christians are called evidently implies an obligation to reflect on them with equivalent attention and clarity.

It can be said, finally, that the promotion and safeguarding of human rights is a religious obligation on all Catholics and a special calling for some - those with a vocation to the 'apostolate of human rights'. This apostolate might be pursued in many ways, whether by way of engagement with particular human rights organisations, or through a more general commitment to the demands of public life. Many Catholics have already sensed that this is where their religious duty lies, and some have made profound sacrifices in the name of human rights.

20) Human rights were not invented in England and Wales, though they have had as long a tradition here as anywhere. The Catholic community of England and Wales has the opportunity and obligation to offer its distinctive vision to the wider society, and so to be one of the channels through which that noble tradition, so close to the spirit of the Gospel, continues to flow in the next millennium.