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THE CONCEPT OF HUMAN RIGHTS AS AN ANSWER TO
RELIGIOUS FUNDAMENTALISM IN A MODERN DEMOCRATIC SOCIETY

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Abstract: In today's European society one can observe different forms of religious fundamentalism, especially when defending various values relating to questions of the meaning of life or when confronted with multi-religious and multicultural situations. An ethical approach attempts to avoid such extremes, given that genuine human behavior is based on moral virtues, the Aristotelian "Golden mean". At a time when some voices in left-leaning circles are trying to enshrine in the Charter of Human Rights the right of women to terminate their pregnancies, by vehemently advocating their cause in the European Parliament and in the UN Assembly, and to redefine the traditional meaning of "family," one might want to refer to the understanding of human rights of the Catholic Social Doctrine and other long-received ethical theories (such as Deontological Ethics). On the other hand, many in the Pro-life movement also exhibit a fundamentalist approach to society, for example when legal (though not necessarily moral) bioethical approaches justify murder. In the contemporary setting it is necessary to clarify the relationship firstly between human rights and human dignity from the religious point of view (as well as responding to a number of related questions) and subsequently between human rights and the rights of a person, understood as a being who is self-aware (sometimes called the Rights of God, whose existence protects the Church). The current paper tries to clarify the position of the Roman Catholic Church on the issues of human dignity and human rights with the hope that this understanding will have a positive impact on the development of a just society as a means of preventing the spread of religious fundamentalism.

Key Words: Human Rights, Religious Fundamentalism, Social doctrine of the Catholic Church, Human dignity, Religious tolerance, Church and State, Communism, Totalitarian states, Liberalism, Human Rights and Roman Catholicism, UN Declaration of Human Rights.

Religious Fundamentalism is like every other type of fundamentalism: a very difficult art of action. The famous Czech professor and political scientist Oskar Krejčí begins his book *The Rights of Humans* with a statement according to which “there is no such thing as natural, non-determining and non-alienating rights”. His book remains one of the most successful political visions in recent decades, being very influential in higher education¹. Krejčí is looking for an answer to the following question: *What does the word “right” mean and what is humanity?* For him, a right is *a reasonable entitlement related to a law from one side and justice from the other*. It is a consciousness of a requirement of support by government and society, thus something more than a law. At the same time, the writer points out that despite struggling to understand the nature of a human being, there can be no law concept without a morality concept.²

Therefore, one may refer to the concept of human rights and its application only when a human being is understood from the perspective of his own individual freedom, which begins with responsible self-determination³. But in such a case, political order *suggests* rather than *creates* the freedom and humanity of a human being⁴. Human rights are therefore the answer to an ongoing danger of exploitation of power both within as well as outside the clerical structures. The theme itself comes from the 18th century Enlightenment. It is not only about existence, but also about life itself, which implicates the wishes and capabilities of a human being, his or her abilities, ambitions, and emotions. Within this thought, one can see an attempt to look for a standard level of the natural moral law, by possibly displacing Archimedean’s agreed point from Universe to human being in a process starting from the 16th century.

Up to the middle of the 20th century, some churches opposed the idea of human rights. Their position resulted, on the one hand from the Enlightenment origin of the idea, and on the other hand from the opinion that individual human rights empower people in an unequal degree and are detrimental to a person’s sense of responsibility toward society and faith.⁵

Many modern, especially Western-European scientists, intellectuals and organizations consider the recognition of human rights to be a very important step in the progress of human kind. In his extensive study on the topic, Tödt notes that human and basic rights are a sign of a new period that marks a scholastic cultural movement of its own, an insight which has been largely overlooked.⁶ The idea of human rights is one of major interest today, given the increasingly technological nature of civilization and the accompanying questions of bioethical research; nevertheless, the possibility of the exploitation of power against individuals rears its head. Švanda reminds us that there is no possibility of technically over-empowering the world without wide political acceptance of human rights.⁷

According to Schambeck, the idea of human rights grants additional value to a human being that can overrule the state and its laws. This means that these rights are *pre-positive*, even what some would call “intrinsic”.⁸ *These rights cannot be created by any state through any law; on the contrary, they must be accepted as innate.*⁹

Crucial endeavor concerning the idea of the universal validity of human rights

The human being as a carrier of these rights is considered to have in himself such an understanding. This sense was at the beginning equal to the sense that guides all nature and appears in its laws. In the reason of human rights, which derive from the sense of nature's character and are equal to cosmic rights, these are called universal, valid for all intelligent creatures in the universe. But this teaching has somehow lost its metaphysical reasoning and its validity. The sense believed that it discovered its own history (basically the connection between its own knowledge and certain period of time, place and special conditions). After this, legal human standards as well as natural standards have stopped considering themselves as being infinitely valid. This was how the problem of the validity of human rights started to occur. Their deep tie in a law of mind has been moved aside by Kant. Marx appointed the connection between human rights and their ranks. Formally, every human being is categorized as a citizen with governmental equality, this way it is easier to keep legal the actual inequality of humans as citizens. Only after the crimes of Hitler and Stalin did human wishes fortify in order to have universal valid standards of human rights. The person willing to accept universally valid standards has to be able to cooperate scientifically in all kind of divisions (e.g. in questions about God, science has no ambit).¹⁰ In communist and socialist countries of the Eastern block, liberal freedom of human beings and basic rights and freedoms belonging to them were denied. Individual sense of freedom was refused (despite the fact that it was declared to be freedom for everyone) as fiction of the bourgeoisie and depicted as covering the interest of a minority. Material freedom stood against formal freedom. It was clearly proven that social rights cannot exist without individual rights for freedom.¹¹

Presently, the modern liberal (citizen-government right) theory of rights understands that basic rights are mostly the rights of each individual, which are valid as infinite. This theory underlines the fact that same as human dignity, personal spontaneity is non-intrinsic from the point of view of the government's actions. This theory understands equality in a very limited way, and more as a *negative equality* from law. As for sharing (solidarity) there is very little room in this case and therefore the following question does not occur: *which conditions of participation in public life are really advantageous for all citizens?*¹²

Tödt raises the problem of appointing a higher authority in the value theory of human and basic rights. This poses one question: *what is the origin and reason of human rights: nature, God or law?* With the exception of other legal theories (institutional and functional) this one could bring very strong positive legal thinking. Very often a heritage of natural legal thinking exists without any clear profile. But in order for its authors to avoid religious orientation of this theory, the German constitutional court disallowed itself from too positive a value system of basic rights and assigned that the trial gauge in this case is only the Constitution and not different studies about natural law.¹³ According to Schwanke, the origin of human dignity has to be secured out of any human power. He also reminds that philosophical reason of human dignity is secured in the religious dimension.¹⁴

Tödt adds that the idea developed in the 18th century, according to which human rights are „natural“ (they develop in natural, original, pre-social status, before the beginning of government and its laws, which means they are pre-institutional and they have to have preference from society and government), is nowadays already unsustainable.¹⁵ According to him, there is no way to know any pre-social status of any human being. This is ideal fiction for valid clarification of these rights. On the contrary, human rights and human dignity must be *protected directly in society*. Their validity is naturally not deduced from government or society, it is considered to be appointed by *them* and therefore non-dative.¹⁶ However, teachings of many important philosophers - even catholic teachings - state that there are laws which naturally belong to every human being. Günthör reminds us here that there is a difference between rights of humans and the right of God as the creator and the Messiah.¹⁷ The only problem for us is to find and agree upon previously accepted rules and rights.

Only a human being, compared to animals, could be a subject of human rights.¹⁸ This right is privileged to each person and is focused onto the evolution of human beings.¹⁹ Schockenhoff adds that the advantage of the human being as a proprietor of rights and freedoms comes from his *responsibility*, which is his ethical value and he himself cannot confer it any further.²⁰ Eventually, the close connection between human rights and human dignity appoints its *protective* feature. In spite of what most specialists point out, it is often impossible to identify the exact specification of human dignity in ethics conflicts. We may talk about the consciousness, when this dignity is being trampled.²¹

*Human rights must be valid at all times, everywhere, equally.*²² Just as Kant talked about human dignity, we still talk about dignity today, which is untouchable, and has to be saved and protected at any cost and has got no equipollent. If a human being has got dignity in this sense, then he is *his own target*. It is not entirely valid from an empirical perspective because a human being is also part of the society and of the political system. But neither in this case does his target have to interfere with targets of these

other systems (at least not in earthly-sense). If we look at every single human being as part of a system, he loses himself and his dignity. Therefore, this point of view has to be limited and a different one needs to be found.²³ Human dignity usually infers in such a way that a human being represents a subject which exceeds himself.

The originality of the thought of human rights represents its complexity and universality.²⁴ In a humanistic sense, it is not possible to prove human dignity; it is possible only to assume it. It is possible to point out that in a system in which human dignity isn't untouchable, a human being matches his own targets with targets of a government and society. Or the targets for the protection of a system are superior to the targets of a human being. Therefore, the *untouchability* and human *being's own target* have the main directive role for the theory of human rights.²⁵

Krejčí evaluates the last 400 years of human rights' feature with these attributes: these rights are intrinsic, non-alienating, not possible to be handed over, universal and factual.²⁶

Historic – religious point of view

Skoblík informs us that the idea of human rights is much older than it was previously thought. We can find traces of it even in the work of the Roman stoics, in early Christianity (*Magna charta libertatum*, coming from England from 1215), later Scholasticism (P. Bartolomej Las Casas OP and protection of Indians from Emperor Carl V., F. De Vitoria, G. Vasquez, D. De Soto a M. Cato and the rights set by the law for Indians in *Leyes nuevas* from 1542). However, moral theology did not develop it any further. Representatives of the natural moral code of teachings have used it again (Hugo Grotius, Samuel Pufendorf, Christian Thomasius a Christian Wolf).²⁷

On the other hand, Schambeck argues that thanks to the Spanish Jesuit School from the 15th and the 16th century from Salamanca (de Vitoria a Francisco Suarez), the Christian idea of *common good* (*bonum communis*) became part of the human rights teachings. For this reason, there was a re-evaluation of human rights and human society rights in government and Commonwealth of Nations.²⁸

According to St. Thomas Aquinas, from an earthly world perspective, human beings face the challenge of having to finish tasks appointed to them by God. However, Schambeck remarks that the idea of human rights is very much connected with Western-European juridical thinking. It is also connected with the secularization of the *Christian* world, its roots being set by The Catholic Church.²⁹ Krejčí suggests that, in order to get rid of the dependency on the Church along with the antic philosophy, biblical quotations about the deputation of individual have to be studied.³⁰ However, he also adds that it is more about the work of Marsilio from Padua (1275-1342) *Defensor pacis* issued in 1324, where the author defends the separation of earthly and clerical power thanks to Aristotle.³¹

After the Enlightenment (Humanism, rational theory of natural law), references to human rights occurred in The American declaration of freedom (*Bill of Rights of Virginia*, 12. 6. 1776)³², in the French statement of human and citizen rights (1789 with anti-church emphasis and later in 1793), in the UN Universal Declaration of human rights issued in 1948, European Convention on human rights from year 1950, in establishment of the European committee of human rights and European Court of Justice, in UN bilateral agreements by contracts about civil and political rights and the pact about economic, social and cultural rights from 1966. Last, but not least, the American convention on human rights from 1969 and the African charter on human rights and nations from 1986.³³

Tödt anticipates that modern times will bring about strong movements in both Western Europe and North America, which will create not only systems of humanist, civic, institutional and governmental legal rights, but also democracy, liberal capitalism, personal individualism and elimination of violence. This movement rose from humanistic individualism, new stoicism, metaphysical rationalism and different possibilities of moral natural law in the 17th and the 18th century.³⁴

The UN Declaration of Human Rights from December 10th, 1948 stipulates in article 2 that human rights have their source in human dignity, that they are intrinsic and non-alienating. They belong to the human beings not on basis of their political or other beliefs, national or social background, ownership or any other circumstances.

The text splits human rights into *civilian-political* (or individual – demands others and society to forbear from harmful acts³⁵), which authorize human being to be able to acquire basic goods (ban of discrimination – art. 2, right for life and freedom – art. 3, ban of torture – art. 4, entitlement for legal protection – art. 8, right of free movement – art. 13 and right of asylum – art. 14) and *cultural-social*, which are basically rights to help others (right to work and same wages – art. 23, right to create trade-unions and to be a member – art. 23, right for rest and free time – art. 24, right for education – art. 26 and right for a freedom of cultural life – art. 27). These rights need active contributions, which mean time, money and other forms of help.³⁶ This way, the old right of freedom merges with basic social rights.³⁷

The declaration doesn't impose any legal obligations.³⁸ According to Günthör, the UN understands dignity of a human being in accordance with his or her own conscience. Given this situation, the human being needs space and freedom, guaranteed by the protection of human rights.³⁹

According to Günthör, the history of modern dictatorship shows us that rules and laws created without the basis of rights arising from humans nativity (given by God eventually) is facing heavy-handed power and ends upside down: expected laws turn into injustice.⁴⁰ The basis of stable human rights starts with a non-violable ethic code. For Christians it is the Decalogue, whole Bible, the authority of The Church teachings and

traditions. According to Melchior Cano, these are called *locis theologicis*. Günthör continues and says that human rights are being violated in many political systems which don't respect personal human dignity or where people defend against a tyrannical superior. Collectivistic systems are mainly regarded as behaving like this. E.g. communism says that a human being as an individual has no sense of himself, but he is only a tool to reach the targets of society. Therefore, there is neither place nor sense for human rights of the individual.

The Political-philosophical problem of the idea of the protection of human rights

It was Tödt who mentioned the theory of human rights of the individual being one of the most important theories of political philosophy. One of the definitions refers to a modern country willing to eliminate the use of individual justice (bloody revenge etc.). The country promoted itself as lawgiver and proprietor of a violence monopoly. Only the government is able to assure and protect the individual's freedom, property and peace. But in this way, the state authority also enhances the possibility of holding citizens under pressure. Against this treatment each individual has to refer to the so-called pre-rights, which are based on moral natural law. The relevant theory explains that for each human being genuine rights are in "genuine condition". The government or the society gets its legitimacy by conning him out of his rights, which the individual (citizen) confirms by conforming his will. This way, an individual restricts his or her rights and authority in favour of state authority. By this act, as described by Montesquieu⁴¹, the government positions itself not above, but under the law. The human being as an individual should not be at the mercy of state authority. He also needs space for his personal improvement. So a citizen hasn't got rights only in the governmental-legal society but also towards this society. There is still one question which remains open: *where do genuine human rights come from and how much could these be denied by the government?*⁴²

Tödt explains the availability of the human as follows: if a human being is made in relationship to God then secular relationships are influenced by this initial relationship. In this way, freedom of faith should also be legally protected. Precisely this *freedom of faith* plays a very important role in the discovering and the improvement of the thinking of human rights. *Personal freedom of individual is in this way a secular form of the freedom of faith*. The immanent humanistic requirement of equality shows that Christians advocate free rights of others, based on service to fellow men and don't allow discrimination. It is the fight for equality that represents a requirement to love fellow men.⁴³ Human rights in The Church have to change to Christian rights in The Church. Otherwise, the

confirmation of faith to The Church is becoming unreliable. Therein, the dual commandment of love arises.⁴⁴

The Church and its historic struggle in order to understand human rights

Prof. Schambeck is asking the question of objectors: how can the Catholic Church and human rights go along together? It is not possible to get these together! It is necessary to enforce rights against the power of Church! In his analysis, the current emeritus professor of public rights, political science and philosophy of right at the University of Linz and emeritus president of Austrian country board in Vienna, indicates that together with teachings of human rights, the Catholic Church also searches for the *establishment of an individual's position in government*. These thoughts are interfering in the relationship between faith and government's polity.⁴⁵ This relationship begins because the Church doesn't defend any political program, but in faith of Jesus Christ has got teachings of human salvation. This, in turn, has echoes both in the religious and the political life. According to Schambeck, the government has its own system of laws and with this, connected human rights with a dual sense for the faithful and Catholic Church: on one side there is a level of accepted freedom of each individual determined through law and government (this is not always possible to set free) and on the other side all political conditions of our life influence the human being (we should not forget about the issue of social sin). Schambeck points out that the task of the Catholic Church has never been to develop its own teachings about the relationship between law and government. Based on teachings of salvation it was more about developing a valuable strong relationship to government and its order according to demands of pastoral situation. In the centre of the catholic teachings of salvation stand the teachings of human beings created according to God's image, which claims his freedom and dignity.

Schambeck reminds that the thought of human dignity is much older than the thought of human rights.⁴⁶ In the past, Popes used to advocate human dignity, mainly the right for life, freedom, private property. They did this much sooner than in the case of any other rights (democracy and free rights).⁴⁷ In the past, there was a fear of connection between human rights with carelessness towards religion and with an anti-Church position. In his encyclical *Immortale Dei* which was issued on November 1st 1885, Leo XIII considered the thought of human rights being teachings about dated landless freedom (eventually coming from French revolution). These teachings are neither compatible with any Christian teachings, nor with moral genuine law.⁴⁸ The first approach was encyclical *Rerum novarum* from Leo XIII issued in 1891 and *Quadragesimo anno* from Pius XI, issued in 1931.

It was the social teachings of Popes' Church of the 19th century that indicated the road to democracy. This started with Leo XIII. Despite the fact that this great Pope was still having issues accepting liberal democratic opinion, he kept refusing any sort of Jacobean democracy (after the experience of the Church with the French Revolution in 1789). He disavowed himself from that time and accepted a sort of state monarchy, where The Catholic Church felt optimistic since gaining this freedom. In the encyclical *Libertas praestantissimum* issued in 1888, Leo XIII agrees with the model of a "healthy democracy", which was created and completed by St. Thomas Aquinas. According to this model, The Church is ready to accept every state no matter what its form, structure or its political system of order. On the other side, this state has to accept and agree that it will serve the common good and it will protect freedom and human dignity. In the encyclical *Quadragesimo anno* from Pope Pius XI, issued in 1931, the refusal of any kind of governmental almightiness and totalitarianism can be seen in the area of law, state and politics, which are not compatible with freedom and human dignity. He exactly defines the Rule of subsidiarity. This was the foundation stone of mutual help to protect the small from the big and powerful. It also ignited the idea of self-responsibility of human beings against the almightiness of the government. The Catholic Church admitted its acceptance of democracy for the first time during the Christmas radio broadcast speech called *Benignitas* of Pope Pius XII about "the right democracy" from 1944. An important role was played by the disturbing barbarian acts of WWII, but also the condition of moral quality of the representatives of people, who make important political decisions in democratic states. Pius XII suggests that only a selection of spiritually strong and efficient men may succeed in this process. Otherwise all systems can easily turn into absolutistic systems, by not respecting unchangeable basic and genuine rules and laws and manifests of truth.⁴⁹

Despite the struggles, there are real differences regarding the justification of human rights between the UN Declaration from 1948 and the understanding of the Church. Through the voting process, the idea of adding to the first article of the declaration an appeal to God was rejected (a similarity arises if comparing it with the issues of the Constitution of EU).⁵⁰ *It is difficult to be silent on the issue of who is the only one who can assure complete human rights.* After all, we have to be aware of the fact that evangelic Churches were refusing the idea of human rights until the seventies of the 20th century. Theologians were bothered by the historical connection of human rights with Western European materialistic and partially also atheist Enlightenment, which was different than the North American understanding.⁵¹

Günthör remarks that just like the UN Declaration, the encyclical *Pacem in terris* and document of II. Vatican council *Gaudium et Spes* art. 26 are also referring only to the rights of an individual in accordance with

and approved by the government. It is not about the rights of government with consideration of the individual or one nation to another nation. „Human rights“ refers to every individual person. Crucial change happened in The Church during the term of John XXIII. The Encyclical *Pacem in Terris*, issued in 1963, introduced the Christological basis of human dignity justification. This paved the way for the issuing of the documents of II. Vatican council.⁵² John XXIII points out that an unnatural raise of rights increases human dignity. This was possible given the Epiphany and was bought with the precious blood of Christ. Therefore, people became God's children thanks to mercy, and God's friends and the heirs of God's power.⁵³ According to the Pope, human rights are positioned amongst others, such as: the right for being and life keeping, the right for truth, honor and formation of spiritual capabilities, the right for free conscience, the right to freely choose a life status, the rights for free lead in commercial area and the right to work (right for an equal salary), the right to merge into associations, the right to choose a place to live and on a political level, the right to be active in public life.⁵⁴

In the chapter *Pacem in terris*, „Contact between races“, one can find an entire definition of human rights:

„the universal common good requires the encouragement in all nations of every kind of reciprocation between citizens and their intermediate societies. Nothing must be allowed to prevent reciprocal relations between them. Nor must one overlook the fact that whatever their ethnic background, men possess, besides the special characteristics which distinguish them from other men, other very important elements in common with the rest of mankind. And these can form the basis of their progressive development and self-realization especially in regard to spiritual values“ (Abr. PT 3).

John XXIII knew that in order for the government to protect human rights, it is necessary to get international acknowledgement. He admitted the participation of these rights in moral genuine law.⁵⁵ The importance of this organization was approved by visits of Paul VI, John-Paul II and Benedict XVI. It was Benedict XVI who, on the 18th of April 2008, during the 60th Anniversary of Charter of Human Rights, re-confirmed human rights in moral genuine law without getting into dangerous relativism.

The Second Vatican council considers God's calling to be very important and therefore refers to the human being while reasoning about his dignity and reliable basic rights. Its declaration *Dignitatis humanae* from the year 1965 and *Gaudium et Spes* art. 41 point out the cooperation of the Church in performing human rights. These are divided into justice, peace

and protection of creation, e.g. *Message of human rights and reconciliation* created by Paul VI in 1974 about the support of human rights as a demand of the gospel.

According to Schambeck, it would be wrong to think that the Church authorities have unequivocally approved all that was presented and written during the 15th and the 16th century by catholic moral theologians. In 1976, the Papal Committee *Iustitia et Pax* wrote a document entitled *The Church and human rights*, in which it acknowledged that there was a period of ecclesiastical history in which human rights were not demanded, either in verbal form or in any written documents, nor were they being promoted with too much energy.

Pope John Paul II elaborated in his first Encyclical *Laborem exercens* from 1981 the Doctrine of the Catholic Church on human rights. He specified that every person's work is a tool of personality development and pointed out the priority of work, relating social work with general human rights.⁵⁶ He underlined the social responsibility of the government and of the commonwealth. According to John Paul II, the human being is a subject of law, to which damage is prohibited (by individual, government, groups and classes). This stems from the validity of individual human rights, which are forbidden to be broken and which overrule the government and its legal order. It demands the acceptance of rights of individual, family, social and religious society. It refuses any form of national totalitarianism and requires independence of all non-national organizations.⁵⁷ Also, the social Encyclical *Sollicitudo rei socialis* of John Paul II from 1987 suggests keeping human rights (Abr. SRS 26).⁵⁸

The basic right to life was also the core message of his Encyclical *Evangelium vitae* from 1995 and it constituted his message during the World Peace Day in 1999: „The secret of real peace consists in the protection of human rights“. For him the first and the most important was the right to life. This was sacred and untouchable since the first moment of conception until its natural end. According to John Paul II, the main task of the catholic social teachings of The Church is not to ensure only unvarnished truth, but also to introduce the responsibility for using the freedom and not to forget about science (e.g. medicines in connection with the right to life and all possibilities of this science) and to use this in order to improve personality, which requires social and economical expectations.⁵⁹

In his Encyclical *Centesimus annus*, based on common good principles and subsidiarity, the message of John Paul II aimed to stop the government from turning into a freethinking night guard, who overlooks its social responsibility. On the other side, he did not want the government to become a guardian with massive resources of power. Therefore, (according to Schambeck) the current democratic governments should take care of the freedom and human dignity matching their social capability. A government is accomplishing this theory via legal and social ethics, where human rights have a *mediating position*.⁶⁰ Before Benedict XVI

started to act in full capacity, he pointed out that human rights are the deepest reason of the necessity of democracy and its non-relativistic core.⁶¹

Society and Church: starting points for mutual acceptance

Even though political realities are so different in relation to the content of the declarations of human rights, the *acceptance of a social-moral authority* is a major reason for hope.⁶² Therefore, a positive legal assessment isn't enough unless supported by a foreseeable moral attitude. It is exactly in this sense that religion could help in a crucial manner by enhancing the ethos of human rights and by creating a living conscience of human rights.⁶³

Günthör summarizes that the aim of human rights is to help a human being to behave and proceed according to his own God's occupation and predetermination.⁶⁴ These are naturally very similar to the idea of genuine law (compared to other beings, the human being is gifted with mind and free will, therefore all people have got common dignity). By accepting human rights, one has the obligation to accept common rights and duties. These come from human nature (and Christian faith believes that common human dignity is based on the fact that we are all children of the divine Father).

Peschke quoted David Hollenbach and stated that the idea of human dignity hasn't got any sense. If it is not better specified it loses all kind of connection with any type of freedom or certain demands and relationships. Therefore, most ideological systems can refer to this idea in order to be morally accepted.⁶⁵ The Catholic Church admits that moral postulates are not enough only by themselves. The strength of the legal protection of positive rights is also significant, because not all of the items of order are *a priori* positive.⁶⁶

Schambeck added that Pius XII, in his speech delivered on the 13th of October 1955 about the „coexistence and symbiosis of nations in truth and love“, pointed out that it is very useful to see the demand of the human being to appoint *what surely will not last according to natural rules and tries to apply what nature keeps quiet about*. Pius XII underlined that certain areas of positive right are not based on a natural legal *a priori* positive right. According to him, there is an opportunity to open up the area of political decision making.

At the same time, the Church has to measure its capability of keeping and applying basic rights, because especially nowadays it is being judged according to its own practice. Its prophetic defense of human rights could be credible only when others see it as righteous and merciful. It is in this sense that its service to human rights undergoes a constant examination of conscience and a sustained cleaning and recovery of life, as well as its capability to lead by example.⁶⁷ Peschke expresses his worries

related to the possibility of the Church to disappoint human beings in its search of justice and lust for humanity in our world. Also, it is prohibited to force anyone to accept faith. The same freedom, which The Church demands for itself, has to be allowed also for all other religious groups (compare *Dignitatis humanae*- DH 4). This cannot be called indifferentism.⁶⁸

Catholic teachings on the government and on human rights are part of the social teachings of the Church. From this point of view, ever since the time of St. Ambrose, the Church has developed not only individual ethics, but also social ethics. This means that apart from the moral involvement in an individual's private life, it also refers to the moral involvement in the individual's public life in government and society. According to the speech delivered by Benedict XVI on the 7th of September 2007 while visiting Austria, Europe has the responsibility of protecting human rights, where the right to abortion as well as right to active euthanasia could not be considered as human rights, but exactly the opposite. Fulfilling the value of human rights requires knowledge of responsibility for humanity, as well as social, cultural, legal and economical requirements for their protection. Not only the government but also The Catholic Church has to demand educative work. Schambeck is deducing that The Catholic Church operates far-reaching activities by its teachings of human rights. This exceeds the reach of the believers and in this way provides a contribution to the responsibility of the world, which could be helpful to many people.⁶⁹ Philosophically, these rights are always personal – public.⁷⁰

Zoidl, the spiritual assistant of the diocesan sport organizations of Austria entitled „Apostolic work of The Church and sport for Austria“, asks whether today, the catholic principles of Europe remain only history.⁷¹ He asks if nowadays spiritual recession in Europe is not somehow connected with a recession of the human's image, secularism. His message suggests that today, only decisions taken by majorities become valid “truths”. The past has already shown us that this is the way to start totalitarianism. Because many people follow the slogan: everything and right now! And the defenders of Christian values are considered to be fundamentalists or incompatible with democracy. Compared with the year 1989, religion considers that freedom and democracy in Europe is in danger.⁷² This danger is a result of the loss of the necessary transcendent point of reference for human thinking and action. *But if we get rid of the Christian roots of Europe, thus Christian human image created in God's image, then what will remain of the European genuine rights?*⁷³

Albrecht remarks pertinently that life is so much linked to certain rights, that it is very debatable whether to split them and think separately. Every form of life has the capacity of forecasting. It is not a passive reaction of the individual towards the environment, it is more a capability of anticipation, which makes „life alive“. A rock, for example, does not anticipate. Therefore life is on two levels: firstly, the level of „what it is“

and secondly, the level of „what it should be“. It is not possible to limit our life only to the first level through the physical-chemical-biological-genetic concept. If we refuse the second level, we *destroy* life. The first level takes care of one's „living conditions“. The second level is about the protection of the area of life, and therefore „what should be“ appears. It is anticipation that makes life vulnerable, given that wrong anticipation can end life easily. At the same time, all these interactions between life and the environment cannot be considered separately, because they cannot operate only within themselves. We feel that given our capacity to keep ourselves alive, we should be grateful to the immeasurable complexity of life. It is as though these concepts could not exist without „dignity of life“, which assure „human rights“ for each human being, hence a certain balance.⁷⁴

Conclusion

We will try get back to the question of human rights from the perspective of the right to abortion. Our intention is to compare religious fundamentalism with other extremist theories against the theory of human rights. If neither moral genuine law nor human dignity are taken into account in modern society, history teaches us that human rights are being bend and this situation will have negative effects. This could have devastating results for the whole of mankind. Tödt added that whenever a fight for emancipation was won over freedom, by means of limited violence, it would soon become clear that respecting the individual's civil freedom does not suit the main needs of others. Such situations would create *new authority proportions*. The industrial proletariat is most of the times affected. The free decision of the individual is turned into an alienated identification of others.⁷⁵ We need to understand the importance of human rights as *peace-making rights*.

Finally, from today's well-known values of „freedom, equality and brotherhood (also considered, by some, as sharing)“, we need to devote ourselves especially to equality. On account of the horrors of World War II, it is fundamentally important that this equality is combined with intransigibility (indefeasibility) of human dignity.⁷⁶

Tödt adds that if a human being wants to be a human being, then he needs to exceed his natural assumptions by his lifelong plan. He needs to take care of the compatibility of his plan and natural conditions in himself and his surroundings.⁷⁷ Krajčí concludes that human rights are after all only a political concept of justice.⁷⁸ The idea of human rights is not only a feature of an individual; it is a project of a new, more righteous and global civilization.⁷⁹

Finally, we find Švanda's observation to be valid. According to it, after the rich experiences of the power struggle of the 20th century, we know that everything too dramatic and lacking internal strength, the endeavor

for equality of rights, has in its result a fight for sovereignty and efficient ascendancy (and a pressure for another fight; a revolution).⁸⁰ Zoidl suggests that it is the specific Christian connection between faith and ethos that creates borders for the correct functioning of Christianity. Christianity is a stabilizer of basic values in a secular society, in which the Church has to make the bill in open interventions.⁸¹ There are ethic principles that stem from the Christian image of a human being (this is a core idea of the UN Human Rights declaration): subsidiarity and solidarity.⁸² Maybe it sometimes looks to life on Earth as a utopia while trying to apply these values into real life. We are often facing „pragmatics“, who will often remind us that what is suggested is an idealism and real life professes other „pragmatic“ values. But it is precisely this kind of understanding of reality that will bring us to subjection of a new totality and that will lead us away from the righteous society. Therefore, it is up to Christians to accept the challenge to be involved in the protection of intrinsic human rights. They also have to point out a clear connection between this protection and assurance of peace and the future of our life on Earth, without any religious or other forms of fundamentalism.

Notes

1 Oskar Krejčí, *Lidská práva*, (Praha: Professional Publishing, 2011), 10.

2 Krejčí, 149-150.

3 Jiří Hanuš, *Křesťanství a lidská práva*, (Vyšehrad: CDK, 2002), 14.

4 Hanuš reminds us about one of the theories according to which the superior position of human rights is overtaken by the teaching of apology in the theological level (freedom of human being is based on God's mercy). Hanuš, *Křesťanství a lidská práva*, 40.

⁵ Christian Schwarke, „Menschenwürde“, in *Lexikon philosophischer Grundbegriffe der Theologie*, ed. Franz, Albert et. al., (Freiburg: Herder, 2003/2007), 265-7.

⁶ Heinz Eduard Tödt, „Menschenrechte-Grundrechte“, in *Christlicher Glaube in moderner Gesellschaft*, ed. Franz Böckle et. al., (Freiburg im Breisgau: Herder, 1982, Tome 27), 9.

⁷ Pavel Švanda, „Zkušenost ideje lidských práv v současnosti“, in *Lidská práva*, ed. Jiří Hanuš, (Brno: CDK, 2001), 110.

⁸ Tödt, 39.

⁹ Herbert Schambeck, „Menschenrechte, katholisch gesehen I., <http://www.zenit.org/de/articles/menschenrechte-katholisch-gesehen-1>.

¹⁰ Tödt, 39.

¹¹ Hans Maier, „Lidská práva- nárok na obecnou platnost a kulturní diferenciaci.“, in *Lidská práva*, ed. Jiří Hanuš (Brno: CDK, 2001), 20-21.

¹² Tödt, 32.

¹³ Tödt, 35.

¹⁴ Schwarke, 266.

¹⁵ Krejčí considers that this original translation of the School of Salamanca, that the government or the society was created through agreement between some of the Robinsons, is only utopia. Krejčí, 16.

¹⁶ Tödt, 37.

¹⁷ According to Günthör, amongst God's rights (which are a result of the existence of God) one can find the right to bow down and conform for human being (certain type of reverence) and also a right of miraculous appearance: a right to accept his word which is addressed to us by Jesus Christ. Anselm Günthör, *Morálna teológia III/a* (Trnava: SSV, 1996), 87.

¹⁸ The prior position of the human being towards nature or the odd position of individual in society were the main points of human dignity already in Greek stoical philosophy. Schwarke, 265.

¹⁹ Human being is, according to Thomas Aquinas, „animal sociale et politicum“ (St. Thomas Aquinas, *De rege et regno* 1, 1). Günthör, 86; and Alfred Klose, „Staat“, in *Neues Lexikon der Christlichen Moral*, ed. Hans Rotter and Günther Virt (Innsbruck: Tyrolia, 1990), 729.

²⁰ Eberhard Schockenhoff, *Ethik des Lebens. Grundlagen und neue Herausforderungen* (Freiburg im Breisgau: Herder, 2009), 226.

²¹ Schwarke, 267.

²² Krejčí suggests a theory of changing the subject of the ideas of human rights through the history of human being on Earth. What he really thinks about is that this change is a specificity of each historical period. Krejčí, 75. Krejčí also points out that for many only Kant mentions the basis of freedom as the only real law. Kant writes in his *Metaphysics of Morals* that real freedom is the level of humanity. This freedom was for Kant an opposite of human's necessity. So it was not about fulfilling libertarian arbitrariness but about fulfilling of moral law in ourselves (freedom law for him is the main point of ethics studies). Krejčí, 92.

²³ Tödt, 44.

²⁴ Krejčí, 14.

²⁵ Tödt, 44.

²⁶ Krejčí, 145-6.

²⁷ Karl- Heinz Peschke, *Křesťanská etika*, (Praha: Vyšehrad, 1999), 218.

²⁸ Schambeck, 2.

²⁹ Schambeck, 2.

³⁰ Krejčí, 128.

³¹ Marsilio is at the „cradle“ of state sovereignty vision and defined civil society as condition of earthly happiness with no intervention of Church. Krejčí, 128.

³² Tödt points out that there was innovation in this declaration, that human rights were acknowledged to human as individual and not as a member of some society. Tödt, 15.

³³ Jiří Skoblík, *Přehled křesťanské etiky* (Praha: Karolinum, 1997), 176.

³⁴ Tödt, 17.

³⁵ Peschke, 220.

³⁶ Peschke, 220.

³⁷ Maier, 17.

³⁸ Czechoslovakia together with Soviet Union, Yugoslavia, Poland, Saudi Arabia and Republic of South Africa refrained from voting. Skoblík, 177.

³⁹ Günthör, 96.

⁴⁰ Günthör, 88 and 98.

⁴¹ Montesquieu, in his work *Esprit des Lois* (1748). Tödt, 15.

⁴² Tödt eventually reaches the conclusion that it is not suitable to claim faith. This is the natural ethos of the caring universal society. Appealing to a theory of

Martin Honecker, he says that ethics as itself is referring to general human, not only Christian. This way, the gospel loses its universality. It is like Christian faith is losing its direct important connection with the idea of keeping human rights. This is valid for those who separate Christian and general human. Tödt, 48.

⁴³ Tödt, 52.

⁴⁴ Tödt, 54.

⁴⁵ Schambeck, 3.

⁴⁶ Schambeck, 3.

⁴⁷ Schambeck reminds of Bulla of Pope Eugene IV called *Dudum nostras*, issued in 1435, which is dealing about slave market, bulla of Pope Paul III called *Veritas ipsa*, issued in 1537, about the human dignity of pagans, bulla of Pope Urban VIII called *Commisum nobis*, issued in 1639, with the task of forbidding every person to sell, enslave or steal from citizens of Western and Southern India as well as their wives, children, and property owners and also bulla of Pope Benedict XIV called *Immensa pastorum*, issued in 1741, which is dealing with fraternity over any kind of racial differences, and the apostolic letter of George XVI called *In supremo*, issued in 1839, with the purpose of being strictly against slavery in Africa and India and black slaves market. Schambeck, 4.

⁴⁸ Tödt, 18.

⁴⁹ Schambeck, 4.

⁵⁰ The refused reference to God sounded like: "Created to the view and image of God, they are endowed by sense and conscience..." . Günthör, 98.

⁵¹ Liberation wars during the 2nd half of the 20th century started religious patriotism within evangelists. This brought up national Protestantism. Nationalism didn't trust the individualism at the basis of the human rights thought, because the citizen was supposed to feel first of all not as an individual, but as a part of his country and he should have identified his interests with the interest of the government. Tödt, 18.

⁵² Günthör, 93-95.

⁵³ Günthör, 99.

⁵⁴ For the sake of complete information we are adding the entire internal content of basic rights, accepted by the Spanish Jesuit moralists in 16th century, which later influenced official declarations of human rights: right for life, invulnerability of body, right for marriage and family, right for social and political freedom, certain forms of equality from law and protection by law, right for a private property and affiliate, as well as right to move out and right to settle down and to obtain a land. Schambeck, 2.

⁵⁵ Tödt, 15.

⁵⁶ Tödt makes strange comments about the document of the UN from the 6th of December 1966, which refers to the right to work for Catholics living in post-communism. He says that BRD (formal Bundesrepublik Deutschland) will not create any correct conditions for this right and will not add it to basic rights, because it does not match the economical system of the country. Tödt, 10.

⁵⁷ Schambeck, 5.

⁵⁸ Skoblík, 178.

⁵⁹ Schambeck, „Menschenrechte, katholisch gesehen II.“

<http://www.zenit.org/de/articles/menschenrechte-katholisch-gesehen-2>, 1.

⁶⁰ Schambeck, „Menschenrechte, katholisch gesehen II.“ 2.

⁶¹ Joseph Ratzinger, "Pravda, hodnoty a moc. Prubířské kameny pluralistické

společnosti", in *Lidská práva*, ed. Jiří Hanuš (Brno: CDK, 1996), 44-5.

⁶² Peschke, 221.

⁶³ Gerhard Luf, „Friede und Menschenrechte aus der Sicht der Kirchen“, in *Friede für die Menschheit*, ed. Andreas Bsteh (Mödling: Verlag St. Gabriel, 1994), 162. Peschke, 221, notice 346. According to Krejčí, also Professor Raymond Geuss from Cambridge university has got same opinion. Krejčí, 10.

⁶⁴ Günthör, 100.

⁶⁵ Peschke, 219, especially notice 341.

⁶⁶ Schambeck, „Menschenrechte, katholisch gesehen II.“, 2.

⁶⁷ Peschke, 222.

⁶⁸ Peschke, 549-550.

⁶⁹ Schambeck, Menschenrechte, katholisch gesehen II., 3.

⁷⁰ Tödt, 19.

⁷¹ Christian Zoidl, „1989-2009. 20 Jahre nach dem Wunder der Wende: Sind die christlichen Fundamente Europas Geschichte? Resolution zum Sportbesinnungstag 2009“, in *Nachrichten der Diözese Eisenstadt*, 3 (2009): 14-16.

⁷² Zoidl, 14.

⁷³ Krejčí calls the theory about culture / religion determination of the feature of human rights as ultra-relativism, which he finds non-acceptable and dangerous. Human rights have got no transcendent quality, but it is more an idea having different historical and civilizing forms, compare Krejčí, 148.

⁷⁴ Vladimír Albrecht, „Nové chápání lidských práv?“, in *Lidská práva*, ed. Jiří Hanuš, (Brno: CDK, 2001), 124.

⁷⁵ Tödt, 26.

⁷⁶ Tödt, 28.

⁷⁷ Tödt, 30.

⁷⁸ Krejčí, 161.

⁷⁹ According to Krejčí, God is not the origin of Human Rights, but a Human Thought. It is about human's self-improvement the origins of which are in academic philosophy. Krejčí, 162.

⁸⁰ Pavel Švanda, „Zkušenost ideje lidských práv v současnosti“, in *Lidská práva*, ed. Jiří Hanuš, (Brno: CDK, 2001), 116.

⁸¹ Zoidl fights for the basic right to religious freedom also for Muslims. He also adds the following rights to the basic rights: human dignity, human rights, peace, freedom, justice and solidarity. Except for the right to life and protection of air, we need to take care of the right to national identity in disagreement with treating religious and cultural minorities. Human dignity is independent of age, sex, race, status, language, religion, education or income. It also does not depend on the quality of life, which could be behind due to age, illness, disability, injury or to be reliant on justice. Thus many ads of strong sporty images of human being are contradicting biblical version. Zoidl, 15.

⁸² It is also human work that participates at the image of human being as God's creation. The human being has actually got a cultural task on this planet (Gn 2, 15) as a colleague of God, protecting the creatures and creating the world and human space. Zoidl, 16.

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