

The Crisis of Human Rights Discourse

Abstract

Although the “crisis” of human rights discourse has many aspects, it is hard not to get the impression that the most important of them is the incorrect understanding of the philosophical foundations of these rights. The paper presents various hypotheses regarding the nature of this error. The first hypothesis suggests that this crisis simply stems from philosophical indifference to the problem of philosophically grounding human rights – treating them, in a sense, in isolation from other ethical ideas. The second identifies the source of the crisis in the misguided attempt to ground human rights in ethical relativism. The third, which is somewhat connected to the second, suggests that the crisis arises from the attempt to ground human rights in the idea of radical autonomy, which results in placing freedom above all other values; this attempt seems to be, to some extent, inspired by modern gnosticism, which rejects nature as normative. The paper also discusses various strategies for resolving this crisis.

KEYWORDS: human rights, philosophical foundations, Kantianism, Thomism, Leo Strauss, Simone Weil

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1 | The Many Faces of the Crisis

There is much talk nowadays about the crisis in human rights discourse, both at the level of international law and within state law (where it takes the form that could more precisely be called the crisis of fundamental rights discourse). However, the meaning of this crisis – both in relation to international law and the internal legal level – can be understood in various ways. One strand of criticism of human rights discourse, in its

current shape, consists of pointing out that the very idea of universal human rights is one (of many) manifestations of Western domination – a Western “imperialistic” attitude toward other cultures. Therefore, those who develop this line of criticism, often operating within the framework of theories like multiculturalism, cultural relativism, or postcolonialism, question the universality of human rights. A different strand of criticism focuses on the ineffectiveness of the human rights protection system. It is argued that the logic of political realism often prevails over the human rights system, with rights being protected only if they serve, or at least do not conflict with, the various “realist” (economic, geopolitical, or military) interests of those who have the power to protect them. These two strands are important, and much could be said about them, but I would like to address – and develop – a third, in my view the most important, line of criticism (which overlaps to some extent with the first). According to this line of thought, the crisis lies in the philosophical misinterpretation of the foundations of human rights.

I will first describe various symptoms of the crisis, as understood in this way, and then I will delve into the heart of the matter: the source or cause of these symptoms, which, as I will argue, lies in the misinterpretation of human rights foundations. In the final part, I will present some possible ways out of this crisis. In my analysis, I will set aside the now rare view that the very idea of human rights is fundamentally misconceived and should be entirely dismissed.

2 | Symptoms of the Crisis

There is much agreement among various scholars regarding the symptoms of the crisis. Let me present those that seem to be most consequential.

The most conspicuous symptom, in my view, is the proliferation of human rights, including rights that are not strictly speaking “human” but are understood in a similar manner (e.g., the rights of animals, or the rights of “natural entities,” such as trees, lakes, and rivers). What’s more, there seems to be no clear ‘upper limit’ to human (or human-like) rights today, nor any definitive criterion for determining what can reasonably be considered a right. As a result, new rights have emerged that were not mentioned in the Universal Declaration of Human Rights from 1948 (and,

as will be argued later, are contrary to its spirit). As Mary Ann Glendon put it: “As various new rights are proclaimed or proposed, the catalog of individual liberties expands without much consideration of the ends to which they are oriented, their relationship to one another, to corresponding responsibilities, or to the general welfare.”^[1] What new rights are being referred to here? Grégor Puppink insightfully clarifies this point, discussing the evolution of human rights, from natural rights, through anti-natural rights (e.g., the right to abortion and sterilization, subsumed under the term “reproductive rights,” the right to assisted suicide/euthanasia, the redefinition of marriage), to trans-natural rights (e.g., certain rights related to procreation or sexuality, as, e.g., the right to freely determine one’s gender).^[2] Thus, one can hardly resist the impression that the notion of human rights is used today to legitimize all kinds of desires or wishes – abortion, surrogacy, suicide, sex-change, and so on. These new “human rights,” unlike the classical (or traditional) ones (to life, expression, privacy, etc.), are highly controversial, often becoming the subject of deep moral disagreements. Moreover, they are frequently developed at the expense of classical rights. For example, in contemporary democracies, one can observe the weakening of fundamental freedoms, such as freedom of speech, freedom of conscience (including critiques of the conscience clause), the rights of parents to raise their children in accordance with their moral or religious convictions. This conflict between classical human rights and the new ones was perspicaciously described by Benedict XVI:

Nowadays we are witnessing a grave inconsistency. On the one hand, appeals are made to alleged rights, arbitrary and non-essential in nature, accompanied by the demand that they be recognized and promoted by public structures, while, on the other hand, elementary and basic rights remain unacknowledged and are violated in much of the world. A link has often been noted between claims to a “right to excess”, and even to transgression and

¹ Mary A. Glendon, *Rights Talk. The Impoverishment of Political Discourse* (New York: The Free Press, 1991), XI.

² See Grégor Puppink, *Degeneracja praw człowieka (Les droits de l’homme dénaturé)*. Translation by M. Kulczyk (Kraków: Ośrodek Myśli Politycznej, 2021). On the issue of the proliferation of human rights, see also, e.g., Justine Lacroix, Jean-Yves Pranchère, *Le procès des droits de l’homme. Généalogie du scepticisme démocratique* (Paris: Seuil, 2016), Marcel Gauchet, *La démocratie contre elle-même* (Paris: Gallimard, 2002), Pierre Manent, *La loi naturelle et les droits de l’homme* (Paris: PUF, 2018), Jean-Louis Harouel, *Les droits de l’homme contre le peuple* (Paris: Desclée De Brouwer, 2016).

vice, within affluent societies, and the lack of food, drinkable water, basic instruction and elementary health care in areas of the underdeveloped world and on the outskirts of large metropolitan centres. The link consists in this: individual rights, when detached from a framework of duties which grants them their full meaning, can run wild, leading to an escalation of demands which is effectively unlimited and indiscriminate.^[3]

The multiplication of rights ultimately leads to the destruction of the concept of law and ends with a nihilistic 'human right' that negates itself: abortion, suicide, the production of humans as things become human rights that simultaneously negate the very idea of humanity.^[4]

Earlier, similar thoughts were formulated by John Paul II; e.g., in his 1995 encyclical *Evangelium Vitae*, he wrote:

It is a problem which exists at the cultural, social and political level, where it reveals its more sinister and disturbing aspect in the tendency, ever more widely shared, to interpret the above crimes against life [abortion, euthanasia – W.Z] as legitimate expressions of individual freedom, to be acknowledged and protected as actual rights. In this way, and with tragic consequences, a long historical process is reaching a turning-point. The process which once led to discovering the idea of "human rights" – rights inherent in every person and prior to any Constitution and State legislation – is today marked by a surprising contradiction. Precisely in an age when the inviolable rights of the person are solemnly proclaimed and the value of life is publicly affirmed, the very right to life is being denied or trampled upon, especially at the more significant moments of existence: the moment of birth and the moment of death (par. 18).

The proliferation of human rights, including those that the authors^[5] of the Universal Declaration of Human Rights would never have regarded as

³ Benedict XVI, *Caritas in Veritate* (www.vatican.va, 2009), par. 43.

⁴ Benedict XVI, „Multiplikacja praw i niszczenie pojęcia prawa,” trans. Marzena Górecka, Katarzyna Kozak, [in:] Benedict XVI, *Uwolnić wolność: wiara a polityka w trzecim tysiącleciu*, ed. Krzysztofa Góździa, Marzeny Góreckiej (Lublin: Fundacja Rozwoju KUL 2018), 16 (translation from the Polish version by the Author).

⁵ E.g., Jacques Maritain, Charles Malik, René Samuel Cassin, Edward Carr, Richard McKeon. The process through which the Universal Declaration of Human Rights came into being, along with the roles played by various thinkers and politicians, is exhaustively described by Mary A. Glendon in her book *A World Made New*:

rights at all, has various negative consequences. It leads to the “inflation” of the term “human right,” causing it to gradually lose its argumentative force (this can be called ‘the banalization of human rights’). Furthermore, it contributes to the exacerbation of social conflicts: as the list of desires or claims presented in the language of human rights grows, clashes between these rights become more frequent. These conflicts are particularly difficult to resolve because rights tend to be interpreted as absolute or quasi-absolute, leaving little room for compromise (though, in a sense, this interpretation may be natural, as it seems inherent to the very nature of rights that they require full satisfaction: they are not premises for moral deliberation but, rather, conclusions).^[6] This results in the “impoverishment of political discourse”^[7]: fundamental ethical dilemmas are, all too often, not resolved through democratic debate or the exchange of arguments, but rather by judicial decisions – leading to the rise of “judiciocracy,” at the cost of democratic processes. The powerful judiciary arrogates to itself the right to resolve various controversial moral issues, and thus define the shape of public life, without having any democratic mandate for such activity; Richard J. Neuhaus aptly noticed in this rise (through the usurpation) of the power of the judiciary “the most flammable issue in our public life”:

From abortion to doctor-assisted suicide to same-sex marriage, the courts have increasingly arrogated to themselves the big decisions about the ordering of our life together, leaving to the people and their elected representatives the relatively trivial questions of raising or lowering the gasoline tax and balancing the budget. [...] The great task in the months and years ahead is, if one may be permitted the awful words, to de-legalize and re-politicize the great questions that are properly political. This will not happen without a very sharp challenge to business as usual—a challenge that some will no doubt condemn as an insurrectionary revolt against “the law of the land: (meaning the latest dumb decision of the courts).”^[8]

Eleanor Roosevelt and the Universal Declaration of Human Rights (New York: Random House, 2001); on the origins of the declaration see also Matthias Mahlmann, *Mind and Rights. The History, Ethics, Law and Psychology of Human Rights* (Cambridge: Cambridge University Press, 2023), chapter 2.

⁶ On this issue see, e.g., Charles Taylor, *Etyka autentyczności*, trans. Andrzej Pawelec (Kraków: Znak, 2002 [1991]), 90–92.

⁷ As Mary A. Glendon put it in the title of her already quoted monograph.

⁸ Richard J. Neuhaus, “Ralph Reed’s Real Agenda” *First Things*, 66 (1996): 43–44. For further analysis of the problem of the erosion of democracy (politics) as a result

Another result of this process of multiplication of the human rights is “the loss of both universality and individuality”: a concrete person is defined entirely by their “particular” type of identity, and only certain groups receive authentic attention from human rights activists.^[9] The violations of their rights are treated seriously, while the rights violations of individuals from other, previously “dominant” groups are met with indifference. Keith Tester commented insightfully on this issue:

Indifference is an inevitable quality of modernity precisely because, in its history, the universalist ambitions of modernity have collapsed into a plethora of mini-discourses, each of which validates itself internally and by closure against the ‘outside’. The consequence of this is that in a situation of mini-discourses there is also a multiplication of the categories of “It” into which human beings can be placed (for example, my “It-ness” can involve my sexuality, gender, ethnicity, social class, national identity, and so forth). In this way, the splinters of indifference are multiplied and magnified. We are all wrapped up, put into little parcels and entirely divorced from others because we only recognize their It-ness [...] Just as it is true to say that all social relationships contain an embryo of indifference, it is much more true to say that in the world of mini-discourses the embryo turns into a living monster. The world of mini-discourses is a world of indifference running amok. This suspicion towards the foundation of universal human rights leads directly to a lack of care about the misery of others.^[10]

of the expansion of the human rights discourse, and the concomitant rise in the power of the judiciary, see, e.g., Marcel Gauchet, “Quand les droits de l’homme deviennent une politique” *Le Débat*, 3 (100) (2000): 258-288; Marcel Gauchet, *La démocratie contre elle-même* (Paris: Gallimard, 2002).

⁹ See on this issue Helen Pluckrose, James Lindsay, *Cynical Theories: How Activist Scholarship Made Everything About Race, Gender, and Identity—and Why This Harms Everybody* (Durham: Pitchstone Publishing, 2020), 128-140.

¹⁰ Keith Tester, “A Theory of Indifference” *Journal of Human Rights*, 1 (2002): 184. It should be added, however, that he situates his reflections within a broader context. He does not believe that theoretical disagreements over the foundations of human rights can be overcome, as we live, in his words, in an epoch of “hermeneutical suspicion.” As a result, he gives a somewhat broader meaning to the notion of “mini-discourses” than that implied by “critical theories.” Yet, the very examples of these discourses that he provides demonstrate that this notion fits best precisely in this context.

Furthermore, the proliferation often results in the worsening of the situation for “ordinary” citizens. This may be especially the case regarding rights that protect the interests of migrants, with little attention given to how immigration might affect the citizens of the host country.^[11] Finally, one should also consider the psycho-sociological effects of this proliferation: the human rights discourse, as it is currently framed, promotes (and, conversely, is reinforced by) a narcissistic, individualistic mentality – demanding rights while rejecting duties and responsibility; as Mary Ann Glendon put it: “rights talk encourages our all-too-human tendency to place the self at the center of our moral universe.”^[12]

3 | The Philosophical Roots of the Crisis

In this section, I will systematically describe various views on the roots of the crisis in human rights discourse, the symptoms of which I outlined in the previous section.

According to the first view, “the roots of the crisis lie in (philosophical) indifference to the problem of the foundations of human rights, that is, conceiving them in isolation from other ethical ideas.” In attempting to describe the state of our “rights talk,” Mary Ann Glendon observed that it is “like a book of words and phrases without a grammar or syntax.” However, Glendon seems only partly right: there appears to be a (pernicious) logic behind this crisis. This logic can be understood in three different ways.

Thus, according to the second view, “the roots of the crisis lie in grounding human rights in ethical relativism (or, more or less equivalently, in ethical anti-foundationalism or ethical subjectivism).” This view was

¹¹ This (undoubtedly controversial) view is defended: Harouel, *Les droits de l'homme contre le peuple*. Harouel argues that human rights, as they function today, serve the interests of immigrants by facilitating their movement and stay in host countries. At the same time, this worsens the situation of ordinary native citizens (especially those from the lower middle class), as immigrants compete with them in the labor market.

¹² Glendon, *Rights Talk*, XI. A profound analysis of the narcissistic trends in the culture of developed countries, and of the way in which it fostered the language of rights, is provided by Christopher Lasch in his book *The Culture of Narcissism: American Life in an Age of Diminishing Expectations* (New York-London: W.W. Norton & Company, 1991 [1979]).

expressed, for example, by Benedict XVI in his sermon during the Mass *Pro Eligendo Romano Pontifice* on 18 April 2005: “We are building a dictatorship of relativism that does not recognize anything as definitive and whose ultimate goal consists solely of one’s own ego and desires.”^[13] Benedict XVI’s diagnosis may be accurate with regard to a large number of contemporary proponents of human rights. It can also be added that those who adopt ethical relativism fall into inconsistency, because the very idea of human rights is “absolutist” and “objectivist” – features that clearly contradict ethical relativism. But this diagnosis does not seem to be wholly apt. For if proponents of the “new/progressive” rights truly accepted ethical relativism, they would not display such deep hostility toward “conservative/traditional” ones. This observation was developed with great perspicacity by Chantal Delsol in her book *La Haine du Monde*, in which she noted that today’s elites are not consistent relativists because they have their own ideals; they invoke relativism instrumentally. For them, relativism is a strategy for achieving a more distant goal. The relativism that appears to undermine all values is merely a mask: it is not about allowing everything; it is about making room for other values. The ultimate goal is total emancipation, the subversion of “rootedness.” According to Delsol, this ideology continues to evolve and is a twin sister to communist ideology – it embraces its two fundamental aspects: equality and the transformation of human nature.^[14] New “human rights” have become a kind of secular religion, subverting the personalist foundations of the Universal Declaration of Human Rights and the rights listed therein.

Thus, we come to the third view, according to which “the roots of the crisis lie in the redefinition of these foundations by locating them in the idea of radical autonomy – in the idea that values and rights are expressions of human will, and therefore are not discovered but established; delving deeper, one could link these roots also to some form of modern Gnosticism.” Thus, so the argument goes, the root of the crisis is the idea of radical emancipation: the abolition of any form of rootedness, and the negation of boundaries. This idea of radical autonomy and emancipation

¹³ This view is developed by, for example, Roberto di Mattei in his book *Dyktatura relatywizmu*, trans. Piotr Toboła-Pertkiewicz, Emila Turlińska (Warsaw: Prohibita, 2013).

¹⁴ Cf. Chantal Delsol, *Nienawiść do świata. Totalitaryzmy i ponowoczesność*, trans. Marek Chojnacki (Warszawa: Pax., 2017): 76–80. An excellent introduction to gnostic tradition is provided by Serge Hutin in his book *Les Gnostiques* (Paris: Presses Universitaires de France, 1959).

stems from the prioritization of freedom, placing it above all other values (or even considering it the only authentic value). Moreover, it can find additional support in modern gnosticism. Following Eric Voegelin's famous thesis that many modern currents of thought represent the secularization of gnosis,^[15] one could argue that some gnostic tenets – such as the radical dualism of mind and body, the ideal of complete emancipation and full power over the body/matter, and the rejection of the idea of “nature” as normative (or, more generally, hostility toward what is allegedly “natural”), determining our rights and duties – provide additional support for the redefinition of family, sexuality, procreation, and marriage through new rights.^[16] In this spirit, the concept of dignity is also redefined: it is no longer understood as “ontological dignity,” which can be ascribed to every human being simply because they are human; it now becomes closely connected to a proper level of consciousness, or the mind. Or it is treated instrumentally, as a tool for justification of various idiosyncratic

¹⁵ See esp. Eric Voegelin, *The New Science of Politics* (Chicago-London: The University of Chicago Press, 1974[1952]): chapter 4 and 5.

¹⁶ This point about the gnostic roots (more or less distinctly realized) of new human rights was made, for example, by Grégor Puppink in *Degeneracja praw człowieka* (*Les droits de l'homme dénaturé*), and Jean-Louis Harouel in *Les droits de l'homme contre le peuple*. For example, Harouel writes that human rights have become a ‘secular religion,’ with deep roots in Gnosticism as well as in millenarianism. It aims to radically transform human nature and establish ‘paradise on earth’ not by the suppression of private property, but by negating all differences between human beings (national, sexual, educational, etc.). To serve this end, the ideal of “non-discrimination” is pushed to the extreme, thus becoming its own caricature: it amounts to an ideology of the lack of differentiation, of the identity of all human beings, imposing on citizens the obligation to neglect (not to speak of or even notice) everything that distinguishes them from one another, under the threat of social ostracism or even penal sanctions. Harouel calls this basic dogma of the “religion of human rights” *le mêmeisme* (the sameness). He notes that, in this regard, the religion of human rights is strongly inspired by Gnosticism, as the latter negated all differences between (enlightened) humans, and even between them and God (since what made human beings equal was the divinity they had within themselves). This is why, as he argues, for instance native citizens are seen as perfectly replaceable by immigrants, for all are “the same”. Thus, instead of protecting citizens against the power of the state, as was their original role, human rights have transformed into a secular religion of “love,” seeking to radically reshape social reality. It was forgotten, however, that all true religions of love (such as Christianity), insofar as the virtue of love was concerned, always embraced perfectionist ethics, which were never intended to be institutionalized or enforced by the state. Needless to say, Harouel's diagnosis is controversial but, assuredly, intellectually stimulating.

rights; there is indeed something deeply saddening when the “rights” to abortion, euthanasia are introduced as purportedly derived from the value of human dignity. As is noted in 2024 declaration *Digintas infinita* issued by Dicastery for the Doctrine of the Faith (and approved by Pope Francis):

The concept of human dignity is also occasionally misused to justify an arbitrary proliferation of new rights, many of which are at odds with those originally defined and often are set in opposition to the fundamental right to life. It is as if the ability to express and realize every individual preference or subjective desire should be guaranteed. This perspective identifies dignity with an isolated and individualistic freedom that claims to impose particular subjective desires and propensities as “rights” to be guaranteed and funded by the community. However, human dignity cannot be based on merely individualistic standards, nor can it be identified with the psychophysical well-being of the individual. Rather, the defense of human dignity is based on the constitutive demands of human nature, which do not depend on individual arbitrariness or social recognition. Therefore, the duties that stem from recognizing the dignity of the other and the corresponding rights that flow from it have a concrete and objective content based on our shared human nature. Without such an objective basis, the concept of dignity becomes *de facto* subject to the most diverse forms of arbitrariness and power interests (par. 25).

This thought is vividly illustrated in relation to gender theory:

Regarding gender theory, whose scientific coherence is the subject of considerable debate among experts, the Church recalls that human life in all its dimensions, both physical and spiritual, is a gift from God. This gift is to be accepted with gratitude and placed at the service of the good. Desiring a personal self-determination, as gender theory prescribes, apart from this fundamental truth that human life is a gift, amounts to a concession to the age-old temptation to make oneself God, entering into competition with the true God of love revealed to us in the Gospel. Another prominent aspect of gender theory is that it intends to deny the greatest possible difference that exists between living beings: sexual difference. This foundational difference is not only the greatest imaginable difference but is also the most beautiful and most powerful of them. In the male-female couple, this difference achieves the most marvelous of reciprocities. It thus becomes the source

of that miracle that never ceases to surprise us: the arrival of new human beings in the world (par. 57-58).

4 | A Bird's Eye View on the Evolution of the Evolution of Human Right Discourse

How did this evolution of the idea of human rights (from reasonable and limited to unreasonable, unlimited, and self-undermining) appear from a bird's-eye view? It seems to have occurred in three stages.

In the first stage, human rights were regarded as being rooted in some higher moral framework, such as the classical natural law tradition and its 20th century offspring: the doctrine of personalism. Thus interpreted, human rights were reasonable and limited. In this basically personalist spirit, the Universal Declaration of Human Rights from 1948 was framed. Of course, this personalist spirit was not entirely dominant, despite being evident in the idea of dignity mentioned in the declaration as the foundation of human rights. This is because the authors had to compromise with other currents of thought, such as, e.g., spiritualized evolutionist materialism (promoted by Julian Huxley), evolutionist Christianity (advocated by Pierre Lecomte de Noüy), and with various political factors (including the communist states, the objections of Great Britain). For this reason, the declaration lacks an *invocatio Dei* and is presented as a human creation. This is why, despite its personalist inspirations, it was met with skepticism by Pope Pius XII. He believed that the exclusion of God from the Declaration would be interpreted as suggesting that humanity itself is the author of these rights, thereby opening the door for interpreters to manipulate the meaning of its words. In none of his speeches did he mention the Declaration: he passed it over in silence.^[17] Similarly, Chantal

¹⁷ As Pius XII made clear in his famous letter to President Harry S. Truman, dated August 26, 1947, he could not accept that the rights of the human person be divorced from its divine source “What is proposed is to ensure the foundations of a lasting peace among nations. It were indeed futile to promise long life to any building erected on shifting sands or a cracked and crumbling base. The foundations, We know, of such a peace — the truth finds expression once again in the letter of Your Excellency — can be secure only if they rest on bed-rock faith in

Delsol is not an enthusiast of the Universal Declaration of Human Rights; she criticizes it precisely for the absence of any invocation of God and for its voluntaristic character. She argues that by presenting it as an act of humanity, the Declaration implicitly removes any metaphysical considerations.^[18] However, it should be noted that, even though the invocation of God as the source of human rights is absent from the Declaration, the rights are presented therein in a way that is largely consistent with the classical natural law tradition – namely, as pre-political and grounded in universal human nature, particularly in human dignity. Yet, it is true that what was missing was a consensus on the deeper justification of human dignity (whether this dignity should be ultimately grounded theologically or not), as acknowledged by Maritain himself in his reflections following the adoption of the Declaration.^[19] In the second stage, the personalist roots of human rights are rejected, but the idea of human rights in its original form (though detached from its roots) is preserved, either by inertia or through an unacknowledged and/or unconscious attachment to the idea of natural law. The great German/Italian philosopher and theologian Romano Guardini aptly described this attitude – of acquiring and enjoying the fruits and cultural achievements of the classical tradition while rejecting its foundation – as *die moderne Unredlichkeit* (modern man's dishonesty).^[20] In the third (and present) stage, we witness an almost total rejection of

the one, true God, the Creator of all men. It was He who of necessity assigned man's purpose in life; it is from Him, with consequent necessity, that man derives personal, imprescriptible rights to pursue that purpose and to be unhindered in the attainment of it. Civil society is also of divine origin and indicated by nature itself; but it is subsequent to man and meant to be a means to defend him and to help him in the legitimate exercise of his God-given rights. Once the State, to the exclusion of God, makes itself the source of the rights of the human person, man is forth-with reduced to the condition of a slave, of a mere civic commodity to be exploited for the selfish aims of a group that happens to have power. The order of God is overturned; and history surely makes it clear to those who wish to read, that the inevitable result is the subversion of order between peoples, is war. The task, then, before the friends of peace is clear." The attitude of the Catholic Church shifted with the pontificate of John XXIII, who, for instance, expressed a positive opinion on it in his 1963 encyclical *Pacem in Terris*. More on this issue can be found in: Marcello Pera, *Diritti umani e cristianesimo. La Chiesa alla prova della modernità* (Padova: Marsilio, 2015).

¹⁸ Cf. Delsol, *Nienawiść do świata*, 190-192.

¹⁹ See Jacques Maritain, *Man and the State* (London: Hollis & Carter, 1954).

²⁰ Romano Guardini, *The End of the Modern World* (Wilmington, Delaware: ISI Books, 1998), 99.

the personalist roots of human rights, both at the theoretical and practical levels. The human rights discourse becomes distorted: new human rights, entirely at odds with the personalist roots of the Universal Declaration, are introduced.

5 | Remedies

The defects of the human rights discourse can be addressed by grounding it in solid – ethically objectivist – philosophical foundations. How this can be done in detail will depend on one's philosophical preferences.

One approach is a return to the classical (especially Thomist/personalist) natural law tradition, within which the Universal Declaration of Human Rights was conceived (with qualifications mentioned in the previous section). This can be pursued in good faith by those who believe that the core ideas of this tradition are true, particularly the belief that natural law exists, can be known, and grounds natural rights. An inspiration for this approach could be found in the works of Jacques Maritain. He explicitly states that these rights stem from the human person's inherent dignity, which is grounded in natural law. A human being, as a whole and self-mastering entity, i.e., as a person, is not merely a tool or means to an end, and thus deserves to be respected and recognized as the subject of rights. And these rights are closely linked to moral obligations, with natural law forming the foundation for these rights. Maritain critiques a philosophy that bases human rights solely on individual autonomy and freedom, as advocated by thinkers like Jean-Jacques Rousseau; as he writes:

Another altogether opposite philosophy [opposite to classical philosophy – W.Z.] has sought to base the rights of the human person on the claim that man is subject to no law other than that of his will and his freedom, and that he must „obey only himself”, as Jean-Jacques Rousseau put it, because every measure or regulation springing from the world of nature (and finally from creative wisdom) would destroy at one and the same time his autonomy and his dignity. This philosophy built no solid foundation for the rights of the human person, because nothing can be founded on illusion; it compromised and squandered the rights, because it led men to conceive them as rights in themselves divine, hence infinite, escaping every objective

measure, denying every limitation imposed upon the claims of the ego, and ultimately expressing the absolute independence of the human subject and a so-called absolute right – which supposedly pertains to everything in the human subject by the mere fact that it is in him – to unfold one's cherished possibilities at the expense of all other beings.^[21]

The result is confusion and a disillusionment with human rights, with some rejecting these rights altogether, while others remain skeptical of their validity. Ultimately, this skepticism is seen by Maritain as part of a broader crisis in understanding human rights. His remarks proved to be prophetic.

However, one may not be ready to fully embrace Thomism or another variant of the classical natural law tradition. In this case, one could adopt it strategically, as, arguably, Leo Strauss did – that is, acknowledge that the idea of natural law may be false (or at least unprovable), but we must treat it as if it were true. And, according to Strauss, this is necessary, as otherwise liberal democracy (with human rights as its core element) could collapse. It must have solid metaphysical foundations. If it lacks them – if its fundamental value becomes liberty or autonomy, it risks sliding into relativism and nihilism; as he wrote in his essay *Relativism*^[22]:

By teaching the equality of literally all desires, it teaches in effect that there is nothing of which a man ought to be ashamed; by destroying the possibility of self-contempt, it destroys with the best of intentions the possibility

²¹ Jacques Maritain, *The Rights of Man and Natural Law* (London: Geoffrey Bles, The Centenary Press, 1945), 39.

²² One could plausibly interpret Strauss's view as being close to this 'strategic' rehabilitation of natural law, see, e.g., his classic work *Natural Right and History* (Chicago: The University of Chicago Press, 1953). Of course, this strategic approach admits of two interpretations. In the first, one defends natural law (on practical grounds) despite regarding it as false; in the second, one defends it on practical grounds while considering it possibly true. Which of these two interpretations did Strauss adopt? Although he never explicitly claimed to accept the idea of natural law while knowing it to be false, he explicitly wrote that it cannot be rationally grounded (though it is not inconsistent with reason). He argued that modernity's excessive rationalism – the belief in the self-sufficiency of reason – was one of the causes of its self-undermining, of its gravitation toward nihilism. What is certain is that he strongly opposed relativism and nihilism, believing that they could only be overcome through a return to pre-modern philosophy. Whether he regarded this philosophy as true, possibly true, or false remains uncertain (though the second option seems most plausible).

of self-respect. By teaching the equality of all values, by denying that there are values which are intrinsically high and others which are intrinsically lower as well as by denying that there is an essential difference between men and brutes, it unwittingly contributes to the victory of the gutter.^[23]

The second way of addressing the crisis in the foundations of human rights is to turn to the Kantian tradition, perhaps modifying it by adopting a 'thick' understanding of freedom and practical reason, imbuing them with a moral dimension. A sophisticated version of this approach was developed by Pierre Manent, incorporating, to some extent also the objections to human rights discourse made by the proponents of cultural relativism.^[24] Manent admits that natural law is connected to the idea of 'natural purposes' of man – freedom is true freedom when it is subordinated to truth and goodness, and that the idea of human rights, as understood today, is linked to the concept of complete human autonomy, unrestricted by any higher norms; as a result, there are no clear criteria to determine what is and what is not a human right – new and controversial human rights arise (e.g., the right to abortion, sterilization, or death). However, Manent critiques traditional natural law as insufficient for grounding modern human rights, as it abstracts individuals from their historical and social contexts. While he doesn't reject natural law, he believes classical formulations, especially those based on Thomistic or Aristotelian traditions, are too limited and detached from human experience. He argues that modern human rights are not timeless principles but products of history, emerging alongside the development of individual autonomy and freedom in political life. For Manent, freedom is the capacity for self-legislation, closely tied to the political community and not just abstract moral judgment. Manent believes rights must be understood within a shared moral order that transcends individualism, emphasizing responsibility in a collective moral project. He warns against universalizing human rights without considering historical and cultural contexts, as this can lead to "moral imperialism." His critique challenges both classical natural law and modern liberalism, seeking a more situated understanding of human rights within real-world communal ties.

²³ Leo. Strauss, "Relativism," [in:] *Relativism and the Study of Man*, ed. Helmut Schoeck, James W. Wiggins (New York: D. Van Nostrand Company, 1961), 142.

²⁴ See Manent, *Natural Law and Human Rights, Toward a Recovery of Practical Reason*.

The third approach involves introducing the notions of “absolute goodness” and “absolute evil” into public and political discourse, a perspective proposed by Simone Weil.^[25] She offered a profound critique of the concept of rights, arguing that the language of rights is ineffective in the fight against the most atrocious acts. It is too weak – too lacking in expressiveness – to be truly helpful in the struggle to improve the lot of “the afflicted” (*les malheureux*), those whose suffering is most acute (amounting to the denial of their very humanity) and as such, ineffable. (in Weil’s terminology, there is an important distinction between *malheur* (affliction) and *souffrance* (suffering) – the former is an extreme form of the latter, suffering in which ‘the danger of the death of the human soul,’ of the soul’s “reduction to nothingness,” arises.) Thus, the notion of “rights” cannot capture the moral gravity inherent in such acts. Accordingly, if we speak, for example, of the suffering of a brutally raped woman, it would be a terrible understatement to say that her right to bodily integrity was violated, because something incomparably more horrific was done to her: she fell victim to injustice; what was done to her was unjust. Furthermore, in her view, the language of rights is, in a sense, immoral, because it is confrontational and self-centered. This is reflected in statements such as “You have no right to this” or “I have the right to that” – statements that, as Weil claimed, express a mindset that excludes the virtue of charity. For all these reasons, Weil insisted that the notion of rights should not occupy the central position in our moral and public discourse that it currently holds. It should not be removed, but it should yield priority to the notion of obligation (in terms of the formal side of moral discourse), and to the notions of goodness and justice (in terms of the material side of moral discourse).

The last approach is pragmatic, not metaphysical; as Radhika Coomaraswamy argues, it is most adequate in the world of diversity:

increasingly, though, other modern thinkers [as opposed to those trying to provide a metaphysical basis for human rights – W.Z], like K. Anthony Appiah, Richard Rorty, Michael Ignatieff, and Diane Orentlicher, have moved toward defending the doctrine of human rights on a pragmatic basis, locating them in theories of consensus, empiricism, and procedural inclusiveness.^[26]

²⁵ Cf. Simone Weil, *La Personne et le Sacré* (Paris: Éditions Payot & Rivages, 2017[1942]).

²⁶ Radhika Coomaraswamy, *Reinventing Truth and Justice: Humanism, Human Rights, and Humanitarianism in the Aftermath of September 11, 2001* (2017): 56-57. www.tannerlectures.org.

However, this last approach is the least convincing: it is unlikely to heal the malaise that human rights discourse currently suffers from, namely its chaotic, disjointed nature. As mentioned, human rights have been detached from any broader metaphysical or moral foundations; and, when they are treated as isolated claims without a strong ethical basis, they risk becoming subjective and arbitrary. They have also become detached from the duties, responsibilities, and relationships that are central to any robust moral system, reducing them to individualistic entitlements. Furthermore, without a strong philosophical grounding, the language of human rights becomes susceptible to manipulation by political powers. This creates a situation where rights are often promoted selectively or cynically, aligned with political or economic interests rather than universal moral principles. Thus, one must go beyond pragmatism and empiricism, and turn to metaphysics (even in a moderate form, as in Manent's version of Kantianism) to remedy the human rights discourse. It is essential to reconnect human rights with a broader ethical vision that emphasizes shared values, duties, and the moral obligations of both individuals and communities. Without such a foundation, human rights risk being reduced to mere slogans or instruments of power, rather than enduring principles of justice and dignity.

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