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When presented purely in terms of legality, rights risk becoming weak propositions divorced from the ethical and rational dimension which is their foundation and their goal. The *Universal Declaration*, rather, has reinforced the conviction that respect for human rights is principally rooted in unchanging justice, on which the binding force of international proclamations is also based. This aspect is often overlooked when the attempt is made to deprive rights of their true function in the name of a narrowly utilitarian perspective. Since rights and the resulting duties follow naturally from human interaction, it is easy to forget that they are the fruit of a commonly held sense of justice built primarily upon solidarity among the members of society, and hence valid at all times and for all peoples. This intuition was expressed as early as the fifth century by Augustine of Hippo, one of the masters of our intellectual heritage. He taught that the saying: *Do not do to others what you would not want done to you* “cannot in any way vary according to the different understandings that have arisen in the world” (*De Doctrina Christiana*, III, 14). Human rights, then, must be respected as an expression of justice, and not merely because they are enforceable through the will of the legislators.

Pope Benedict XVI, *Address at the Meeting with the Members of the General Assembly of the United Nations Organization*, New York, Friday, 18 April 2008.



INTRODUCTION

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‘Where is your brother?’ God’s question to Cain (*Gen 4:9*) is posed to mankind in all epochs as a central question in the achievement of the Order of the Creation. It is proposed anew every time that the laws of a State or the practice of the international community or the behaviour of a people or the attitude of an individual forget that God is the supreme source of the dignity of the human person and his fundamental rights.

If one begins from this question and answers it by taking advantage of Catholic social doctrine, the listing of human rights emerges with a precise neutral grammar which places rights near to duties in the case of both individuals and communities: the right to life and to a family, to the integrity of the human person, to freedom of conscience, and to freedom of religion or belief. The slow emergence of the rights of freedom (as is the case with the various international charters of the modern age), from individual rights to political rights and social rights, has had to address this question, correlating itself with responsibility and duty as well.

A long historical itinerary, which was already taking place in the age when individual national states were affirming their sovereignty, witnessed the birth and flourishing of the ancient *ius gentium* as a regulator of the relations between peoples. This was a result of the fundamental contribution of the Dominican friar Francisco de Vitoria, a precursor of the idea of the United Nations. He argued that *totus mundus est quasi una res publica*. Other significant stages were reached in subsequent ages, at times in harmony with and at times in divergence with Christian principles.

The Situation Now

In the contemporary age the Universal Declaration of Human Rights and the references to it that have been made in the subsequent charters of individual States or the international community have been fundamental in the consolidation in the collective consciousness of the importance of respect for human rights. ‘Our society has rightly enshrined the greatness and dignity of the human person in various declarations of rights, formulated in the wake of the Universal Declaration of Human Rights, which was adopted exactly sixty years ago. That solemn act, in the words of Pope Paul VI, was one of the greatest achievements of the United Nations’ (Benedict XVI, Address to the Diplomatic Corps, 7 January 2008).

This sentence confirms that the Universal Declaration of Human Rights was a seminal document in international law and marked a milestone in the journey of humanity towards respect for the rights of every human being. Since 1948 the Universal Declaration, together with other juridical instruments, has played a specific role in inserting new precepts and

forms of behaviour into national and international relations. It has helped millions of people in their search for respect for human dignity, in the pathway towards better political systems, and in withdrawing the threat of violence and injustice from life in society. It has helped to install a ‘culture of human rights’ which by now is an essential dimension of the ethical, social and political debate nearly everywhere in the world.

However, we are painfully aware that fundamental human rights are violated often in a way that is equally dramatic to what happened sixty years ago, beginning with the right to life, and that millions of the citizens in the world are denied respect, freedom, development and the possibility of expressing their own opinions, of freely practicing their religion, and of freely enjoying a standard of living that ensures freedom from hunger and thirst. There is also an acute inability to counter the increasing phenomenon of the trade in humans, especially children. An unhealthy habitat, climatic disturbance, local and global inequalities, and an inability to achieve true solidarity towards the weakest regions continue to poison the contemporary world which is not able to pursue the authentic overall development of the person, the human family or the planet. The very pathway towards security and global peace runs the risk of taking more steps backwards than forwards given the absence of a strong system of governance leading towards supranational authorities that are able to work for global ends.

This differential description, made of light and darkness, has a multiplicity of causes, amongst which of importance is a correct understanding of the nature and range of human rights. Here the social doctrine of the Catholic Church illuminates an original approach. The dialectic relationship between the Church and human rights, which has occurred during modernity, cannot be seen as being closed for ever: new problems and new situations constantly emerge and they require discernment and exploration.

The Relationship between the Catholic Church and Human Rights

It is known that the Catholic Church is at the present time one of the few international authorities that defends the Universal Declaration of Human Rights of 1948. There are two reasons for this. This Declaration is in perfect harmony with the Christian vision of the dignity and the inviolability of the human person and the family based on marriage. The development of human rights of the first, second and third generations has largely lost from sight the anchorage of human rights in the natural order and has accentuated in an exaggerated way the subjective, that is to say individualistic, character of the very understanding of human

rights. Whereas the Declaration did not exclude a horizon of transcendence in its upholding of the non-negotiability of human dignity, this foundation has not been looked for in the developments subsequent to 1966. The Catholic Church observes with amazement the proclaiming of rights that correspond more to the claims of organised minorities than requirements that are rationally based on the natural order.

This session wants to emphasise once again the specificity of the approach of the social doctrine of the Church which is based upon the notion of the dignity of the person who participates in relationships with others and interacts with the goods of the universe. The social doctrine quite rightly hesitates to engage with a subjective conception of rights. The approach of the Church sometimes gives the impression of not being very different from that of States and international organisations. We should return and pick up the thread that began with the approach exclusively centred on the natural law but which then drifted into an approach centred on the subjective rights of the person. This move should not be understood as an alignment with a specific line of positivist thinking but should be placed in its complete conceptual framework where the reference point remains John XXIII's *Pacem in Terris* (1963). The rights of the human person spring from his nature! They do not spring from his will or his desires. To speak about nature is to recognise the existence of that natural order which one has to study and experience for its laws to be discovered. Thus rights and duties cannot be separated and rights cannot be extended beyond what is revealed by the natural order of things.

For the social doctrine of the Church, human rights do not have substance if they are not based upon an anthropology and an understanding of the relationship between the person and society. It has tried to clarify which rights are more fundamental than others, those, specifically, that spring from the nature of the person: the right to life, to physical and mental inviolability, to freedom of conscience and to religious liberty. These rights are consubstantial with the person and cannot be taken away by anybody. They are distinguished from the rights inherent to the person as a member of society such as civil and political rights. For these rights to be recognised at a practical level, the environmental conditions must exist. A person can be deprived of certain civil rights but not of his fundamental rights. An analogous situation exists with social and cultural rights. As for the third generation of rights, the right to peace, to a healthy environment, to development, and to diversity...are these rights? They are more objectives to be reached, conditions for the achievement of the 'common good', for which all authority exists.

To contribute in an effective way to clarifying the current debates and developments in relation to human rights, it is necessary to rediscover the pathway of their universality. This is located in the unchanging nature of man and not in a certain individualistic and relativistic Western culture which is not founded on being but on power. The contemporary drift of human 'rights' leads to the proclaiming

of the right to an abortion, the right of a couple of the same sex to adopt children, and the right to avoid juridical precision as regards concepts such as 'the person', 'life' and 'the family', as rights. These negative trends, with their injurious consequences, must be condemned in the name of the rational coherence of human rights.

A Universal Anthropological Foundation: the Natural Law

In the tradition of the social doctrine of the Church, human rights are rooted in the natural moral law: '[it] states the first and essential precepts which govern the moral life. It hinges upon the desire for God and submission to him, who is the source and judge of all that is good, as well as upon the sense that the other is one's equal. Its principal precepts are expressed in the Decalogue. This law is called 'natural', not in reference to the nature of irrational things, but because reason which decrees it properly belongs to human nature' (*Catechism of the Catholic Church*, n. 1955).

Because of the influence of cultural and ideological factors, civil society today is in a situation of confusion: the original obviousness of the foundations of the human being and his ethical behaviour has been lost, and the doctrine of the natural moral law comes up against other conceptions which are its direct negation. In the case of by no mean few thinkers today there seems to dominate a positivistic conception of law, on the basis of which it is society, or in fact a majority of citizens, which presents itself as constituting the ultimate source of civil law. At the roots of this trend we encounter ethical relativism, which by no means few see as one of the principal conditions for democracy because relativism is said to assure tolerance and mutual respect between people. However, on the basis of these assumptions the majority of the moment is said to become the ultimate source of law, whereas history itself demonstrates that majorities can be deceived. 'True rationality is not assured by the consensus of a large number of people but only by the transparency of human reason to creative Reason and by the shared listening to this Source of our rationality' (Benedict XVI, Address to those Taking Part in the Plenary Session of the International Theological Commission, 5 October 2007).

Rights and Duties

Although during the contemporary age awareness of rights has indeed developed, there has been an attenuation of knowledge about 'duties towards the community', which in the spirit of those who drew up the Universal Declaration was to have counterbalanced an unlimited expansion of rights with the responsible commitment of the individual to other individuals, which today has acquired the new meanings of intergenerational solidarity.

Now, the foundation of human rights in the natural law helps us to re-establish their authentic gram-

mar, in relationship to responsibilities and duties as well. Rights without duties is the modern weakness, a weakness that is growing today because of the influence of individualistic and libertarian currents. This phenomenon has been pointed out on numerous occasions by the voice of the Church: 'Another observation needs to be made: the international community, which since 1948 has possessed a charter of the inalienable rights of the human person, has generally failed to *insist sufficiently on corresponding duties*. It is *duty* that establishes the limits within which *rights* must be contained in order not to become an exercise in arbitrariness. A greater awareness of *universal human duties* would greatly benefit the cause of peace, setting it on the moral basis of a shared recognition of *an order in things* which is not dependent on the will of any individual or group' (*Pacem in Terris*: a Permanent Commitment', Message of His Holiness John Paul II for the Celebration of the World Day of Peace, 1 January 2003).

Connected with the imbalance between rights and duties, for some decades a *libertarian* paradigm has been growing which seeks to prevail over an interpretation of human rights based upon the dignity of the human person. For respect for such rights to effectively assure the cohesion of the natural family, and of the national and international 'family', individual desires or claims should not be recognised *ipso facto* as collective rights. In this way, in fact, neither a 'family' nor a community is created but doors are opened to a dangerous collective individualism. Peace is not obtained but – in opening to every kind of recognition – one goes towards inevitable contrasts. On these points a renewed reflection is required on the principle of responsibility, which is immediately connected with the concept of duty.

Religious Freedom: the First and Fundamental Freedom

From the dualism brought by Christianity ('Render under Caesar what is Caesar's, and unto God what is God's'), sprung not only the freedom of the Church but also a right that the collective consciousness perceived much later – the right to religious freedom.

This has a triple dimension – the individual, the collective and the institutional. It is not, to put it in other terms, only the right of the person to believe in his innermost self in the truth of his own faith. It is also, and above all else, the right to express, profess and practice his own religion, to live it in an individual form and through association. And the right to freedom of the relationship with God postulates the right to the freedom of the Church as an institution, which represents the interests of the faithful before 'Caesar'. The ultimate foundation of these claims is the defence of the dignity of the person, which is intimately bound up with his freedom in every choice and above all in choices in harmony with his own religious belief.

As has often been repeated in international contexts by the Holy See, the verification of the right to religious freedom constitutes a test for the verification of all other rights, with the consequence that

there are a multiplicity of questions to be examined in relation to this right, both as regards its contents, as laid down in international documents, and its actual defence.

One may think, for example, of the balance between freedom of speech and expression, on the one hand, and respect for religion and religious symbols, on the other. This is a question that the Holy See has raised in various international forums and it is of particular contemporary relevance, not only as regards the Catholic Church but also other religious confessions (prominent amongst them Islam).

Human Rights, Social Cooperation and Economic Development

Basing oneself on the principle of the *universal destination of goods*, called for with great emphasis by the social doctrine of the Church (cf. in particular *Gaudium et Spes*, *Populorum Progressio* and *Sollicitudo Rei Socialis* – according to this last the universal destination of goods is the 'characteristic principle of Christian social doctrine', n. 42), it is possible to bestow a new countenance on the 'social question' at a planetary level. It is not possible to think of access by the world's population to food, water and energy, but also to medicines and technology, or indeed control of the phenomenon of climatic change, without shared and global solutions. To be just and efficacious these solutions cannot but recognise the ethical value as well of these very urgent questions, which should be addressed always by looking at the common good and in a spirit of authentic solidarity. The right to life runs the risk of being gravely wounded if it does not include the natural right to have access to the goods of the earth and to procure for oneself what is required to live.

The correlation between human rights and social cooperation opens up important horizons in domestic and international politics, both in the relationship between peace and development and as regards the still unresolved problems posed by globalisation. A series of questions makes the whole area a troubled one. If it is not enough to assure the complex of strictly personal rights, how can the conditions be created for solidarity to be effective? To what extent are the domestic common good and the international common good compatible not only in political terms but also, and above all else, in economic and social terms?

Equally troubled is the correlation between human rights, economic development and democratic forms of government for the peoples of the world. Although, indeed, in the medium-term, a democratic system of government and respect for human rights has a positive effect on the economic development of a country, it does not follow that economic development always brings with it more democracy or more human rights. A question thus presents itself: which instruments, in an epoch when the economy is perhaps the only reality that is actually globalised, will allow an economic impact that will produce changes within States in terms of respect for human rights?

Amongst these there is the environment. The relevance of international protocols to world politics (the Kyoto Protocol) is becoming increasingly important, and is equal, unfortunately, to the inability of nations to find short-, medium-, and long-term, solutions, something that is also the result of the influences of centres of political-economic power which have goals that are far from the common good. Nor is it only the environment that provokes major worry. Today primary goods such as water and food as well are not available to everyone. One statistic suffices here: about 900 million people, of whom most are children, suffer every day from malnutrition, especially in sub-Saharan Africa and in certain regions of Asia.

The Task of International Law and the Responsibility to Protect

For some decades now an international law of human rights has been forming as a body of doctrines and rules which, by grafting a non-territorial system onto an ancient territorial one of internal state law, has introduced a supra-state criterion of judgement and assessment at a higher level than the powers of individual States are called upon to honour. In this new law, whose defining feature is *dignitas humana servanda est*, there is concrete expression of the idea of the 'universal common good' (cf. *Pacem in Terris*, IV).

When they are solidly based, rights emerge as the guiding forces of a system of strong governance (see Cardinal Bertone's speech to the PASS in 2007) which aims at an international order above the present one and is endowed with planetary and supranational institutions. Weak, procedural and technical governance is not able to implement human rights, to act against transgressors (an international criminal court), to engage in initiatives of a humanitarian kind, or to address the subjects of justice and peace and prevent conflicts.

For that matter the implementation of human rights cannot take place in a coercive way following a single rationalistic, libertarian and Western model. It should be done by respecting the basic cement of the various societies of the world, the integrity of their peoples, and their cultures, which have experienced a long sedimentation, unless notable violations of human rights take place within them.

Political and humanitarian interference, or to put it better, as Benedict XVI specified to the United Nations, 'the responsibility to protect', remains a question of the highest interest. The Holy See has effectively theorised the right to humanitarian interference, well clarifying its limits as well, amongst which is a necessary and previous recourse to all the instruments of diplomacy.

This is a subject that not only calls into play the relationships between national sovereignty, national interests and global society, but which also imposes reflection about the transformations of sovereignty and the new forms of political power: from NGOs to the mass media and on to mobilisation within specific forums (from the no global to the Davos meetings, for

example). Do these new powers constitute new forms of interference? Today, what is sovereignty? Is sovereignty invoked against humanitarian interference an organised hypocrisy?

The Enforceability of Human Rights

Two major tasks lie before us: the effective assurance of rights which have been proclaimed but which are far from having become effective for a notable part of mankind, on the one hand, and the pathway to identifying new real rights, on the other. The first subject is of particular relevance: who gains by proclaiming human rights that can be empty declarations when no juridical guarantee is present? We need to proceed to the juridical protection and related enforcement of human rights. This is a subject where debate has clarified that in addition to the assurances that States must offer to their citizens, a 'constitution of the world' is also required which, in determining which governments are good and which governments are bad, acts internationally against offences to human rights, genocide, massacres and violations through courts of justice that are now being constructed with difficulty. In the world geopolitical situation of our epoch, it falls in particular to the States of the planet to be committed to engage in specific forms of conduct within their borders, and this confirms that respect for human rights is a problem that is both national and international in character that needs structures that offer guarantees and apply sanctions at both levels.

Today questions arise in relation to the enforceability of human rights that have to be dealt with and the same may be said of verifications that have to be engaged in. One can proceed in the following way to achieve their effective defence:

– Through jurisdictional procedures. Have the numerous international courts with responsibilities which tend to be limited to a territory or to a sphere of concern produced positive outcomes? Perhaps, but have they actually produced cultural change and thus greater awareness of the universality of human rights and thus of their inviolability? It should, however, be stressed that the universality of the defence of human rights may never be achieved with these instruments given that they require the consent of States to their being subjected to the jurisdiction of these courts.

– Through political-diplomatic processes characterised in various ways in the international sphere by watching over respect for human rights. In addition to it being a diplomatic technique, 'soft law', the outcome of the contribution of technical officials (a bureaucracy that is very active in the drawing up of documents to be submitted to the decisions of the international agencies where such officials work) rather than of aware choices by politicians, is of interest. To what extent, as indeed seems increasingly often to be the case, can this pervert 'hard law'? What should be done in this case? One may think here, for example, of the concept of the 'family' which has been carelessly replaced by soft law with the concept of families, including homosexual ones.

– Through military intervention. Here there comes into play not only the question of the limits to humanitarian interference in the sovereignty of States but also, and above all, the question, which is now more acute than ever before, of the so-termed ‘exportation of democracy’ or ‘freedom’. Any assessment should be made more in relation to the concrete actual results than the theoretical assumptions of these interventions.

Education and Human Rights

If, therefore, there is no absence of coercive instruments for respect for human rights, their spontaneous observation is nonetheless the goal that should be aimed for. Education of citizens in human rights, starting with the youngest generations, thus remains the most appropriate instrument.

The deliberations of our plenary session will devote to the subject of education in human rights some summarising references within certain papers but this is a subject of the highest importance which involves the human person in his relationships with the agencies of education. Amongst these, it should be stressed that in addition to the fundamental and inescapable role of the family there stand out the Churches, who have been wise midwives of democracy in authoritarian countries (one may think of their role in the countries of Eastern Europe even before the fall of the Berlin Wall). And not only the Churches as institutions, but numerous grass-roots bodies of religious inspiration as well have worked and continue to work directly or through organs of communication: from parish communities to NGOs, and on to lay associations and missionary movements.

A series of questions remain in the background of our thoughts. In addition to schools and the family, what are the subjects and the agencies that are most suited to education? Which are the more useful instruments – national programmes or international programmes?

Furthermore, what is the relationship between education and immigration? This phenomenon, which is specific to our epoch, of the immigration of people with cultures and traditions (including religious ones) that are diametrically different to those of the countries of destination, raises problems of integration. It may happen that national legislation has a catechetical function as regards immigrants, educating them in respect for human rights. Which models of possible integration have managed to avoid all forms of secular or religious fundamentalism?

The Task of the Social Sciences

In conformity with its specific task, the PASS wants to explore the subject of human rights in relation to the social doctrine of the Church and the social sciences, investigating their relationship, new problems, and their ability to point out new solutions under the impetus of the Gospel of Jesus Christ, which works as a yeast that is able to upset the horizons within which our forms of security are enclosed. In the nexus between human rights and the social sciences questions emerge. For example: to what extent do the social sciences dialogue with human rights? To what extent do they accept or do they change the signs of rationality and spirituality of man to the point of deforming the image of man as a person made in the image of God and in opposition to his singularity from conception onwards? Are the social sciences able to open themselves to the hope of being the bearers of hope? So as not to fall into cynicism or vice versa slip into disappointment, they need principles that go beyond what is convenient or special interests.

Thinking anew about human rights thus becomes of urgent importance and does not involve only leaders in public life but also, and above all else, the social sciences. Law, sociology, economics and political science today have duties that are more in number than those albeit important sciences that are involved in scientific inquiry and research: they have to offer solutions that can be achieved at a practical level, by coming down from the ivory tower of their respective disciplines and addressing actual reality.

The Programme

Divided into three days, the plenary session is organised in the following way:

1) The relationship between the Catholic Church and human rights, with attention also being paid to the influence of the former on the latter.

2) Thinking anew about human rights in the twenty-first century especially in relation to the nexus between rights and duties, and in some especially sensitive areas: life, the family, religious freedom and international social justice.

3) Studying the universality and interdependence of human rights in relation to the rights of the first, second and third generations; assessing the exposure of international law to the idea of the person; and addressing urgent questions such as humanitarian intervention, the crime of genocide, and the protection of human rights by international organisations.



EINLEITUNG

R. MINNERATH, O. FUMAGALLI CARULLI, V. POSSENTI

„Wo ist dein Bruder?“ Gottes Frage an Kain (*Gen 4,9*) wird der Menschheit in allen Epochen als zentrale Frage in der Erfüllung der Schöpfungsordnung gestellt. Sie wird jedes Mal von neuem aufgeworfen, wenn die Gesetze eines Staates oder das Vorgehen der internationalen Gemeinschaft oder das Verhalten eines Volkes oder die Einstellung eines Einzelnen vergessen, dass Gott die höchste Quelle der Würde der menschlichen Person und ihrer Grundrechte ist.

Nimmt man jene Frage als Ausgangspunkt und beantwortet man sie unter Zuhilfenahme der katholischen Soziallehre, entsteht daraus der Code der Menschenrechte mit jener einer präzisen neutralen Grammatik, welche die Rechte in die Nähe der Pflichten rückt, sowohl hinsichtlich des Einzelnen als auch hinsichtlich der Gemeinschaft: die Rechte auf Leben und auf eine Familie, auf die Unversehrtheit der menschlichen Person, auf Gewissensfreiheit und auf Religions- oder Glaubensfreiheit. In der langsamen Entfaltung der Freiheitsrechte (wie sie in den verschiedenen internationalen Verträgen der Moderne niedergelegt sind) – von individuellen Rechten über politische Rechte bis hin zu sozialen Rechten – musste diese Frage stets angesprochen und dabei auch mit Verantwortung und Verpflichtung in Übereinstimmung gebracht werden.

Auf einer langen geschichtlichen Reise, die bereits in jenem Zeitalter ihren Ausgang nahm, als einzelne Nationalstaaten ihre Souveränität bekräftigten, wurde das alte *ius gentium* als Regulativ der Beziehungen zwischen den Völkern geboren und erlebte schließlich eine Blüte. Dies war vor allem dem grundlegenden Beitrag des Dominikaners Francisco de Vitoria zu verdanken, eines Vorboten der Idee der Vereinten Nationen. Für ihn galt der Satz: „*Totus mundus est quasi una res publica*“. Weitere wichtige Etappen wurden in den darauf folgenden Epochen genommen – zeitweise in Übereinstimmung mit christlichen Grundsätzen, zeitweise in Abweichung davon.

Die gegenwärtige Situation

In der heutigen Zeit besitzen die Allgemeine Erklärung der Menschenrechte wie auch die Bezugnahmen darauf in den entsprechenden Dokumenten einzelner Staaten oder der internationalen Gemeinschaft einen grundlegenden Charakter, indem sie das kollektive Bewusstsein für die Wichtigkeit der Achtung vor den Menschenrechten schärfen. „Unsere Gesellschaft hat mit Recht die Größe und Würde der menschlichen Person in die verschiedenen Rechtsdeklarationen eingebracht, die seit der vor nunmehr 60 Jahren verabschiedeten Allgemeinen Erklärung der Menschenrechte formuliert worden sind. Dieser feierliche Akt war nach den Worten Papst Pauls VI. einer der größten Ruhmestitel der Vereinten Nationen“ (Benedikt XVI., Ansprache vor dem Diplomatischen Korps, 7. Januar 2008).

Dieser Satz bekräftigt die bahnbrechende Bedeutung der Allgemeinen Erklärung der Menschenrechte als Dokument des internationalen Rechts und als Meilenstein auf der Reise der Menschheit hin zur Achtung der Rechte eines jeden Menschen. Seit 1948 spielt die Allgemeine Erklärung zusammen mit anderen Rechtsinstrumenten eine besondere Rolle, indem sie neue Gebote und Verhaltensnormen in die nationalen und internationalen Beziehungen einbringt. Sie hat Millionen von Menschen auf ihrer Suche nach Achtung der Menschenwürde geholfen, sie hat den Weg zu besseren politischen Systemen geebnet und dazu beigetragen, Gewaltandrohung und Unrecht aus dem gesellschaftlichen Leben zu entfernen. Sie hat überdies dazu beigetragen, eine „Kultur der Menschenrechte“ zu etablieren, die nun fast überall auf der Welt ein wesentliches Maß ethischer, sozialer und politischer Debatten geworden ist.

Indes ist uns schmerzlich bewusst, dass grundlegende Menschenrechte, angefangen mit dem Recht auf Leben, heute wieder auf eine ebenso dramatische Weise verletzt werden, wie das noch vor 60 Jahren geschehen ist. Millionen von Bürgern auf der Welt werden Respekt, Freiheit, persönliche Entfaltung und die Möglichkeit, ihre Meinung frei zu äußern, ihre Religion frei auszuüben, und ein Leben frei von Hunger und Durst, vorenthalten. Überdies herrscht eine akute Unfähigkeit, dem zunehmend verbreiteten Phänomen eines Handels mit Menschen, insbesondere mit Kindern, Einhalt zu gebieten. Ungesunde Lebensbedingungen, klimatische Störungen, regionale und globale Ungleichheiten sowie das Unvermögen, wahre Solidarität gegenüber den schwächsten Regionen zu erzielen, vergiften weiterhin die heutige Welt und machen es unmöglich, eine authentische ganzheitliche Entwicklung des Einzelnen, der menschlichen Familie oder des Planeten zu verfolgen. Der Weg hin zu Sicherheit und globalem Frieden birgt die Gefahr, dass die Rückschritte die Fortschritte aufwiegen. Es fehlt an der Ausprägung starker Systeme einer globalen Governance, in deren Rahmen supranationale Einrichtungen globale Ziele verfolgen können.

Diese zwischen Hell und Dunkel wechselnde Beschreibung hat vielfältige Ursachen. Ihnen gegenüber ist es von Bedeutung, das Wesen und die Reichweite von Menschenrechten richtig zu verstehen. Hier beleuchtet die Soziallehre der katholischen Kirche einen originären Ansatz. Die dialektische Beziehung, die sich im Verlauf der Moderne zwischen Kirche und Menschenrechten vollzogen hat, ist nicht für immer abgeschlossen. Neue Probleme und neue Situationen kommen ständig zum Vorschein und müssen erkannt und erforscht werden.

Die Beziehung zwischen der katholischen Kirche und den Menschenrechten

Es ist bekannt, dass die katholische Kirche derzeit eine der wenigen internationalen Einrichtungen ist, welche die Allgemeine Erklärung der Menschenrechte von

1948 verteidigt. Es gibt dafür zwei Gründe. Zum einen steht diese Erklärung in vollkommenem Einklang mit der christlichen Vision von der Würde und Unantastbarkeit der menschlichen Person und der auf der Ehe beruhenden Familie. Zum anderen hat die Entwicklung von Menschenrechten der ersten, zweiten und dritten Generation weitgehend die Verankerung dieser Rechte in der Naturordnung aus dem Blick verloren und damit den subjektiven – sprich: individualistischen – Charakter des eigentlichen Verständnisses der Menschenrechte auf übertriebene Weise betont. Während die Allgemeine Erklärung, indem sie an der Unantastbarkeit der menschlichen Würde festhielt, den Horizont der Transzendenz offen hielt, wird dieses Fundament seit den Entwicklungen von 1966 nicht mehr im Auge behalten. Mit Erstaunen beobachtet die katholische Kirche, wie Rechte proklamiert werden, die eher den Forderungen organisierter Minderheiten als den auf der Naturordnung rational gegründeten Erfordernissen entsprechen.

In dieser Plenarsitzung geht es einmal mehr darum, die Eigenart der katholischen Soziallehre hervorzuheben. Sie verankert den Gedanken der Würde der Person, in den Beziehungen der Einzelnen zu den anderen und zu den Gütern dieser Welt. Zu Recht zögert diese Soziallehre, sich mit einer subjektiven Auffassung von Rechten auseinanderzusetzen. Der Ansatz der Kirche erweckt bisweilen den Eindruck, sich nicht allzu sehr von jenem Ansatz zu unterscheiden, den viele Staaten und internationale Organisationen wählen. Wir sollten jedoch umkehren und den Faden wiederaufnehmen, der mit dem ausschließlich auf das Naturrecht bezogenen Ansatz begann, sich dann aber einer Betrachtungsweise zuwandte, welche die subjektiven Rechte der Person in den Mittelpunkt stellte. Dieser Schritt sollte nicht als Anpassung an eine spezifische positivistische Denklinie verstanden werden. Jene Entwicklung sollte vielmehr zu jenem vollständigen konzeptionellen Rahmen führen, den die Enzyklika *Pacem in terris* von Johannes XXIII. zum Bezugspunkt genommen hat (1963). Die Rechte der menschlichen Person entspringen der menschlichen Natur! Sie entspringen nicht dem Wollen oder den Wünschen der Person. Über die Natur zu sprechen heißt die Existenz jener Naturordnung anzuerkennen, die man studieren und erfahren muss, um deren Gesetze zu entdecken. Somit können Rechte und Pflichten nicht voneinander getrennt werden, und Rechte können nicht über das hinaus erweitert werden, was durch die natürliche Ordnung der Dinge geoffenbart wird.

Aus Sicht der kirchlichen Soziallehre sind Menschenrechte substanzlos, wenn sie nicht auf einer Anthropologie und einem Verständnis von der Beziehung zwischen Person und Gesellschaft beruhen. Deshalb hat diese Lehre versucht klarzustellen, welche Rechte grundlegender seien als andere, insbesondere jene also, die der Natur des Menschen entspringen: die Rechte auf Leben, körperliche und geistige Unversehrtheit, Gewissensfreiheit und Religionsfreiheit. Diese Rechte sind wesensgleich mit der Person und können von niemandem weggenommen werden. Sie unterscheiden sich von den Rechten, die der Person als Mitglied der Gesellschaft zukommen, wie die bürgerlichen und politischen Rechte. Damit diese Rechte auf einer praktischen Ebene aner-

kannt werden können, müssen gewisse äußere Bedingungen dafür gegeben sein. Einer Person kann man zwar gewisse bürgerliche Rechte aberkennen, nicht aber ihre fundamentalen Rechte. Eine analoge Situation herrscht bei den sozialen und kulturellen Rechten vor. Was die dritten Generation von Rechten anbelangt – die Rechte auf Frieden, eine gesunde Umwelt, Entwicklung und Vielfalt. Sind das Rechte? Sind sie nicht vielmehr Ziele, die es zu erreichen gilt, Bedingungen für die Realisierung des „Gemeinwohls“, Verantwortlichkeiten?

Um wirkungsvoll zu einer Klärung der gegenwärtigen Debatten und Entwicklungen in Bezug auf die Menschenrechte beizutragen, ist es notwendig, den Pfad ihrer Universalität wiederzuentdecken. Dieser liegt in der unveränderlichen Natur des Menschen, und nicht in einer gewissen individualistischen und relativistischen westlichen Kultur, die nicht auf Sein, sondern auf Macht gegründet ist. Die gegenwärtige Entwicklung der Menschen-„Rechte“ führt zu Proklamationen wie des Rechtes auf Abtreibung oder des Rechtes gleichgeschlechtlicher Paare, Kinder zu adoptieren, oder auch eines Rechtes darauf, die gebotene juristische Vollständigkeit bei der Auslegung von Begriffen wie „die Person“, „das Leben“ und „die Familie“ außer Acht zu lassen. Diese negativen Entwicklungstendenzen samt ihrer schädlichen Folgen sind im Namen einer rationalen Kohärenz der Menschenrechte zu verurteilen.

Ein universales anthropologisches Fundament: das Naturrecht

In der Tradition der katholischen Soziallehre wurzeln die Menschenrechte im natürlichen Sittengesetz: „[Es] drückt die ersten, wesentlichen Gebote aus, die das sittliche Leben regeln. Angelpunkt des Sittengesetzes ist das Verlangen nach Gott und die Unterordnung unter ihn, den Quell und Richter alles Guten, sowie der Sinn für den Mitmenschen als ein ebenbürtiges Wesen. In seinen Hauptgeboten wird es im Dekalog vorgelegt. Dieses Gesetz wird nicht in Bezug auf die Natur der vernunftlosen Wesen ‚natürlich‘ genannt, sondern weil die Vernunft, die es verkündet, zur menschlichen Natur gehört“ (*Katechismus der Katholischen Kirche*, 1955).

Aufgrund kultureller und ideologischer Einflussfaktoren befindet sich die Zivilgesellschaft heute in einem Zustand der Verwirrung: Die ursprüngliche Offensichtlichkeit der Fundamente des Menschen und seines ethischen Verhaltens ist abhanden gekommen, und die Lehre des natürlichen Sittengesetzes stößt auf Konzepte, die sie geradezu negieren. Im Falle beileibe nicht weniger Denker der heutigen Zeit scheint eine positivistische Rechtsauffassung vorzuherrschen, wonach eine Gesellschaft – oder in Wirklichkeit eine Mehrheit der Bürger – sich als oberste Quelle des Rechts darstellt. Diese Entwicklung ist in einem ethischen Relativismus verwurzelt, den nicht wenige als eine der Hauptbedingungen für die Demokratie sehen, denn es heißt, der Relativismus gewährleiste Toleranz und gegenseitigen Respekt zwischen den Menschen. Auf der Grundlage dieser Annahmen wird jedoch die jeweils augenblickliche Mehrheit zur obersten Quelle des Rechts. Die Geschichte selbst aber zeigt, dass Mehrheiten getäuscht werden können. „Die wahre Vernünftigkeit wird



nicht von der Zustimmung einer großen Zahl gewährleistet, sondern nur von der Transparenz der menschlichen Vernunft für die schöpferische Vernunft und vom gemeinsamen Hören auf diese Quelle unserer Vernünftigkeit“ (Benedikt XVI., Ansprache an die Mitglieder der Internationalen Theologischen Kommission zum Abschluss ihrer Jahresvollversammlung, 5. Oktober 2007).

Rechte und Pflichten

Zwar hat sich das zeitgenössische Bewusstsein der Rechte durchaus weiterentwickelt, gleichwohl ist jedoch das Wissen um die „Pflichten gegenüber der Gemeinschaft“ schwächer geworden. Eben diese Pflichten hätten im Sinne der damaligen Verfasser der Allgemeinen Erklärung ein Gegengewicht zur unbegrenzten Ausweitung der Rechte dienen sollen, indem der Einzelne anderen gegenüber Verantwortung übernimmt, was wiederum im heutigen Sinne der intergenerationellen Solidarität neue Bedeutung erlangt hat.

Das Fundament der Menschenrechte im Naturrecht hilft uns nun, deren authentische Grammatik wieder herzustellen, auch in ihrem Bezug zu Verantwortlichkeit und Verpflichtung. Rechte ohne Pflichten stellen eine Schwäche der Moderne dar, eine Schwäche, die wegen des Einflusses individualistischer und libertärer Strömungen derzeit wächst. Auf dieses Phänomen hat die Stimme der Kirche bei zahlreichen Anlässen hingewiesen: „Hierzu ist noch eine Anmerkung von Nöten: Die internationale Gemeinschaft, die seit 1948 eine Charta der Rechte der menschlichen Person besitzt, hat es meist versäumt, in angemessener Weise auf den sich daraus ergebenden Verpflichtungen zu bestehen. Tatsächlich ist es die Pflicht, die jenen Bereich absteckt, auf den sich die Rechte beschränken müssen, um nicht der Willkür Vorschub zu leisten. Ein stärkeres Bewusstsein der *allgemeinen menschlichen Pflichten* wäre für die Sache des Friedens von großem Nutzen, weil es ihr die moralische Grundlage für die gemeinsam vertretene Anerkennung einer Ordnung der Dinge liefern würde, die nicht vom Willen eines Einzelnen oder einer Gruppe abhängt“ („*Pacem in terris*: Eine bleibende Aufgabe“, Botschaft seiner Heiligkeit Papst Johannes Paul II. zur Feier des Weltfriedenstag, 1. Januar 2003).

Verbunden mit dem Ungleichgewicht zwischen Rechten und Pflichten wächst seit einigen Jahrzehnten ein *libertäres* Paradigma, das über die auf der Würde der menschlichen Person ruhenden Menschenrechte die Oberhand zu gewinnen versucht. Damit die Achtung vor solchen Rechten den Zusammenhalt der natürlichen Familie sowie der nationalen und internationalen „Familie“ wirksam sichern kann, sollten individuelle Wünsche oder Forderungen nicht *ipso facto* als kollektive Rechte anerkannt werden. Denn auf diese Weise entsteht weder eine „Familie“ noch eine Gemeinschaft, vielmehr wird einem gefährlichen kollektiven Individualismus Tür und Tor geöffnet. Frieden wird damit nicht erreicht, wohl aber steuert man, indem beliebige Standpunkte anerkannt werden, auf unvermeidliche Gegensätze zu. Über diese Punkte muss nach dem Grundsatz einer unmittelbar mit dem Begriff der Verpflichtung verbundenen Verantwortung neu reflektiert werden.

Religiöse Freiheit: die erste und grundlegende Freiheit

Dem durch das Christentum hervorgebrachten Dualismus („So gebt dem Kaiser, was dem Kaiser gehört, und Gott, was Gott gehört“) entsprang nicht nur die Freiheit der Kirche, sondern auch ein Recht, welches das kollektive Bewusstsein erst viel später erkannte – das Recht auf religiöse Freiheit.

Dieses Recht weist drei Dimensionen auf: die individuelle, die kollektive und die institutionelle. Es beinhaltet, anders ausgedrückt, nicht nur das Recht der Person, die Wahrheit ihres eigenen Bekenntnisses im tiefsten Innern zu glauben. Es beinhaltet darüber hinaus und vor allem das Recht, die eigene Religion zu bekunden, zu bekennen und auszuüben, sie in individueller Form und im Verbund zu leben. Zudem postuliert das Recht auf Freiheit in der Beziehung zu Gott das Recht auf die Freiheit der Kirche als Institution, welche die Interessen der Gläubigen gegenüber dem „Kaiser“ vertritt. Das Fundament dieser Forderungen liegt im Schutz der Menschenwürde, die aufs engste verbunden ist mit der persönlichen Freiheit jeglicher Ausprägung, insbesondere wenn es um Wahlmöglichkeiten im Einklang mit der eigenen religiösen Überzeugung geht.

Wie schon so oft vom Heiligen Stuhl im internationalen Kontext wiederholt, ist der Nachweis dieses Rechts auf Religionsfreiheit zugleich der Prüfstein für den Nachweis aller anderen Rechte – mit der Folge, dass es eine Vielzahl von Fragen im Hinblick auf dieses Recht zu untersuchen gilt, seien es Fragen seines Inhalts, wie er in internationalen Dokumenten festgelegt ist, seien es Fragen seines tatsächlichen Schutzes.

Man könnte dabei zum Beispiel an das Gleichgewicht zwischen Redefreiheit und freier Meinungsäußerung einerseits und der Achtung vor Religion und religiösen Symbolen andererseits denken. Diese Frage hat der Heilige Stuhl bereits in diversen internationalen Foren thematisiert, und sie ist nicht nur für die katholische Kirche, sondern auch für andere religiöse Bekenntnisse (allen voran den Islam) von besonderer zeitgemäßer Relevanz.

Menschenrechte, soziale Zusammenarbeit und wirtschaftliche Entwicklung

Geht man vom Leitgedanken der von der katholischen Soziallehre mit großem Nachdruck geforderten allgemeinen Bestimmung der Güter aus (vgl. insbesondere *Gaudium et spes*, *Populorum progressio* und *Sollicitudo rei socialis*, worin die allgemeine Bestimmung der Güter als das „kennzeichnende Prinzip der christlichen Soziallehre“ bezeichnet wird, S. 42), so ist es möglich, der „Sozialen Frage“ auf weltweiter Ebene ein neues Gesicht zu verleihen. Man kann nicht an den Zugang der Weltbevölkerung zu Nahrung, Wasser und Energie wie auch zu Medizin und Technologie, oder gar an die Beherrschung des Phänomens des Klimawandels, denken, ohne auch gemeinsam erarbeitete und global ausgeführte Lösungen einzubeziehen. Um gerecht und wirksam zu sein, können diese Lösungen nicht umhin, die ethische Relevanz der sehr dringlichen Fragen anzuerkennen, die durch jene Lösungen beantwortet wer-

den sollen. Sie sollten stets mit Blick auf das Gemeinwohl und im Geiste einer echten Solidarität gestellt werden. Das Recht auf Leben läuft Gefahr, auf schwerwiegende Weise verletzt zu werden, wenn es nicht das natürliche Recht auf Zugang zu den Gütern der Erde und auf Beschaffung des zum eigenen Überleben Notwendigen mit einschließt.

Die Verknüpfung zwischen Menschenrechten und sozialer Zusammenarbeit eröffnet wichtige Horizonte auf den inländischen wie internationalen Politikfeldern, sowohl im Verhältnis zwischen Frieden und Entwicklung als auch im Hinblick auf die noch immer ungelösten Probleme der Globalisierung. Eine Reihe von Fragen gestaltet das gesamte Terrain als schwierig. Wenn es schon nicht ausreicht, den Komplex der streng persönlichen Rechte zu gewährleisten, wie können dann die Bedingungen für eine wirksame Solidarität geschaffen werden? In welchem Ausmaß sind das nationale Gemeinwohl und das internationale Gemeinwohl miteinander vereinbar – nicht nur politisch, sondern auch und vor allem wirtschaftlich und sozial?

Gleichermaßen bereitet der Zusammenhang zwischen Menschenrechten, wirtschaftlicher Entwicklung und demokratischen Regierungsformen den Völkern dieser Erde Schwierigkeiten. Mittelfristig mögen zwar ein demokratisches Regierungssystem und die Achtung der Menschenrechte die wirtschaftliche Entwicklung eines Landes positiv beeinflussen. Daraus folgt jedoch nicht, dass wirtschaftliche Entwicklung stets mehr Demokratie oder mehr Menschenrechte mit sich bringt. Somit stellt sich die Frage: Welches Instrumentarium kann in einer Epoche, in der die Wirtschaft vielleicht die einzige tatsächlich globalisierte Realität darstellt, wirtschaftliche Auswirkungen entfalten, die imstande sind, die Achtung der Menschenrechte im Staat positiv zu beeinflussen?

Das gilt auch für die Umwelt. Die Relevanz internationaler Instrumente (z.B. das Kyoto-Protokoll) für die Weltpolitik wird zunehmend größer und kann – bedauerlicherweise – gleichgesetzt werden mit dem Unvermögen von Staaten, kurz-, mittel- und langfristige Lösungen zu finden. Dies ist auch eine Folge der Einflussnahme politisch-wirtschaftlicher Machtzentren, deren Zielsetzungen vom Gemeinwohl oft weit entfernt liegen. Doch ist es nicht die Umwelt allein, die Anlass zu großer Sorge gibt. Auch primäre Güter wie Wasser und Nahrung stehen heute nicht allen Menschen zur Verfügung. Eine einzige Statistik genügt, um dies zu verdeutlichen: Ungefähr 900 Millionen Menschen, die meisten von ihnen Kinder, leiden tagtäglich an Unterernährung, vor allem in Schwarzafrika und in gewissen Regionen Asiens.

Die Aufgabe des internationalen Rechts und die Schutzverantwortung

Bereits seit einigen Jahrzehnten formiert sich ein internationales Recht der Menschenrechte zu einem Regelwerk aus Lehrmeinungen und Normen. Dem überkommenen System des zwischenstaatlichen Rechtes wird so ein transnationales System gegenübergestellt. Dem entspricht ein überstaatliches Beurteilungs- und

Bewertungskriterium, das auf einer höheren Ebene angesiedelt ist, als derjenigen Ebene, von der die Pflicht der Staaten hergeleitet wird, die Souveränität der jeweils anderen Staaten zu respektieren. In diesem neuen Recht, das in *dignitas humana servanda est* sein bestimmendes Merkmal findet, wird der Idee des „universalen Gemeinwohls“ konkret Ausdruck verliehen (vgl. *Pacem in terris*, IV).

Auf eine solide Grundlage gestellt, erweisen sich Rechte als die Lenkungskräfte eines starken Governance-Systems (s. Rede von Kardinal Bertone vor der PASS 2007), das auf die Schaffung einer neuen, übergeordneten internationalen Ordnung zielt und mit weltweiten und supranationalen Institutionen ausgestattet ist. Eine schwache, verfahrensorientierte und technische Ausgestaltung der Governance ist kaum in der Lage, Menschenrechte zu implementieren, gegen Rechtsbrecher vorzugehen (über ein Internationales Strafgericht), Initiativen humanitärer Art zu ergreifen oder auch die Themen Gerechtigkeit und Frieden anzugehen und Konflikte zu verhindern.

In der Tat können Menschenrechte nicht über Zwangsmaßnahmen nach einem einzigen rationalistischen, libertären und westlichen Modell realisiert werden. Vielmehr muss dies auf eine Weise geschehen, die den Grundkitt der verschiedenen Gesellschaften, die Integrität ihrer Völker sowie ihre tief verwurzelten und vielschichtigen Kulturen achtet, es sei denn, beträchtliche Menschenrechtsverletzungen finden in ihrer Mitte statt.

Die politische und humanitäre Intervention oder, wie es Benedikt XVI. vor den Vereinten Nationen besser formulierte, die „Schutzverantwortung“ bleibt eine Frage von höchstem Interesse. Der Heilige Stuhl hat das Recht auf humanitäre Intervention wirkungsvoll theoretisiert und dabei dessen Grenzen klar zum Ausdruck gebracht; dazu gehört auch der notwendige und vorherige Rückgriff auf alle Instrumente der Diplomatie.

Dies ist ein Thema, das nicht nur die Beziehungen zwischen nationaler Souveränität, nationalen Interessen und einer globalen Gesellschaft ins Spiel bringt, sondern auch dazu auffordert, über Wandlungen der Solidarität und über neue Formen politischer Macht nachzudenken: von den Nichtregierungsorganisationen über die Massenmedien bis hin zur Mobilisierung innerhalb bestimmter Foren (wie z.B. der Globalisierungsgegner vis-à-vis den G8-Teilnehmern in Davos). Stellen diese neuen Kräfte neue Interventionsformen dar? Was ist Souveränität im heutigen Wortsinn? Ist die gegen humanitäre Eingriffe ins Feld geführte Souveränität eine organisierte Heuchelei?

Die Durchsetzbarkeit von Menschenrechten

Zwei Hauptaufgaben liegen vor uns: einerseits die effektive Sicherstellung jener Rechte, die zwar bereits erklärt wurden, deren Wirksamkeit aber für einen Großteil der Menschheit in weiter Ferne liegt; andererseits die Suche nach einem Weg zur Identifizierung neuer echter Rechte. Das erste Thema ist besonders relevant. Denn wer profitiert von Menschenrechtserklärungen, die mitunter bedeutungslos sind, wenn keine juristische Garantie dafür vorliegt? Wir müssen zum juristischen

Schutz und der damit einhergehenden Durchsetzung der Menschenrechte voranschreiten. Dies ist ein Thema, bei dem der Diskurs bereits deutlich gemacht hat, dass zu den Sicherstellungen, welche die Staaten ihren Bürgern gewähren müssen, zusätzlich noch eine „Verfassung der Welt“ erforderlich ist. Indem festgestellt würde, welche Regierungen gut und welche schlecht sind, könnte eine solche Verfassung international gegen Menschenrechtsverletzungen, Genozid, Massaker und gerichtliche Verfehlungen herangezogen werden, was sich heute noch als sehr schwierig gestaltet. In der weltgeopolitischen Lage unserer Epoche fällt es insbesondere den Staaten der Erde zu, sich zu spezifischen Verhaltensweisen innerhalb ihrer Grenzen zu verpflichten. Und dies bestätigt, dass die Achtung der Menschenrechte ein Problem ist, das sowohl nationalen als auch internationalen Charakter hat, was wiederum auf beiden Ebenen Strukturen zur Gewährung von Garantien und Auferlegung von Sanktionen erfordert.

Die sich heute notwendig stellenden Fragen beziehen sich auf die Durchsetzbarkeit von Menschenrechten; das Gleiche gilt für die Beweisführungen, die dabei unternommen werden. Man kann folgendermaßen vorgehen, um einen wirksamen Schutz zu erreichen:

Gerichtliche Verfahren. Haben die zahlreichen internationalen Gerichte, deren Kompetenzen oftmals auf ein bestimmtes Territorium oder auf bestimmte Anliegen beschränkt sind, positive Ergebnisse hervorgebracht? Vielleicht. Aber haben sie auch einen kulturellen Wandel bewirkt und mithin das Bewusstsein für die Universalität der Menschenrechte und ihre Unantastbarkeit geschärft? Indessen ist zu betonen, dass ein universaler Schutz der Menschenrechte mit diesen Instrumenten vielleicht nie erreicht wird, da sie die Zustimmung der jeweiligen Staaten erfordern, bevor sie der Zuständigkeit dieser Gerichte unterworfen werden können.

Politisch-diplomatische Verfahren. Diese wachen im internationalen Wirkungsbereich auf verschiedene Weise über die Achtung der Menschenrechte. Hier ist auch das sogenannte „soft law“ von Interesse. Abgesehen davon, dass es diplomatische Maßnahmen beinhaltet, ist dieses „weiche Recht“ sehr viel mehr ein Produkt aus der Feder von Fachbeamten (sehr aktiven Bürokraten, die im Auftrag der internationalen Einrichtungen, für die sie tätig sind, Dokumente abfassen und zur Entscheidung vorlegen) als das Resultat bewusst gewählter Optionen der Politiker. Inwieweit kann dadurch – wie es tatsächlich immer öfter der Fall zu sein scheint – das „hard law“ verdreht werden? Was sollte hier getan werden? Zu denken wäre beispielsweise an den Begriff der „Familie“, den das „soft law“ durch das Konzept von „Familien“, einschließlich homosexueller Beziehungen, achtlos ersetzt hat.

Militärinterventionen. Dieses Thema beschränkt sich nicht allein auf die Frage, inwiefern humanitäre Eingriffe durch staatliche Souveränität eingeschränkt sind, sondern zielt auch und vor allem auf die – heute mehr denn je drängende – Frage des so bezeichneten „Exports von Demokratie“ oder „Freiheit“. Jede Bewertung sollte dabei die konkreten Ergebnisse dieser Interventionen stärker in den Blick nehmen als die ihnen zugrunde liegenden theoretischen Annahmen.

Bildung und Menschenrechte

Wenn es auch an Zwangsmitteln zur Durchsetzung der Menschenrechte nicht fehlt, so ist ihre spontane Beachtung dennoch das anzupeilende Ziel. Die Bildung der Bürger in Menschenrechtsfragen, angefangen mit den jüngsten Generationen, bleibt daher das bevorzugte Instrument.

Die Erörterungen unserer Plenarsitzung werden dem Thema Bildung und Menschenrechte einige zusammenfassende Hinweise im Rahmen von Vorträgen widmen. Dieser Gegenstand ist jedoch von höchster Bedeutung, denn er betrifft die menschliche Person in ihren Beziehungen zu den Bildungsvermittlern. Dabei gilt es, neben der grundlegenden und unentbehrlichen Rolle der Familie die herausragende Stellung der Kirchen zu betonen, die oftmals als weise Geburtshelferinnen der Demokratie in autoritären Staaten agiert haben (man denke an deren Rolle in den osteuropäischen Ländern vor dem Fall der Berliner Mauer). Und nicht nur die Kirchen als Institutionen, sondern auch die zahlreichen religiös inspirierten Basiseinrichtungen waren und sind weiterhin auf diesem Gebiet tätig, entweder direkt oder über Kommunikationsorgane: von Kirchengemeinden über Nichtregierungsorganisationen bis hin zu den Laienverbänden und Missionarsbewegungen.

Eine Reihe von Fragen bleibt im Hintergrund bestehen. Welche Themen und Einrichtungen außer Schule und Familie eignen sich am besten zur Vermittlung von Bildung? Welches sind die nützlicheren Instrumente – nationale oder internationale Programme?

Wie verhält sich darüber hinaus die Bildung zur Immigration? Dieses für unser Zeitalter so typische Phänomen der Einwanderung von Menschen, deren Kulturen und Traditionen (einschließlich der religiösen) so diametral anders sind als jene der Aufnahmeländer, führt zu Integrationsproblemen. So mag es vorkommen, dass der nationalen Gesetzgebung eine katechetische Funktion zufällt, wenn es darum geht, Immigranten zur Achtung der Menschenrechte zu erziehen. Welche Modelle der denkbaren Integration haben es geschafft, alle Formen des säkularen oder religiösen Fundamentalismus zu vermeiden?

Die Aufgabe der Sozialwissenschaften

Entsprechend ihrer besonderen Aufgabe möchte PASS das Thema Menschenrechte in ihrem Bezug zur kirchlichen Soziallehre und zu den Sozialwissenschaften erforschen. Dabei konzentriert sich PASS auf die jeweiligen Beziehungen, auf neu entstehende Probleme sowie auf die Möglichkeiten, neue Lösungen nach dem Vorbild des Evangeliums Jesu Christi aufzuzeigen, das – ähnlich arbeitend wie Hefe – imstande ist, die Horizonte unseres Sicherheitsdenkens zu erweitern. Die Verknüpfung der Menschenrechte mit den Sozialwissenschaften wirft Fragen auf. Zum Beispiel: Inwieweit stehen die Sozialwissenschaften im Dialog mit den Menschenrechten? Inwieweit akzeptieren sie oder verändern sie die Zeichen menschlicher Rationalität und Spiritualität bis hin zu dem Punkt, wo das Bild des Menschen als eine nach dem Bilde Gottes geschaffene Person deformiert wird und in Widerspruch gerät zu sei-



ner ab der Empfängnis bestehenden Einzigartigkeit? Sind die Sozialwissenschaften in der Lage, sich der Hoffnung zu öffnen, dass sie Hoffnungsträger werden? Um nicht dem Zynismus anheimzufallen oder in die Enttäuschung abzugleiten, benötigen sie Prinzipien, die über das hinausgehen, was bequem ist, oder speziellen Interessen dienen.

Sich erneut über Menschenrechte Gedanken zu machen wird somit zu einer dringlichen Aufgabe, die nicht nur führende Persönlichkeiten des öffentlichen Lebens, sondern auch und vor allem die Sozialwissenschaften betrifft. Die angewandte Forschung auf dem Gebiet des Rechts, der Soziologie, der Ökonomie und der Politikwissenschaft übernimmt in der heutigen Zeit in höherem Maße wesentliche Aufgaben wahr als jene – zwar wichtigen – Arbeiten der Grundlagenforschung, die vornehmlich auf die Beantwortung elementarer wissenschaftlicher Fragen ausgerichtet sind. Denn die Wissenschaften müssen Lösungen anbieten, die sich auf einer praktischen Ebene verwirklichen lassen. Sie müssen vom Elfenbeinturm ihrer jeweiligen Disziplinen herabsteigen und sich mit der eigentlichen Realität befassen.

Das Programm

Auf drei Tage verteilt, sind die Themen der Plenarsitzung wie folgt gegliedert:

1) Das Verhältnis zwischen der katholischen Kirche und Menschenrechten, wobei dem Einfluss ersterer auf letztere besondere Aufmerksamkeit erwiesen wird.

2) Erneute Gedanken zum Thema Menschenrechte im 21. Jahrhundert, vor allem im Hinblick auf die Verknüpfung zwischen Rechten und Pflichten in einigen besonders sensiblen Bereichen: Leben, Familie, Religionsfreiheit und internationale soziale Gerechtigkeit.

3) Untersuchung der Universalität und Interdependenz von Menschenrechten in Bezug auf die Rechte der ersten, zweiten und dritten Generation; Bewertung des Umgangs mit dem Begriff der Person im internationalen Recht; Behandlung dringlicher Fragen wie die humanitäre Intervention, das Verbrechen Genozid und der Schutz von Menschenrechten durch internationale Organisationen.



INTRODUZIONE

R. MINNERATH, O. FUMAGALLI CARULLI, V. POSSENTI

“Dov'è tuo fratello?” La domanda di Dio a Caino (Gen 4, 9) interpella l'umanità di ogni tempo, come domanda centrale nella realizzazione dell'Ordine della Creazione. Si ripropone ogni volta che le leggi di uno Stato o la prassi della comunità internazionale o il comportamento di un popolo o l'atteggiamento di un singolo individuo dimenticano che Dio è la fonte suprema della dignità della persona umana e dei suoi diritti fondamentali.

Se si parte da quella domanda e ad essa si risponde facendo tesoro della dottrina sociale cattolica, l'enucleazione dei diritti umani si presenta con una precisa grammatica naturale, che ai diritti accosta i doveri sia del singolo sia della comunità: diritto alla vita e alla famiglia, integrità della persona umana, libertà di coscienza, libertà di religione o di credenza. La stessa lenta emersione dei diritti di libertà, quale si è avuta nelle varie Carte internazionali dell'età moderna, dai diritti individuali a quelli politici ed a quelli sociali, ha dovuto misurarsi con quella domanda, correlandosi anche alla responsabilità ed al dovere.

Un lungo itinerario storico, già nell'età in cui i singoli Stati nazionali stavano affermando la loro sovranità, ha visto nascere e fiorire l'antico *ius gentium* come regolatore dei rapporti tra i popoli grazie al fondamentale apporto del frate domenicano Francisco de Vitoria, precursore dell'idea delle Nazioni Unite. Egli sosteneva che “totus mundus est quasi una res publica”. Altre tappe significative sono raggiunte in successive età, ora in sintonia ora in divergenza con i principi cristiani.

La situazione

Nell'età contemporanea, la Dichiarazione Universale dei Diritti dell'Uomo ed i richiami fatti ad essa dalle Carte successive, del singolo Stato o della comunità internazionale, sono stati fondamentali per il consolidamento nella coscienza collettiva della importanza del rispetto dei diritti umani. “Giustamente la nostra società ha incastonato la grandezza e la dignità della persona umana in diverse dichiarazioni dei diritti, formulate a partire dalla Dichiarazione Universale dei Diritti dell'Uomo, adottata giusto sessant'anni fa. Questo atto solenne è stato, secondo l'espressione di Papa Paolo VI, uno dei più grandi titoli di gloria delle Nazioni Unite” (Benedetto XVI, discorso al Corpo Diplomatico, 7 gennaio 2008).

La frase conferma che la Dichiarazione universale è un documento “seminal” del diritto internazionale e segna una pietra miliare nel cammino dell'umanità verso il rispetto dei diritti di ogni essere umano. Dal 1948 la Dichiarazione, insieme ad altri strumenti giuridici, ha svolto un ruolo prezioso nell'inserire nuove norme e comportamenti nei rapporti nazionali e internazionali. Ha aiutato milioni di persone nella ricerca di

rispetto per la dignità umana, nel cammino verso sistemi politici migliori, e per sottrarre la convivenza alla minaccia della violenza e dell'ingiustizia. Ha contribuito ad instaurare una “cultura dei diritti umani”, che ormai è una dimensione essenziale del dibattito etico, sociale e politico in quasi tutto il pianeta.

Tuttavia siamo dolorosamente consapevoli che fondamentali diritti umani sono violati spesso in modo altrettanto drammatico che 60 anni fa, a partire dal diritto alla vita, e che a milioni di cittadini nel mondo sono negati rispetto, libertà, sviluppo, possibilità di esprimere le proprie opinioni, di praticare liberamente la religione e di fruire di uno standard di vita che garantisca la libertà dalla fame e dalla sete. Acuta è l'incapacità di contrastare il fenomeno sempre crescente della tratta di esseri umani, specie di bambine. Habitat malsano, stravolgimenti climatici, disuguaglianze locali e globali, incapacità di vera solidarietà nei confronti della regioni più deboli, continuano ad avvelenare il mondo contemporaneo, che non riesce a perseguire un autentico sviluppo integrale né della persona singola né della famiglia umana né del pianeta. Lo stesso cammino verso la sicurezza e la pace globale rischia di fare più passi indietro che avanti, in mancanza di un sistema di *governance* forte che conduca verso autorità sopranazionali capaci di operare per scopi globali.

La descrizione differenziale, fatta di luci e ombre, possiede molteplici cause, tra cui importante è il corretto intendimento della natura e portata dei diritti umani. Su questo aspetto la Dottrina sociale della Chiesa cattolica mette in luce un approccio originale. Il rapporto dialettico tra Chiesa e diritti umani, verificatosi nella modernità, non si può considerare chiuso una volta per tutte: nuovi problemi e nuove situazioni emergono di continuo, richiedendo discernimento e approfondimenti.

Il rapporto tra Chiesa cattolica e diritti umani

È risaputo che la Chiesa cattolica sia attualmente una delle rare autorità internazionali che difende la Dichiarazione universale dei diritti dell'uomo del 1948. Questo per due ragioni: la Dichiarazione è in perfetta armonia con la visione cristiana della dignità e con l'inviolabilità della persona e della famiglia fondata sul matrimonio. Lo sviluppo dei diritti dell'uomo della prima, poi della seconda e anche della terza generazione ha largamente perso di vista il fatto che i diritti umani siano inseriti nell'ordine naturale e ha accentuato fino all'exasperazione il carattere soggettivo e individualista della comprensione stessa dei diritti umani. Mentre la Dichiarazione non escludeva un orizzonte di trascendenza nella sua affermazione del carattere indisponibile della dignità umana, questo fondamento non venne più ricercato negli sviluppi ulteriori del 1966 e oltre. La Chiesa cattolica assiste con stupore all'affermazione di

diritti che corrispondono più alle rivendicazioni di minoranze organizzate che alle esigenze ragionevolmente fondate dell'ordine naturale.

La presente sessione vuole sottolineare nuovamente la specificità dell'approccio della dottrina sociale della Chiesa, fondata essa stessa sulla nozione di dignità della persona, inserita nelle relazioni con gli altri e in interazione con i beni dell'universo. La dottrina sociale ha ragionevolmente esitato a impegnarsi in un concetto soggettivo dei diritti. Il discorso della Chiesa dà a volte l'impressione di non distinguersi molto da quello degli stati e degli organismi internazionali. Dobbiamo riprendere il filo che ha portato da un discorso esclusivamente incentrato sulla legge naturale ad un discorso incentrato sui diritti soggettivi della persona. Questo passaggio non deve essere inteso come un allineamento su un certo pensiero moderno positivista, ma va reinserito nel suo quadro concettuale completo, il cui riferimento resta l'enciclica *Pacem in Terris* di Giovanni XXIII (1963). I diritti della persona umana derivano dalla sua natura. Non derivano né dalla sua volontà né dai suoi desideri. Parlare di natura è riconoscere l'esistenza di un ordine naturale che occorre esaminare per scoprirne le leggi. Diritti e doveri non possono quindi essere separati, e i diritti non sono estensibili al di là di ciò che rivela l'ordine naturale delle cose.

Per la dottrina sociale della Chiesa, i diritti umani non hanno consistenza se non sono fondati su un'antropologia e su una comprensione del rapporto tra persona e società. La dottrina sociale ha tentato di specificare quali diritti fossero più fondamentali di altri, per la precisione quelli che derivano dalla natura della persona: diritto alla vita, all'integrità fisica e psichica, alla libertà di coscienza e di religione. Questi diritti sono sostanziali alla persona e non possono essere oggetto di una privazione da parte di nessuno. Si distinguono dai diritti inerenti alla persona in quanto membro della società, come i diritti civili e politici. Affinché questi diritti siano effettivamente riconosciuti, occorre che le condizioni ambientali vi si prestino. Una persona può essere privata di alcuni diritti civili, ma non dei suoi diritti fondamentali. Una situazione analoga si presenta con i diritti sociali e culturali. Quanto alla terza generazione dei diritti, diritto alla pace, ad un ambiente sano, diritto allo sviluppo, diritto alla differenza..., sono essi dei diritti? Sono piuttosto obiettivi da raggiungere, condizioni della realizzazione del "bene comune" al servizio del quale ogni autorità è costituita.

Per contribuire efficacemente a chiarire i dibattiti e gli sviluppi attuali sui diritti umani, occorre ritrovare la via della loro universalità. Quest'ultima è situata nella natura immutabile dell'uomo, non in una certa cultura occidentale individualista e relativista che non è fondata sull'essere ma sul potere. La deriva attuale dei "diritti" dell'uomo conduce a proclamare come diritti il diritto all'aborto, all'adozione di bambini da parte di coppie dello stesso sesso, ad evitare ogni precisazione giuridica su concetti chiave quali "persona", "vita", "famiglia". Queste derive, con le loro conseguenze nefaste, vanno denunciate in nome della coerenza razionale dei diritti dell'uomo.

Il fondamento antropologico universale. La legge naturale

Nella tradizione della Dottrina sociale della Chiesa i diritti umani sono radicati nella legge morale naturale: "[essa] indica le norme prime ed essenziali che regolano la vita morale. Ha come perno l'aspirazione e la sottomissione a Dio, fonte e giudice di ogni bene, e altresì il senso dell'altro come uguale a se stesso. Nei suoi precetti principali essa è esposta nel Decalogo. Questa legge è chiamata naturale non in rapporto alla natura degli esseri irrazionali, ma perché la ragione che la promulga è propria della natura umana" (*Catechismo della Chiesa Cattolica*, n. 1955).

Per l'influsso di fattori culturali e ideologici, la società civile oggi si trova in una situazione di confusione: si è perduta l'evidenza originaria dei fondamenti dell'essere umano e del suo agire etico, e la dottrina della legge morale naturale si scontra con altre concezioni che ne sono la diretta negazione. Presso non pochi pensatori sembra oggi dominare una concezione positivista del diritto, in base a cui è la società, o di fatto la maggioranza dei cittadini, che si candida a valere come la fonte ultima della legge civile. Alla radice di questa tendenza vi è il relativismo etico, in cui non pochi individuano una delle condizioni principali della democrazia, in quanto il relativismo garantirebbe la tolleranza e il rispetto reciproco delle persone. Tuttavia in base a tali assunti la maggioranza di un momento diventerebbe l'ultima fonte del diritto, mentre la storia è lì a mostrare che le maggioranze possono ingannarsi. "La vera razionalità non è garantita dal consenso di un gran numero, ma solo dalla trasparenza della ragione umana alla Ragione creatrice e dall'ascolto comune di questa Fonte della nostra razionalità" (Benedetto XVI, Discorso ai partecipanti alla sessione plenaria della Commissione Teologica Internazionale, 5 ottobre 2007).

Diritti e doveri

Mentre nell'età contemporanea si è sviluppata la coscienza dei diritti, si è invece attenuata la consapevolezza dei "doveri verso la comunità", che nell'animo di chi preparava la Dichiarazione Universale avrebbe dovuto controbilanciare l'espansione illimitata dei diritti con l'impegno responsabile della persona riguardo all'altra persona e che oggi assume i nuovi significati della solidarietà intergenerazionale.

Orbene, la fondazione dei diritti umani nella legge naturale aiuta a ristabilire la loro grammatica autentica anche in rapporto alla responsabilità e al dovere. Diritti senza doveri è la debolezza moderna, una debolezza oggi crescente per l'influsso di correnti individualistiche e libertarie. Il fenomeno è stato rilevato numerose volte dalla voce della Chiesa: "Un'osservazione deve ancora essere fatta: la comunità internazionale, che dal 1948 possiede una carta dei diritti della persona umana, ha per lo più trascurato d'insistere adeguatamente sui doveri che ne derivano. In realtà, è il dovere che stabilisce l'ambito entro il quale i diritti devono contenersi per non trasformarsi nell'esercizio dell'arbitrio. Una più grande consapevolezza dei doveri umani universali sarebbe di

grande beneficio alla causa della pace, perché le fornirebbe la base morale del riconoscimento condiviso di un ordine delle cose che non dipende dalla volontà di un individuo o di un gruppo” (*Pacem in Terris: un impegno permanente*, Messaggio di Sua Santità Giovanni Paolo II per la celebrazione della Giornata Mondiale della pace, 1 gennaio 2003).

In rapporto allo squilibrio tra diritti e doveri da vari decenni è venuta crescendo un paradigma *libertario* che intenderebbe prendere il sopravvento sull’interpretazione dei diritti umani fondata sulla dignità della persona. Perché il loro rispetto possa effettivamente garantire la coesione della famiglia naturale, come della ‘famiglia’ nazionale ed internazionale, è necessario che i desideri o le pretese individuali non vengano riconosciuti *ipso facto* quali diritti collettivi. Così, infatti, non si crea “famiglia” né comunità, ma si aprono le porte ad un pericoloso individualismo collettivo; non si reca la pace, ma – aprendo ad ogni genere di riconoscimento – ci si avvia verso inevitabili contrasti. Su questi punti occorre una rinnovata riflessione sul principio di responsabilità che è immediatamente connesso col concetto di dovere.

La libertà religiosa: la prima e fondamentale libertà

Dal dualismo apportato dal Cristianesimo (“*Dare a Cesare ciò che è di Cesare, a Dio ciò che è di Dio*”) scaturisce non solo la libertà della Chiesa, ma anche il diritto che la coscienza collettiva recepisce molto più tardi: il diritto di libertà religiosa.

Esso ha una triplice dimensione: individuale, collettiva, istituzionale. Non è, in altri termini, solo il diritto della persona di credere nel proprio intimo alle verità della propria fede. Ma è anche e anzitutto il diritto di manifestare, professare, praticare la propria religione, di viverla in forma individuale e associata. E il diritto alla libertà del rapporto con Dio postula il diritto alla libertà della Chiesa in quanto istituzione, che rappresenta gli interessi dei fedeli nel confronto con “Cesare”. Fondamento ultimo di queste rivendicazioni è la tutela della dignità della persona, intimamente connessa con la sua libertà in ogni scelta, e soprattutto nella scelta conforme alla propria convinzione religiosa.

Come più volte ripetuto in ambito internazionale dalla Santa Sede, la verifica del diritto di libertà religiosa costituisce un test per la verifica di tutti gli altri diritti, con la conseguenza che sono molteplici le questioni da esaminare con riguardo a tale diritto, sia rispetto ai contenuti di esso così come affermati nei documenti internazionali, sia in riferimento alla tutela effettiva di esso.

Si pensi, ad esempio, al bilanciamento tra libertà di parola e di espressione da una parte, e rispetto per la religione e i simboli religiosi dall’altra. Si tratta di una questione che la Santa Sede ha posto in vari *fora* internazionali ed è di particolare attualità, non solo con riferimento alla Chiesa cattolica ma anche alle altre confessioni religiose (una tra tutte, l’Islam).

Diritti umani, cooperazione sociale e sviluppo economico

Riferendosi al principio della *destinazione universale dei beni*, richiamato con grande rilievo nella Dottrina sociale della Chiesa (cfr. in specie *Gaudium et Spes, Populorum Progressio* e *Sollicitudo Rei Socialis* – secondo quest’ultima la destinazione universale dei beni è “il principio tipico della dottrina sociale cristiana”, n. 42), è possibile assegnare un nuovo volto alla “questione sociale” su scala planetaria. Non è pensabile l’accesso da parte della popolazione mondiale al cibo, all’acqua ed all’energia, ma anche alle medicine ed alla tecnologia, come pure il controllo del fenomeno dei cambiamenti climatici, senza soluzioni condivise e globali. Per essere giuste ed efficaci, queste soluzioni non possono non riconoscere anche la valenza etica di così urgenti questioni, da affrontare sempre guardando al bene comune e in spirito di autentica solidarietà. Il diritto alla vita rischia di essere gravemente ferito se non include il diritto naturale di avere accesso ai beni della terra e di procurarsi quanto è necessario per vivere.

La correlazione tra diritti umani e cooperazione sociale apre orizzonti importanti nella politica interna ed internazionale, sia nei rapporti tra pace e sviluppo, sia in riferimento ai problemi, tuttora irrisolti, posti dalla globalizzazione. Una serie di interrogativi rende l’intera materia travagliata. Se non è sufficiente garantire il complesso dei diritti strettamente personali, come creare le condizioni perché la solidarietà sia effettiva? Bene comune interno e bene comune internazionale sino a che punto sono compatibili non solo sotto il profilo politico, ma soprattutto sotto quello economico e sociale?

Altrettanto travagliata è la correlazione tra diritti umani, sviluppo economico e forme democratiche di governo dei popoli. Se infatti, a medio termine, un assetto democratico di governo ed il rispetto dei diritti umani incide positivamente sullo sviluppo economico di un paese, non è detto che lo sviluppo economico porti sempre con sé più democrazia o più diritti umani. Di qui un interrogativo: quali strumenti, in un’epoca in cui l’economia è forse l’unica realtà effettivamente globalizzata, consentono di incidere economicamente perché vi siano cambiamenti all’interno degli Stati sotto il profilo del rispetto dei diritti umani?

Tra essi l’ambiente: il rilievo dei protocolli internazionali sulla politica mondiale (Protocollo di Kyoto) sta assumendo importanza crescente, pari purtroppo alla incapacità delle nazioni di trovare soluzioni a breve, medio e lungo termine, in conseguenza anche dell’influenza di centri di potere politico-economico, che hanno obiettivi distanti dal bene comune mondiale. Né è solo l’ambiente a destare grandi preoccupazioni. Oggi anche beni primari quali acqua e cibo non sono disponibili per tutti. Basti un dato: circa 900 milioni di persone, di cui la gran parte bambini, soffrono quotidianamente per denutrizione, specie nell’Africa subsahariana e in alcune regioni asiatiche.

Il compito del diritto internazionale e la responsabilità di proteggere

Nel corso di vari decenni è venuto formandosi un *diritto internazionale dei diritti umani* come corpo di dottrine e regole che, innestando un ordinamento non territoriale sull'antico ordinamento territoriale del diritto statale interno, introduce un criterio di giudizio e di valutazione soprastatale, un'istanza più alta che i poteri dei singoli Stati sono chiamati a onorare. In tale nuovo diritto, la cui divisa suona: *dignitas humana servanda est*, si esprime concretamente l'idea di "bene comune universale" (cf. *Pacem in Terris*, IV).

Quando sono solidamente fondati, i diritti si pongono come guida di un sistema di *governance* forte (vedi intervento alla PASS 2007 del card. Bertone) che punta verso un ordine internazionale superiore all'attuale, dotato di istituzioni planetarie e sopranazionali. Una *governance* debole, procedurale e tecnica non è in grado di implementare i diritti umani, di sanzionare i trasgressori (corte penale internazionale), di attuare interventi di tipo umanitario, di affrontare i temi della giustizia e della pace, prevenendo i conflitti.

D'altronde l'implementazione dei diritti umani non può avvenire in maniera coatta secondo un unico modello razionalistico, libertario e occidentale, ma rispettando il cemento di base delle varie società, l'integrità dei popoli e le loro culture lungamente sedimentate, a meno che in esse vivano violazioni notevoli dei diritti umani.

L'ingerenza politica ed umanitaria, o meglio, come ha specificato Benedetto XVI all'ONU, "la responsabilità di proteggere" rimane questione di massimo interesse. La Santa Sede ha efficacemente teorizzato il diritto alla ingerenza umanitaria, ben chiarendone anche i limiti, tra i quali il necessario e previo ricorso a tutti gli strumenti della diplomazia.

È tema che non solo chiama in causa i rapporti tra sovranità nazionale, interesse nazionale e società globale, ma impone una riflessione sulle trasformazioni della sovranità e sulle nuove forme del potere politico: dalle ONG, ai media, alle mobilitazioni nello specifico forum (dai *no global* alle riunioni di Davos, ad esempio). Questi nuovi poteri rappresentano nuove forme di ingerenza? Che cosa è oggi la sovranità? La sovranità invocata contro l'ingerenza umanitaria è una ipocrisia organizzata?

L'enforceability dei diritti umani

Due grandi compiti sono dinanzi a noi: la garanzia effettiva di diritti già proclamati ma lungi dall'essere divenuti effettuali per una notevole parte dell'umanità; il cammino per individuare nuovi diritti reali. Di particolare rilievo è il primo tema: a che pro proclamare diritti umani che fossero vuote dichiarazioni senza alcuna garanzia giuridica? Occorre procedere alla protezione giuridica e relativo *enforcing* dei diritti umani. Un tema su cui il dibattito ha chiarito che, oltre alle garanzie che gli Stati devono offrire ai loro cittadini, è necessaria una "costituzione del mondo" che determinando i buoni e i cattivi governi, sanzioni internazionalmente le offese ai diritti umani, i genocidi, le stragi, le violazioni attra-

verso corti di giustizia che si vanno faticosamente edificando. Nella situazione geopolitica mondiale dell'epoca spetta in particolare agli Stati l'impegno a tenere al proprio interno determinate condotte, e ciò conferma che il rispetto dei diritti umani è un problema tanto nazionale quanto internazionale, che necessità di strutture di garanzia e di sanzione ad entrambi i livelli.

Sulla *enforceability* dei diritti umani nascono gli interrogativi oggi da sciogliere e le verifiche da effettuare. Per la loro effettiva tutela si può infatti procedere:

– mediante procedura giurisdizionale. Le numerose Corti internazionali con competenze tendenzialmente limitate per territorio o per materia hanno prodotto esiti positivi? Può darsi, ma hanno effettivamente prodotto un cambiamento culturale e pertanto una maggiore consapevolezza della universalità dei diritti umani e perciò della loro inviolabilità? Va comunque evidenziato che l'universalità della tutela dei diritti umani potrebbe non essere mai raggiunta con questi strumenti, dal momento che essi richiedono il consenso degli Stati a sottoporsi alla giurisdizione delle Corti;

– mediante processi politico-diplomatici più o meno tipizzati in ambito internazionale per il controllo del rispetto dei diritti umani. Interessante, oltre alla tecnica diplomatica, il *soft law*, frutto dell'apporto dei funzionari tecnici (una burocrazia attivissima nella preparazione dei documenti da sottoporre alle decisioni degli organismi internazionali presso i quali essi lavorano) piuttosto che di consapevoli scelte dei politici. Fino a che punto esso, come sembra sempre più frequentemente avvenire, può pervenire l'*hard law*? Che fare in tal caso? Si pensi ad esempio alla interpretazione data al concetto di "famiglia", disinvoltamente sostituito dal *soft law* con il concetto di famiglie, comprese quelle omosessuali;

– mediante l'intervento militare. Si inserisce qui non solo il problema dei limiti della ingerenza umanitaria rispetto alla sovranità degli Stati, ma anche e soprattutto il problema, oggi più che mai acuto, della così detta "esportazione della democrazia" o "della libertà". La valutazione, più ancora che sui presupposti teorici degli interventi, andrebbe fatta con riguardo agli effettivi risultati concreti.

Educazione e diritti umani

Se dunque non mancano strumenti coattivi per il rispetto dei diritti umani, la loro spontanea osservanza è comunque l'obiettivo cui tendere. L'educazione ai diritti umani dei cittadini, sin dalle più giovani generazioni, rimane pertanto lo strumento più appropriato.

I lavori della nostra Sessione Plenaria dedicheranno all'educazione ai diritti umani qualche sintetico cenno all'interno di alcune relazioni ma si tratta di tema della massima importanza, coinvolgente la persona umana nei suoi rapporti con le agenzie educative. Tra esse va rilevato che, oltre al ruolo fondamentale ed imprescindibile della famiglia, primeggiano le Chiese, levatrici sagge della democrazia nei Paesi autoritari (si pensi al loro ruolo nei Paesi dell'Est europeo, già prima della caduta del muro di Berlino). Non solo la Chiesa-istituzione, ma anche numerose realtà di base di ispirazione

religiosa hanno operato e continuano ad operare direttamente o attraverso organi di comunicazione: dalle comunità parrocchiali, alle ONG, alle associazioni laicali, ai movimenti missionari.

Una serie di interrogativi rimane sullo sfondo delle nostre riflessioni. Quali sono, oltre scuola e famiglia, i soggetti e le agenzie più adatti all'*education*? Quali gli strumenti più utili: programmi nazionali ed internazionali?

Ed ancora: quali i rapporti tra educazione e immigrazione? Il fenomeno, proprio alla nostra età, delle migrazioni di persone con culture e tradizioni (compresa quella religiosa) diametralmente diverse da quella dei Paesi di arrivo pone problemi di integrazione. Può avvenire che le legislazioni nazionali assolvano ad una funzione catechetica verso gli immigrati, educandoli al rispetto dei diritti umani. Quali modelli di possibile integrazione sono riusciti ad evitare ogni forma di fondamentalismo, laico o religioso?

Il compito delle scienze sociali

Conformemente al proprio compito la PASS intende approfondire il tema dei diritti umani in rapporto alla Dottrina Sociale della Chiesa ed alle scienze sociali, esplorando i loro rapporti, i nuovi problemi, la capacità di indicare nuove soluzioni sotto la spinta del Vangelo di Gesù Cristo, che opera come un fermento capace di scompigliare gli orizzonti entro cui si rinchiudono le nostre sicurezze. Nel nesso tra diritti umani e scienze sociali emergono domande quali: in che misura le scienze sociali si confrontano coi diritti umani? In che misura accolgono o cambiano sino a deformarla l'immagine dell'uomo come persona fatta a immagine di

Dio e recante nella sua singolarità sin dal concepimento i segni della razionalità e spiritualità? Sono le scienze sociali in grado di aprirsi alla speranza ed essere portatrici di speranza? Per non cadere nel cinismo o viceversa scivolare nell'illusione, esse hanno bisogno di principi che vadano oltre le convenienze e l'interesse particolare.

Ripensare ai diritti umani diventa dunque un'urgenza, che non coinvolge solo i Responsabili della cosa pubblica, ma anche ed anzitutto le Scienze sociali. Diritto, sociologia, economia, scienza della politica hanno oggi doveri aggiuntivi rispetto a quelli, pure importanti, dell'indagine e ricerca scientifica: devono offrire soluzioni concretamente realizzabili, scendendo dalla torre d'avorio delle rispettive scienze e misurandosi con la realtà.

Il programma

Articolata lungo tre giorni, la plenaria assume il seguente schema:

- 1) il rapporto tra Chiesa cattolica e diritti umani, con attenzione anche all'influsso esercitato dalla prima sui secondi;
- 2) ripensare i diritti umani nel XXI secolo in specie in rapporto al nesso tra diritti e doveri, e ad alcune aree particolarmente sensibili: vita, famiglia, libertà religiosa, giustizia sociale internazionale;
- 3) studiare l'universalità e l'interdipendenza dei diritti umani in rapporto ai diritti di prima, seconda e terza generazione; valutare l'esposizione del diritto internazionale all'idea di persona, affrontando questioni urgenti quali quelle dell'intervento umanitario, del crimine di genocidio, della protezione dei diritti umani da parte di organismi internazionali.

PROGRAMME

THURSDAY, 30 APRIL 2009

15:00-19:00	Council Meeting
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FRIDAY, 1 MAY 2009

9:00	<i>Remarks of the President</i> Prof. Mary Ann Glendon
9:30	<i>Introduction to the Subject of the Meeting:</i> H.E. Msgr. Prof. Roland Minnerath • Prof. Ombretta Fumagalli Carulli • Prof. Vittorio Possenti , Coordinators of the Meeting
THE CATHOLIC CHURCH AND HUMAN RIGHTS	
10:00	Chair: Speaker: ◆ H.E. Msgr. Prof. Roland Minnerath <i>How Did the Catholic Church Come to Subjective Human Rights?</i> Commentator: ◆ Msgr. Prof. Michel Schooyans
11:00	Discussion
11:30	Coffee break
12:00	Speakers: ◆ President Prof. Mary Ann Glendon <i>The Influence of Catholic Social Doctrine on Human Rights.</i> ◆ Prof. Herbert Schambeck <i>Die Menschenrechte in der Lehre der Katholischen Kirche</i>
13:00	Discussion
13:30	Lunch at the Casina Pio IV
RETHINKING HUMAN RIGHTS IN THE 21st CENTURY	
15:30	Chair: Speaker: ◆ Prof. Vittorio Possenti <i>Christian Anthropology and Human Rights. Rights and Duties</i> Commentator: ◆ Prof. José T. Raga
16:30	Discussion
17.00	Coffee break
17.30	Chair: Panel: ◆ Prof. Pierpaolo Donati ◆ Prof. Paul Kirchhof ◆ Prof. Juan José Llach ◆ Prof. Fausto Pocar ◆ Prof. Wilfrido Villacorta <i>From the 1948 Universal Declaration to the Last Generation Rights. How do Human Rights of the First, Second and Third Generations Interrelate?</i>
19:30	Dinner at the Casina Pio IV



SATURDAY, 2 MAY 2009

HUMAN RIGHTS AND THE CHRISTIAN VISION OF MAN: LIFE AND FAMILY, FREEDOM OF CONSCIENCE AND RELIGION, INTERNATIONAL JUSTICE	
9:00	Chair: Speaker: ◆ Prof. Janne Haaland Matlary <i>The Right to Life and to Set Up a Family</i> Commentator: ◆ Prof. Kevin Ryan
10:00	Discussion
10:30	Coffee break
11:00	Chair: Speakers: ◆ Prof. Olegario González de Cardedal <i>Freedom of Conscience and Religion as Fundamental Human Rights. Their Importance for Interreligious Dialogue</i> ◆ Prof. Ombretta Fumagalli Carulli <i>Freedom of Conscience and Religion as Fundamental Human Rights. Their Importance for Interreligious Dialogue</i> Commentator: ◆ Prof. Rocco Buttiglione
12:45	Discussion
13:15	Lunch at the Casina Pio IV
15:00	Chair: Speaker: ◆ Prof. Olivier de Schutter <i>The Right to Food</i> Commentators: ◆ Prof. Edmond Malinvaud ◆ Prof. Roberto Papini
16:00	Discussion
16:30	Coffee Break
17:00	Chair: Speakers: ◆ Prof. Luis Ernesto Derbez Bautista <i>Human Rights and Globalization: The Responsibility of States and of Private Actors</i> ◆ Prof. Joseph Stiglitz <i>Human Rights and Globalization: The Responsibility of States and of Private Actors</i> Commentator: ◆ Prof. Lubomír Mlčoch
19:00	Dinner at the Casina Pio IV

SUNDAY, 3 MAY 2009

9:30	Departure from the Domus Sanctae Marthae
10:30	Holy Mass at the Papal Basilica of St Paul Outside the Walls celebrated by H.Em. Card. Andrea Cordero Lanza di Montezemolo
11:30	Visit of the Benedictine Monastery
13:00	Lunch at the Casina Pio IV
19:00	Dinner at the Casina Pio IV



MONDAY, 4 MAY 2009

ASSURING AND IMPLEMENTING THE UNIVERSALITY, INDIVISIBILITY AND INTERDEPENDENCE OF HUMAN RIGHTS	
9:00	Chair: Speakers: ◆ Prof. Hsi-chi Kuan <i>The Question of the Universality, Indivisibility and Interdependence of Human Rights: Focus on the Case of China</i> ◆ Prof. Ravi Kanbur <i>The Question of the Universality, Indivisibility and Interdependence of Human Rights: Focus on the Case of India</i> Commentator: ◆ Prof. Partha Dasgupta
10:45	Discussion
11:15	Coffee break
SURVEYING AND ENFORCING HUMAN RIGHTS	
11:45	Chair: Speaker: ◆ Prof. Krzysztof Skubiszewski <i>Human Rights and the International Criminal Court. The Crime of Genocide</i> Commentator: ◆ Prof. Otto Triffterer
12:45	Discussion
13:15	Lunch at the Casina Pio IV
15:00	Chair: Panel: ◆ Prof. Janne Haaland Matlary ◆ Prof. Pierre Manent ◆ Prof. Angelika Nussberger ◆ Prof. Louis Sabourin <i>State Sovereignty and Humanitarian Intervention: the Duty to Protect</i>
17:00	Coffee break
17:30	Chair: Speakers: ◆ H.E. Amb. Christian Strohal <i>The Role of International Organizations and NGOs in Surveying Human Rights Compliance</i> ◆ Sen. Giulio Andreotti <i>The Role of Policy in Surveying Human Rights Compliance Between Détente and Clash: A Statesman's Experience</i>
19:00	Dinner at the Casina Pio IV

TUESDAY, 5 MAY 2009

9:00	Chair: Prof. Louis Sabourin Panel: ◆ Prof. Juan José Llach <i>Academy's Alerts on the Weaknesses of Globalization and Present Crisis</i> ◆ H.Em. Card. Oscar A. Rodríguez Maradiaga <i>The SDC and Poorest Countries' Viewpoint</i> ◆ Prof. Hans Tietmeyer <i>The PASS' Viewpoint</i> ◆ Prof. Joseph Stiglitz <i>The PASS' Viewpoint</i> ◆ Min. Prof. Giulio Tremonti General Discussion <i>PASS Summary on Globalization and the Present Crisis</i>
10:30	Coffee break
11:00	Papal Audience has been requested



13:00	Lunch at the Casina Pio IV
15:30	Conclusions and General Discussion
16:30	Coffee Break
17:00	Closed Session for Academicians
19:00	Dinner at the Casina Pio IV

WEDNESDAY, 6 MAY 2009

9:30-12:30	Council Meeting
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*Catholic Social Doctrine
and Human Rights*

LIST OF PARTICIPANTS

OUTSIDE EXPERTS			
Name and title	Nat.	Discipline and Institution	Paper
Sen. Giulio Andreotti	I	Senator for Life	<i>The Role of Policy in Surveying Human Rights Compliance Between Détente and Clash: A Statesman's Experience</i>
Prof. Olegario González de Cardedal	E	University of Salamanca	<i>Freedom of Conscience and Religion as Fundamental Human Rights. Their Importance for Interreligious Dialogue</i>
Prof. Ravi Kanbur	USA	Economics, Cornell University	<i>The Question of the Universality, Indivisibility and Interdependence of Human Rights: Focus on the Case of India</i>
Prof. Pierre Manent	F	Directeur, Ecole des Hautes Etudes en Sciences Sociales	Panel on: <i>State Sovereignty and Humanitarian Intervention: The Responsibility of Protecting</i>
Prof. Janne Haaland Matlary	N	Political Science, University of Oslo, Norwegian Defence Education Command	<i>The Right to Life and to Set Up a Family</i>
Prof. Roberto Papini	I	General Secretary of Institute 'Jacques Maritain'	Commentary on: <i>The Right to Food</i>
Prof. Fausto Pocar	I	International Rights, University of Milan	Panel on: <i>From 1948 Universal Declaration to Last Generation Rights. How do Human Rights of the First, Second and Third Generation Interrelate?</i>
H.E. Card. Oscar Andrés Rodríguez Maradiaga	HN	Archbishop of Tegucigalpa	Panel on: <i>PASS Summary on Globalization and the Present Crisis</i>
Prof. Olivier de Schutter	B	Law, Catholic University of Louvain	<i>The Right to Food</i>
H.E. Amb. Christian Strohal	A	Head of the Permanent Representation of Austria to the United Nations in Geneva	<i>The Role of International Organizations and NGOs in Surveying Human Rights Compliance</i>
Min. Prof. Giulio Tremonti	I	Minister of Economy and Finance, Law, University of Padua	Panel on: <i>PASS Summary on Globalization and the Present Crisis</i>
Prof. Otto Triffterer	A	Law, University of Salzburg	Commentary on: <i>Human Rights and the International Criminal Court. The Crime of Genocide</i>



PONTIFICAL ACADEMICIANS			
Name and title	Nat.	Discipline and Institution	Paper
Prof. Margaret Archer	UK	Sociology, University of Warwick	
Prof. Belisario Betancur	CO	Law, Santillana Foundation, Former President of Colombia	
Prof. Rocco Buttiglione	I	Political Philosophy, University of Merano	Commentary on: <i>Freedom of Conscience and Religion as Fundamental Human Rights. Their Importance for Interreligious Dialogue</i>
Prof. Partha Dasgupta	UK	Economics, University of Cambridge	Commentary on: <i>The Question of the Universality, Indivisibility and Interdependence of Human Rights: Focus on the Case of India</i>
Prof. Luis Ernesto Derbez Bautista	MEX	Economics, Centre of Globalization and Democracy, Former Minister of Mexico	<i>Human Rights and Globalization: The Responsibility of States and of Private Actors</i>
Prof. Pierpaolo Donati	I	Sociology, University of Bologna	Panel on: <i>From 1948 Universal Declaration to Last Generation Rights. How do Human Rights of the First, Second and Third Generation Interrelate?</i>
Prof. Ombretta Fumagalli Carulli	I	Canon Law, Catholic University of Milan, Joint Organiser of the Meeting	<i>Freedom of Conscience and Religion as Fundamental Human Rights. Their Importance for Interreligious Dialogue</i>
President Prof. Mary Ann Glendon	USA	President of the Pontifical Academy of Social Sciences and Professor of Law, University of Harvard	<i>The Influence of Catholic Social Doctrine on Human Rights</i>
Prof. Paul Kirchhof	D	Law, University of Heidelberg	Panel on: <i>From 1948 Universal Declaration to Last Generation Rights. How do Human Rights of the First, Second and Third Generation Interrelate?</i>
Prof. His-chi Kuan	HK	Economics, University of Hong Kong	<i>The Question of the Universality, Indivisibility and Interdependence of Human Rights: Focus on the Case of China</i>
Prof. Juan José Llach	RA	Economics, Austral University	Panel on: <i>From 1948 Universal Declaration to Last Generation Rights. How do Human Rights of the First, Second and Third Generation Interrelate?</i>
Prof. Edmond Malinvaud	F	Economics, Former President of the Pontifical Academy of Social Sciences	Commentary on: <i>The Right to Food</i>
H.E. Msgr. Prof. Roland Minnerath	F	History, Archbishop of Dijon, Joint Organiser of the Meeting	<i>How Did the Catholic Church Come to Subjective Human Rights?</i>
Prof. Lubomír Mlčoch	CZ	Economics, Charles University of Prague	Commentary on: <i>Human Rights and Globalization: The Responsibility of States and of Private Actors</i>
Prof. Angelika Nußberger	D	Director of the Institute for Eastern European Law, University of Cologne	Panel on: <i>State Sovereignty and Humanitarian Intervention: The Responsibility of Protecting</i>
Prof. Vittorio Possenti	I	Political Philosophy, University of Venice, Joint Organiser of the Meeting	<i>Christian Anthropology and Human Rights. Rights and Duties</i>
Prof. José T. Raga	E	Economics, Complutense University of Madrid	Commentary on: <i>Christian Anthropology and Human Rights. Rights and Duties</i>
Prof. Mina Ramirez	RP	Social Sciences, Asian Social Institute of Manila	



Name and title	Nat.	Discipline and Institution	Paper
Prof. Kevin Ryan	USA	Psychology and Education	Commentary on: <i>The Right to Life and to Set Up a Family</i>
Prof. Louis Sabourin	CDN	Law, University of Quebec	Panel on: <i>State Sovereignty and Humanitarian Intervention: The Responsibility of Protecting</i>
Prof. Herbert Schambeck	A	Law, Political Sciences and Philosophy of Law, University of Linz	<i>Die Menschenrechte in der Lehre der Katholischen Kirche</i>
Msgr. Prof. Michel Schooyans	B	Social Philosophy, University of Louvain	Commentary on: <i>How Did the Catholic Church Come to Subjective Human Rights?</i>
Prof. Krzysztof Skubiszewski	PL	Law, Iran-United States Claims Tribunal, The Netherlands	<i>Human Rights and the International Criminal Court. The Crime of Genocide</i>
Prof. Joseph Stiglitz	USA	Economics, University of Columbia, Nobel Prize for Economics 2001	<i>Human Rights and Globalization: The Responsibility of States and of Private Actors</i>
H.E. Amb. Hanna Suchocka	PL	Law, Polish Ambassador to the Holy See, Former Prime Minister of Poland	
Prof. Hans Tietmeyer	D	Economics, Former President of the German Central Bank	Panel on: <i>PASS Summary on Globalization and the Present Crisis</i>
Prof. Wilfrido Villacorta	RP	Political Sciences, De La Salle University	Panel on: <i>From 1948 Universal Declaration to Last Generation Rights. How do Human Rights of the First, Second and Third Generation Interrelate?</i>
Prof. Bedřich Vymětalík	CZ	Law, Charles University of Prague	
Prof. Paulus Zulu	ZA	Sociology, University of Natal	

PASS FOUNDATION			
Name and title	Nat.	Discipline and Institution	
Prof. Herbert Batliner	FL	Law, President of the Foundation for the Promotion of the Social Sciences and Member of the Council	
Mr. Cornelius Fetsch	D	Economics, Member of the Foundation for the Promotion of the Social Sciences	
H.E. Msgr. Egon Kapellari	A	Bishop of the Diocese of Graz-Seckau; Delegate of the Holy See to the Council of the Foundation for the Promotion of the Social Sciences	

PASS COUNCIL MEMBERS			
Name and title	Nat.	Discipline and Institution	
H.E. Msgr. Giampaolo Crepaldi	V	Secretary of the Pontifical Council for Justice and Peace, Member of the Council	
H.E. Msgr. Prof. Marcelo Sánchez Sorondo	V	Philosophy, LUMSA University, Rome, Bishop Chancellor of the Pontifical Academy of Social Sciences	



BIOGRAPHIES OF PARTICIPANTS

Giulio Andreotti (born 14 January 1919 in Rome) is an Italian politician of the centrist Christian Democratic party who served as Prime Minister of Italy from 1972 to 1973, from 1976 to 1979, and from 1989 to 1992. He also served as Minister of the Interior (1954 and 1978), Defense Minister (1959-1966 and 1974) and Foreign Minister (1983-1989), and he has been a Senator for life since 1991. He was almost continuously re-elected to the Chamber of Deputies, until President Francesco Cossiga appointed him Senator for life in 1991. He was the last Christian Democratic prime minister of Italy, serving from 1989 to 1992. After the April 2006 general election, Andreotti, aged 87, accepted to be the candidate for the Presidency of the Senate for Silvio Berlusconi's House of Freedoms alliance that was still governing at the time.

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Olivier De Schutter is Professor of Law at the University of Louvain (UCL) and at the College of Europe (Natolin). He holds a LL.M. from Harvard University, a diploma *cum laude* from the International Institute of Human Rights (Strasbourg) and a Ph.D. in Law from the University of Louvain. He has been lecturer in law at the University of Leicester (UK) and has been teaching European Union law, international and European human rights law and legal theory at numerous universities in New York, France, Finland, Portugal, Benin and Puerto Rico. Professor De Schutter is the founder and coordinator of the EU Network of Independent Experts on Fundamental Rights and the Director of the International Center for the teaching of human rights in Universities, at the International Institute of Human Rights. Professor De Schutter is an expert on social and economic rights and on trade and human rights, who served between 2004 and 2008 as a Secretary General of the International Federation for Human Rights (FIDH). He was appointed Special Rapporteur on the Right to Food by the Human Rights Council in March 2008 and assumed his functions on 1 May 2008.

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Ravi Kanbur was born in India and brought up in India and in England. Ravi Kanbur is T. H. Lee Professor of World Affairs, International Professor of Applied Economics and Management, and Professor of Economics at Cornell University. He has taught at the Universities of Oxford, Cambridge, Essex, Warwick, Princeton and Columbia. Ravi Kanbur has served on the staff of the World Bank, as Economic Adviser, Senior Economic Adviser, Resident Representative in Ghana, Chief Economist of the African Region of the World Bank, and Principal Adviser to the Chief Economist of the World Bank. He has also served as Director of the World Bank's World Development Report. Professor Kanbur's main areas of interest are public economics and development economics. He has published in the leading economics journals such as *American Economic Review*, *Journal of Political Economy*, *Review of Economic Stud-*

ies, *Journal of Economic Theory*, and *Economic Journal*.
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Pierre Manent (born 1949) teaches political philosophy at the Ecole des Hautes Etudes en Sciences Sociales, in the Centre de recherches politiques Raymond Aron. Every fall, he is also a visiting teacher at Boston College at the department of Political Science. After graduating from the Ecole Normale Supérieure, he became assistant to Raymond Aron at the College de France. He was one of the founders of the quarterly *Commentaire* and remains a regular contributor. Pierre Manent is a key figure of the contemporary French political philosophy and his work has helped the rediscovery of the French Liberal tradition.

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Óscar Andrés Rodríguez Maradiaga, SDB (born December 29, 1942) is a Honduran Cardinal of the Roman Catholic Church. He is the current Archbishop of Tegucigalpa, President of *Caritas Internationalis* and was President of the Latin American Episcopal Conference (CELAM) from 1995 to 1999. Rodríguez was elevated to the cardinalate in 2001. He entered the religious life, and joined the Salesians on May 3, 1961. He was ordained a priest on July 28, 1970. On October 28, 1978, Rodríguez was named auxiliary bishop of Tegucigalpa and titular bishop of *Pudentiana*. Archbishop Rodríguez was created Cardinal Priest of *S. Maria della Speranza* by Pope John Paul II in the consistory of February 21, 2001. He is the first cardinal from Honduras. He is currently the President of the Episcopal Conference of Honduras. Rodríguez was one of the cardinal electors who participated in the 2005 papal conclave that selected Pope Benedict XVI. Cardinal Rodríguez was elected on 5 June 2007 as the new *Caritas Internationalis* President by the Caritas Confederation members at their 18th General Assembly in Vatican City. As its President, he is the global representative of the Caritas Confederation for the next four years.

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Janne Haaland Matlary is professor of international politics, Department of Political Science, University of Oslo, senior adjunct researcher in security policy at the Norwegian Institute of International Affairs and Professor at the Norwegian Defense Education Command. Her main academic

fields are the European Union and international security policy. She was State Secretary (deputy foreign minister) for Foreign Affairs of Norway, representing the Christian Democratic Party in the Bondevik government, from 1997-2000. Dr. Matlary is inter alia a member of the National Defence Commission of Norway and on the board of trustees of the Oslo Center for Peace and Human Rights. She is a member of the Pontifical Council for Justice and Peace and consultant to the Pontifical Council for the Family in the Vatican, and occasionally acts as head or member of Holy See delegations to international conferences. She teaches human rights to Iraqi police chiefs under the Norwegian Police Program for training the police force of Iraq and writes and lectures on international management and human rights/CSR for corporate actors.

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Prof. Roberto Papini. Degree in Law, University of Macerata, Italy (1962); Diploma of the Institut d'Etudes Politiques of Paris (1965); Diploma of the Institut des Hautes Études Internationales of Paris (1966) (thesis on *Les Organisations internationales non gouvernementales et l'UNESCO*, published by Union des Associations Internationales of Brussels; Diploma on "Études Supérieures de Recherche en Droit" (1971) of the Institut Catholique of Paris (thesis on *La rupture des relations diplomatiques*, published in collaboration with G. Cortese by Pedone, Paris. Ph.D. in Philosophy and Law, Universidad Miguel de Cervantes, Santiago, Chile (2006); Ph. D. in Social Sciences, Universidad Nacional de Córdoba, Argentina (2008). From 1998: Professor of Political Science at the LUMSA University (Libera Università Maria SS. Assunta), Rome. 1973-1997: Professor of Political Science at the University of Trieste. From 1974: Secretary General of the International Jacques Maritain Institute, Rome. 1962-1963: Vice European Secretary of the Jeunesse Etudiante Chrétienne and Consultant at the EEC and the Council of Europe. Participation as speaker in several congresses and lecturer in several University in Africa, Asia, North and South America and Europe. Author of numerous books.

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Fausto Pocar (21 February 1939, Milan, Italy) is Professor of International Law at the Law Faculty of the University of Milan, where he has also served as the Dean of the Faculty of Political Sciences and as the Vice-Rector. As of 1 February 2000, he has been a Judge of the International Criminal Tribunal for the former Yugoslavia (ICTY) in The Hague. He was re-elected for a four year term by the General Assembly of the United Nations, as of 16 November 2001, and subsequently re-elected for another term, expiring November 2009. Since his appointment, he has served first as a Judge in a Trial Chamber, and later in the Appeals Chamber of the Tribunal. As a Judge of the Appeals Chamber, he is also a Judge of the Appeals Chamber of the International Criminal Tribunal for

Rwanda (ICTR). He has also chaired the informal working group that drafted, within the Commission on Human Rights, the Declaration on the rights of people belonging to national or ethnic, religious or linguistic minorities, that was adopted in 1992 by the General Assembly. Judge Pocar is the author of numerous publications on International Law, including human rights and humanitarian law, Private International Law and European Law.

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Christian Strohal, Ambassador (born 1 May 1951, Vienna), Permanent Representative of Austria to the Specialized United Nations Agencies, to the WTO and to the Conference on Disarmament at Geneva, presented his credentials on 9 July 2008. Prior to his appointment to Geneva, from 2003 to 2008, Mr. Strohal was the Director of the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe. From 2000 until 2003, Mr. Strohal was the Austrian Ambassador to Luxembourg. From 1994 to 2000, Mr. Strohal was the Director for Human Rights, International Humanitarian Law, Minority and Gender issues at the Ministry for Foreign Affairs, and the Austrian representative to the United Nations Commission on Human Rights, as well as the United Nations General Assembly and to numerous other international conferences. Mr. Strohal studied law, economics and international relations in Vienna, London and Geneva, and received his doctorate degree in law in Vienna in 1975.

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Giulio Tremonti (born August 18, 1947) is an Italian politician. He is the current Minister of Economy and Finance in the Italian government, presided over by Silvio Berlusconi. He served in the same capacity and as Deputy Prime Minister in prior Berlusconi cabinets. He is a full professor of law at the University of Pavia, Italy, and has been a Visiting Professor at the Institute of Comparative Law, Oxford. Elected for the first time in 1994 for the Pact for Italy, he switched his allegiance to Forza Italia soon after the Parliament held session, and obtained a position in the first Berlusconi cabinet. Tremonti again served as Finance Minister from 2001 to 2004. He was then reappointed to the position after his substitute, Domenico Siniscalco, resigned in September 2005. With his last book, *La paura e la speranza*, he expressed open support to the anti-globalisation arguments and he suggested a populist and protectionist political economy for Europe.

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Otto Triffterer has been a distinguished expert of criminal law, in particular, international criminal law for more than forty years. He has been (1972-1978) Professor for Criminal Law, Criminal Procedure and International Criminal Law at

the Universities of Bielefeld and Gießen (Germany). Since 1979 he is Professor for Austrian and International Criminal Law and Procedure at the University of Salzburg (Vienna). He is former Dean of the Law Faculty of the University of Salzburg. Since 2000 he is chairing the independent Commission of the Council for Human Rights for the States of Salzburg and Upper Austria. He is editor of the Commentary of the Rome Statute of the International Criminal Court: Observers' Notes, Article by Article (Baden-Baden, Nomos 1999;

Second Edition 2008 (forthcoming), as well as author of numerous other relevant books and articles.

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For the biographies of the Academicians of PASS, Members of the Council, and Members of the PASS Foundation, cfr. Pontificia Academia Scientiarum Socialium, Year Book (Vatican City 2004), p. 12 ff.

HOLY MASSES

Friday 1 May	Saturday 2 May	Sunday 3 May	Monday 4 May	Tuesday 5 May
8:00	8:00	10:30	8:00	8:00
Altar Tomb of St Peter	Church of S. Stefano degli Abissini	Papal Basilica of St Paul Outside the Walls	Altar Tomb of St Peter	Altar Tomb of St Peter
H.Em. Card. Giovanni Battista RE	H.E. Msgr. Egon KAPPELLARI	H.Em. Card. Andrea CORDERO LANZA DI MONTEZEMOLO	H.Em. Card. Jean-Louis TAURAN	H.Em. Card. William J. LEVADA
Prefect of the Congregation for Bishops	Delegate of the Holy See to the Council of the Foundation	Archbishop of the Papal Basilica of St Paul Outside the Walls	President of the Pontifical Council for the Inter-religious Dialogue	Prefect of the Congregation for the Doctrine of the Faith
Participants wishing to attend should meet at 7:45 in the hall of the Domus Sanctae Marthae	Participants wishing to attend should meet at 7:45 in the hall of the Domus Sanctae Marthae	Participants wishing to attend should meet at 9:30 in the hall of the Domus Sanctae Marthae	Participants wishing to attend should meet at 7:45 in the hall of the Domus Sanctae Marthae	Participants wishing to attend should meet at 7:45 in the hall of the Domus Sanctae Marthae

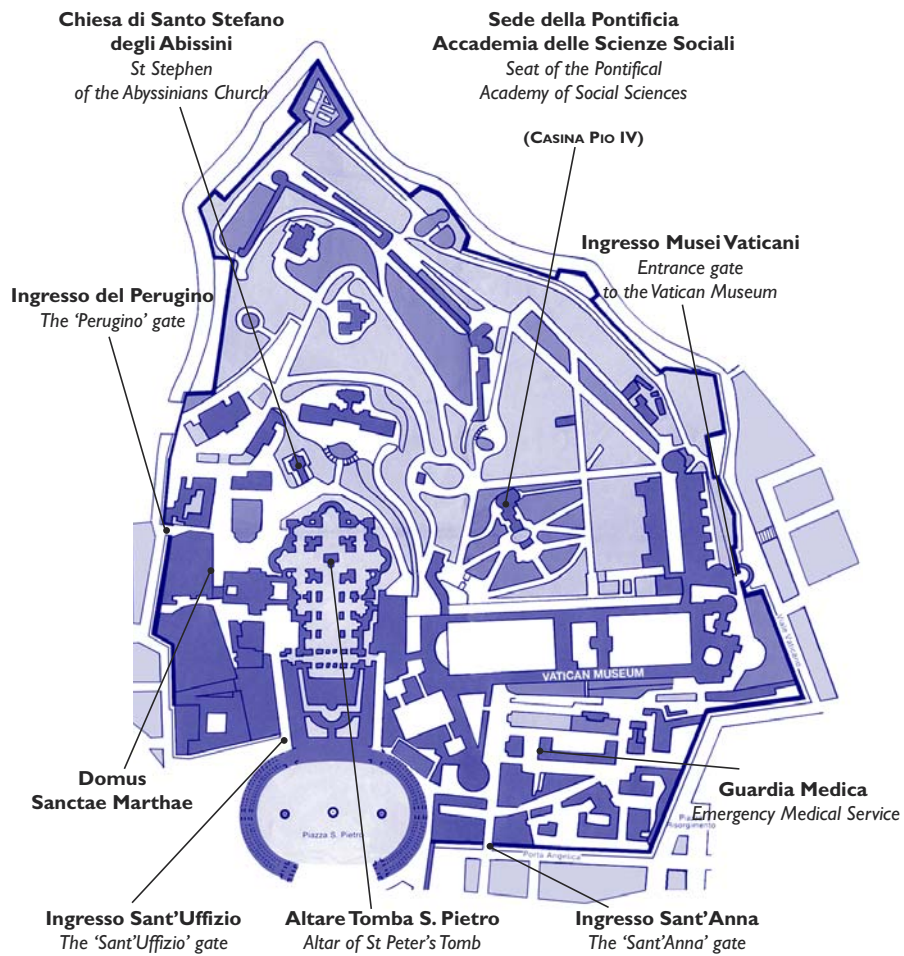
Memorandum

- Every day a bus will leave the Domus Sanctae Marthae at 8:45 for the Academy, fifteen minutes before the beginning of the session. A bus will depart from the Academy after dinner at the end of the afternoon sessions to take participants back to the Domus Sanctae Marthae. Lunch and dinner for the participants will be served at the Academy every day.
- Every day, except Sunday, Holy Mass will be held at 8:00 in St. Peter's (Altar: Tomb of St. Peter). Participants wishing to attend should meet at 7:45 in the hall of the Domus Sanctae Marthae.
- On Sunday, for those wishing to attend, there will be a trip to the Papal Basilica of St Paul Outside the Walls, where Holy Mass will be held at 10.30, followed by a visit of the Benedictine Monastery. If you would like to attend, please sign the form that will be distributed during the Plenary Session, and a bus will collect you at 9:30 from the Domus Sanctae Marthae.

Note

Please give your **form for the refunding of expenses** to the secretariat at least one day before your departure so that you can be refunded immediately.





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For further information please visit
http://www.vatican.va/roman_curia/pontifical_academies/acdscien/index_social_en.htm

FRONT COVER:
 Dove of Peace, Pablo Picasso

