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JOHN PAUL II AND THE INTERNATIONAL ORDER: HUMAN RIGHTS AND THE NATURE OF THE HUMAN PERSON

RENATO RAFFAELE CARDINAL MARTINO

INTRODUCTION

I am delighted and honored to participate in this symposium of your distinguished Journal entitled “John Paul II and the Law.” My sentiments and expression of gratitude are grounded in two important elements of my life as a priest and long-time Papal diplomat. The first element extends from my living in the United States for sixteen years during my tenure as the Permanent Observer of the Holy See to the United Nations from 1986 to 2002. During that time, I came to learn much about Americans and the devotion of many Catholic Americans who exercised their discipleship by bringing the wisdom of the Good News into the temporal affairs of your political and legal institutions. The second element is grounded in the duties I exercised on behalf of the Holy See and, for the almost twenty-seven years of John Paul II’s Papacy, the views of the Church regarding the law and its protection of human rights. In addition, my perspective has been formed by my forty-four years of service to the Holy See as a Vatican diplomat and as President of the Pontifical Council for Justice and Peace, a post to which His Holiness Pope John Paul II nominated me in 2002.

In my official capacities, I have been present at and participated in numerous discussions and debates about human rights. In these contexts, the views of Pope John Paul II have had and continue to have a significant bearing on my thinking about what is constitutive of these rights and their sources. It is also clear to me that the topic of human rights is extremely important to most people including the citizenry of the United States. Moreover, the legal profession of your country is without doubt keenly interested in them as well since many of its members take an active role in protecting fundamental human rights on behalf of their clients. It is clear that the existence and nature of human rights and the international legal context in which they are discussed or applied are of great interest to most people. What heightens this interest in the United States are two factors. The first is the ease with which news about human rights is distributed

through the many media sources available to Americans. The second is the role given to them in academic and intellectual circles in America.

However, it is my impression that there is often either misunderstanding or misconception about human rights regardless of the venue within which they are considered and discussed. My involvement in debates at the United Nations and in other international forums has demonstrated the existence and magnitude of these misconceptions and misunderstandings. In the context of this symposium on John Paul II and the Law, the nature of my task is to advance, consistent with the teachings of the Church, an explanation that can clarify these misconstructions. It becomes essential for those of us inclined to their study, to familiarize ourselves and others with the authentic nature of human rights. The authentic nature of human rights cannot reflect the problematic views about them harbored and promoted by some individuals or some cultures. As will be explained, there are problems with any such approach that addresses fundamental human rights solely from the perspective of a particular interest and the groups that reflect these interests. It is my objective to provide readers with an explanation of the nature of human rights so that misconceptions and misunderstandings may be avoided. The lens through which I provide the following explanations is a fusion of Catholic teachings as formulated by Pope John Paul II during his long pontificate's rich contributions to human rights discourse. The Pope was a man who understood well the times in which he lived and served. Hence, it will be useful to consider the authenticity of human rights in the context of the issues of his time and ours; such as abortion, issues dealing with the makeup of the family, marriage and sexual ethics, and the exercise of conscience and religion, to mention a number of pressing issues of the day.

I am mindful that while many if not most persons agree with the need to advance and protect the exercise of human rights, some may not agree with the perspective that I shall offer. It is another of my goals to provide these individuals with an opportunity to reevaluate their own perspective by thinking about the reasons why John Paul II and the Catholic Church teach what they teach on matters that some conclude are divisive or do not tolerate diverse views. It is my hope that this article can provide a respectful and clear presentation to demonstrate the soundness of these views to those who may take issue with the Catholic perspective, as advocated by John Paul II. It may well be that in an age in which diversity is treasured and promoted and in which many eschew distinctions that lead to correct versus incorrect

conclusions or understandings, it is difficult to accept the rational conclusion that some views about human rights are right and others are wrong. But, if authentic human rights are to be protected, it is crucial to make these distinctions so that they are clearly understood. Without providing these distinctions, human rights will suffer because they will likely be enforced by subjective standards rather than objective and universal ones. The former are problematic; the latter are not as I hope to explicate.

My presentation will consist of two components. The first will provide an introduction and commentary about fundamental human rights that relies on the Universal Declaration of Human Rights promulgated in 1948. This element of my discourse will identify several of the fundamental human rights that merit protection by individuals, groups, and state mechanisms. The second component will advance an explanation about these authentic human rights that is based on a clarifying understanding of the nature of the human person from the perspective of the teaching of John Paul II. Without a solid appreciation of the human person's genuine nature, human rights talk can, and often does, degenerate into the confusion of subjectivity where human rights mean whatever any person or group asserts. My aspiration is to encourage readers to think about fundamental human rights and the need to distinguish between the "rights" and "wrongs" that often permeate human rights discourse.

I. IDENTIFICATION AND DISCUSSION OF FUNDAMENTAL RIGHTS

In 1948, the United Nations General Assembly adopted the Universal Declaration of Human Rights (the "Declaration"). This achievement demonstrated a commitment to the advancement of fundamental rights for "all members of the human family" that are inalienable to the inherent dignity of each member.¹ The successful conclusion of this important text represented a milestone in international agreement about essential rights and responsibilities of every member of the human family.

The history of drafting the Declaration was not without its difficulties, but it has well been chronicled by Professor Mary Ann Glendon.² With no State Member of the United Nations

1. Universal Declaration of Human Rights, G.A. Res. 217A, pmb., at 71, U.N. GAOR, 3d Sess., 183d plen. mtg., U.N. Doc A/810 (Dec. 10, 1948) [hereinafter *Universal Declaration*].

2. See MARY ANN GLENDON, *A WORLD MADE NEW* (2001).

voting against its adoption,³ the Declaration's approval set the stage for human rights discourse up to the present day. Moreover, the Declaration's fiftieth anniversary celebration in 1998 demonstrated the significance of its effect on attitudes regarding the protection of "fundamental human rights"—an important phrase that is used in the Preamble of the Declaration.⁴ There are two reasons for pointing out this important modifier "fundamental." First of all, some special interest groups active in the world have lobbied for advancement of protection of "human rights" involving access to abortion and to same-sex unions and marriages. These are not fundamental human rights, nor are they legitimate claims to human rights as I shall attempt to demonstrate. Second, the important modifier "fundamental" is, as the term is used in the Preamble, inextricably linked to "the dignity and worth of the human person."⁵ Our world has demonstrated time after time that fundamental human rights have been challenged in a wide variety of contexts such as genocide and denial of the right to claim conscience and exercise religious liberty. These denials improperly and unconscionably interfere with each person's absolute claim to dignity and worth.

While the Declaration addresses a number of important rights, there are several which are crucial and form the core of protecting the inherent dignity of every member of the human family. A brief commentary on these essential, fundamental rights is in order at this point. Article 3 asserts that, "Everyone has the right to life, liberty and security of person."⁶ As you think about it, this article should be viewed as the premier human right because it is the guarantor of all others. Without the right to life, all other rights dealing with speech, conscience, equality before the law, etc. fall by the wayside. Each member of the human family must be entitled to exercise this right and to have it protected in order to enjoy all other rights deemed fundamental and essential to their inherent dignity and worth. As Jesus reminds us about the inherent dignity of the person in the *Gospel of St. Matthew*, "Yet not a single sparrow falls to the ground without your Father's knowledge. The very hairs of your head are all numbered. Never be afraid, then—you are far more valuable than sparrows."⁷

3. The final vote in the General Assembly was forty-eight to zero, with eight States abstaining. The abstaining States included the entire Soviet Bloc, South Africa and Saudi Arabia. *Id.* at 170.

4. Universal Declaration, *supra* note 1, pmbl., at 72.

5. *Id.*

6. Universal Declaration, *supra* note 1, art. 3, at 72.

7. *Matthew* 10:29–31.

Another important acknowledgment of a fundamental right is contained in Article 6 which states that “[e]veryone has the right to recognition everywhere as a person before the law.”⁸ This guarantee of legal personality means that each member of the human family, in order to live justly with the neighbor, must be afforded the same status, the same personality before the law. In short, this is an important component of justice that involves right relationship: each member of the human family has standing before the law to bring his or her case and to be treated in an equitable fashion.⁹ By the same token, this equality before the law also indicates that each member of the human family has corresponding duties, obligations, or responsibilities that are owed to all other members of the same human family.

Another fundamental right that corresponds to and complements the first two that I have identified so far is the theme of Article 16 concerning family life. It states that men and women of “full age” are entitled “to marry and to found a family.”¹⁰ Moreover, this right is intensified by the additional language that differences in their race, nationality, or religion cannot limit this fundamental guarantee. This article insures that the human race is allowed to continue into future generations. Moreover, the members of the human family are protected by the rights of their parents—the mothers and fathers who are women and men—to procreate. I need to make a pertinent observation here about how some special interest advocates misconstrue this provision. They argue that it recognizes the “right” to same-sex unions. It does not, and such a construction would be a tortuous one that denigrates the meaning of this important provision.

Another vital component of this same article dealing with families is the acknowledgment that the family is the natural and fundamental group unit of society that merits protection by both society and the state.¹¹ This provision simultaneously focuses on the present and future of the welfare of the human family by emphasizing the crucial nexus between those who make up the family and the contribution that the family makes to the ongoing welfare of the human race. It is within the family that the essentials for human existence are learned and passed on to succeeding generations. It is within the family that respect for one another and the protection of one another is nurtured. It is

8. Universal Declaration, *supra* note 1, art. 6, at 73.

9. For a useful discussion of the notion of “justice as right relationship,” see Robert John Araujo, *Justice as Right Relationship: A Philosophical and Theological Reflection on Affirmative Action*, 27 PEPP. L. REV. 377 (2000).

10. Universal Declaration, *supra* note 1, art. 16, at 74.

11. *Id.*

within the family that the ethical and moral principles needed for just and peaceful relations are first learned and practiced.

Another article, Article 26, of the Declaration also addresses the right to education, and it specifies that parents have the prior right to choose the kind of education that shall be given to their children.¹² While everyone has the right to be educated—at least through “the elementary and fundamental stages”—it is parents who must be able to determine the particulars.¹³ The reason for this is well documented by both Professors Morsink and Glendon.¹⁴ The intention underlying this provision goes back to the attempt by National Socialism to separate children from the important and beneficial influence of their parents. If the state could succeed in separating this important relationship, it could also impart whatever influences it, rather than parents, would choose to convey to the young who would then be disposed to permit the state to continue this undue influence in the future as they enter adulthood and have their own children.

These points about the importance of family and education raise another group of fundamental rights upon which I need to comment. Article 18 raises the issues dealing with freedom of thought, conscience, and religion.¹⁵ The human person is a complex entity who has been given the gift of thought and the corresponding ability to hold and practice religious beliefs. Everyone needs freedom to think about self-identity, relations with others, and, of course, relation with God. This process of thinking opens each person’s mind as to how one should live in right relation with others. This often entails electing the ethical over the unethical path of living in a society with others. Complementary to this process is the need to exercise one’s conscience—something that legislators or other government officials are attempting to curtail these days with regard to health care professionals and access to abortion, abortifacients, and contraception. Sadly, these government interferences are occurring in countries that pride themselves on being staunch protectors of human rights. It would seem that for them the rights of some who are intent on taking nascent human life trump the rights of others who wish to protect new members of the human family. This, quite simply, is wrong and defies the meaning and the existence of human rights.

12. Universal Declaration, *supra* note 1, art. 2, at 76.

13. *Id.*

14. See generally GLENDON, *supra* note 2; JOHANNES MORSINK, THE UNIVERSAL DECLARATION OF HUMAN RIGHTS: ORIGINS, DRAFTING, AND INTENT (1999).

15. Universal Declaration, *supra* note 1, art. 18, at 74.

Of course, this prominent article of the Declaration cannot be completely discussed without taking account of its protection of religious liberty. The right to hold religious beliefs and to exercise them alone and with others is essential to fundamental human rights. No institution, no state, no political or social organization can interfere with these rights. Moreover, none can interfere with the rights of religious communities to properly exercise their beliefs in concert with their fellow religionists. Again, as with the exercise of conscience, we see today serious and unwarranted challenges to the proper exercise of religious freedom by those who cannot tolerate the presence of the religious believer in a public forum.

A final point that must be taken into account is the content of Article 30 of the Declaration that reinforces points I have made.¹⁶ This provision states that no state, no group, or no person has any justifiable claim to “engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms” addressed by the Declaration.¹⁷ Relevant to my presentation at this point is the need to take stock of the source of these rights. While it is correct to state that an organization of states, namely the United Nations, identified and declared fundamental human rights to exist, this same organization is not the author of those rights. Moreover, no single state and no single individual can make a similar claim about authorship. These fundamental rights existed before the state and before the formation of any organization or group. They are not the creation of any human being. Rather, they are inherent in the nature of the human person, and their source is with our Creator. What God has given, no one should deny under the color of law or by personal whim or by group caprice. What makes them authentic and universal is that their origin is beyond the power of any person or any association of people to define and limit. The content of these fundamental rights goes beyond the legitimate power of the state to determine. The state can surely punish a person and restrain his liberty to do certain things as a penalty for the latter’s own violations of the rights of others. But, it cannot expunge the existence of those rights as they are claimed and exercised by the law abiding citizen or the innocent human being.

A central element of studying the nature of human rights, in general, and the contribution of the Universal Declaration to this examination, in particular, would be a consideration of the work of Jacques Maritain. He was a French academic and philosopher

16. Universal Declaration, *supra* note 1, art. 30, at 77.

17. *Id.*

who was raised in a free-thinking Protestant family, but he became a Catholic, along with his Jewish-born wife, Raïssa, in his early adulthood.¹⁸ Just before the Nazi regime invaded France, they were abroad in the United States on a lecture tour; consequently, they remained in the United States for the duration of the Second World War. This period enabled Maritain to become acquainted with a number of Americans who would later have some role in the establishment of the United Nations and the drafting of the Universal Declaration.

The United Nations had entrusted an element of the drafting of the Declaration to the Economic and Social Council (“ECOSOC”) in the early years of the UN’s existence. In turn, ECOSOC had the duty of examining the underlying moral principles of the Declaration and asked a group of prominent thinkers to submit their replies. Maritain was chosen as the coordinator of this group of eminent thinkers. He recognized the difficulty of his task because the rational interpretation and justification of the fundamental rights elaborated upon in the Declaration reflected many schools of thoughts that were reinforced by differing opinions that reflected a wide variety of cultures across the globe.¹⁹ Maritain understood that these justifications needed to be presented to the world, and yet, at the same time, he also understood that while the presentation of these justifications was essential, it was “powerless to bring about agreement between minds” that held different views.²⁰ It was an extraordinary achievement that the drafters of the Declaration were able to finally agree on a text that was submitted for the approval of the General Assembly because of the strong contrasts in the underlying ideologies of the drafters. However, it is relevant to keep in mind a remark preserved by Maritain that agreement was possible “on [the] condition that no one asks . . . why” they were able to agree.²¹

For Maritain, it was not possible to agree on philosophical principles or speculative ideals; however, it was possible to achieve consensus on common practical ideals that would apply to all—the “affirmation of a single body of beliefs for guidance in action.”²² It was his view that there were two competing schools

18. See generally JEAN-LUC BARRÉ, JACQUES AND RAÏSSA MARITAIN: BEGGARS FOR HEAVEN (Bernard E. Doering trans., 2005) (giving biographical information about Jacques and Raïssa Maritain).

19. Jacques Maritain, *Introduction to HUMAN RIGHTS: COMMENTS AND INTERPRETATIONS* 9 (UNESCO ed., 1949).

20. *Id.*

21. *Id.*

22. *Id.* at 10.

of thought about fundamental human rights: the first being that each human being has “certain fundamental and inalienable rights antecedent in nature, and superior, to society”; the second was that “rights are relative to the historical development of society, and are themselves constantly variable and in a state of flux”²³ Having to deal with these competing outlooks did not deter Maritain from his task and from formulating and presenting his own views that strongly reflected a Christian perspective on fundamental rights.

Maritain took issue with those who asserted the view that the autonomous rights bearer determines the scope of human rights.²⁴ He realized that any claim to human rights would degenerate into a perpetual conflict without acknowledgment that the rights of each individual had to be “mutually limitative” because there was a need for reasonably limiting the claims of each person who was a member of a society in which all others had the right to maintain parallel claims.²⁵ Maritain also understood the reality that different scales of values could serve as a source of misunderstanding especially by those who saw the individual as the defining source of human rights versus those who saw the state or society as the defining source.²⁶ Because of these different perspectives, he cautioned that humanity should not expect too much from the Declaration.²⁷

Nonetheless, Maritain was not reticent about his own views. Recalling that many principles of the Declaration were rooted in the response to the subjugation of Nazism, he saw that the Declaration in itself was a “great thing” because it would be a source of hope for the downcast and a change for the better in a world desperate for transformation.²⁸ The man who chaired the UNESCO study group offered his own personal views on the philosophy of human rights.²⁹ First of all, he acknowledged the positive contribution of the diversity of views about human rights. Otherwise, there would always be a danger that someone might pose an “arbitrary dogmatism” or unnecessary energy being expended on searching for a common ground that would ulti-

23. *Id.* at 13.

24. See MARY ANN GLENDON, *RIGHTS TALK: THE IMPOVERISHMENT OF POLITICAL DISCOURSE* (1991).

25. Maritain, *supra* note 19, at 15.

26. *Id.* at 16.

27. *Id.*

28. *Id.* at 17.

29. Jacques Maritain, *On the Philosophy of Human Rights*, in *HUMAN RIGHTS: COMMENTS AND INTERPRETATIONS* 72 (UNESCO ed., 1949).

mately be barred by “irreconcilable divisions.”³⁰ In presenting his own views, he expressed concern about emphasizing the rights of the individual who is “deified” above all else.³¹ This would absolutize human rights outside of a social and relational context which was essential so that “universal norms of right and duty” could be properly understood and practiced.³² Liberty, correctly understood, was essential to human rights, but it cannot be a liberty isolated from the common good.³³

With regard to specifics about the nature and observance of human rights, Maritain held views similar to points that I have made earlier in this presentation. Maritain associated great significance to the family, which he held is “anterior to the civil society and to the State.”³⁴ He therefore saw a need to be more precise about protections to be accorded to the family and its significant role in society. It would be unsatisfactory, in his estimation, to simply acknowledge the family and leave it to the protection of the human, i.e., positive law.³⁵ Since he also believed that a proper understanding of the natural law and human rights were kindred subjects, it is essential to acknowledge that the exercise of rights must co-exist with the obligations and responsibilities of individuals toward their fellow human beings and their communities—local and international—particularly the family.³⁶

With this background in mind, I would now like to address the question of human rights and their essential nature through the lens of the thought of John Paul II.

II. EXPLANATION FROM THE THOUGHT OF JOHN PAUL II

In seeking a proper understanding of human rights, it is essential to obtain and apply the vital synthesis of rights and obligations that reflect the common good as Maritain suggested in his commentary. Any alternative understanding of human rights leads to an elusive quest. Moreover, the perspective of the autonomous rights holder can and typically leads to an exaggerated view of human rights that provides a fertile ground for mischief. Moreover, it is quite relevant to keep in mind the authentic nature of the rights bearer who exercises these rights in a public domain. The thought of John Paul II helps us see these essential

30. *Id.*

31. *Id.* at 73.

32. *Id.*

33. *Id.* at 74.

34. *Id.* at 76.

35. *Id.* at 76.

36. *Id.*

points clearly. I shall begin with some of his basic, general points and then address his views as they pertain to particular rights that I have previously identified in Part I.

We must first consider John Paul II's view of the human person who is the holder and the exerciser of fundamental rights. The Holy Father's perspective on the nature of the human person is inextricably related to a proper understanding of human rights because it is the human person and his dignity who are and must be at the heart of all social doctrine due to the social nature of each human being, which requires solidarity, communication, cooperation, and service directed toward the common good.³⁷ Inevitably related to this idea is the reality that man is not a creation or creature of the state or of society but of God; moreover, it is God who is the author and grantor of fundamental rights. This gift of rights and obligations is given to each person who exercises individual free will with an inclination to accept personal responsibility for the exercise of these rights.³⁸ In the thought of John Paul II, the ultimate freedom of the person is to elect God's ways rather than a person's own ways, which can be misdirected away from God's desires for each person.³⁹ Moreover, the ultimate exercise of freedom must reflect the natural moral law that both precedes and unites the rights and duties of each person.⁴⁰

It is manifest that John Paul II's understanding of human rights incorporated his appreciation for the Declaration as well as the Church's teachings on human rights. In 1979, he gave his first address to the United Nations General Assembly, and he focused his remarks on the Universal Declaration, which he called "a true milestone on the path of the moral progress of humanity" and the protection of fundamental human rights.⁴¹ During his second visit to the United Nations Headquarters in 1995, the Pope reiterated his 1979 remarks by stating that the Declaration is "one of the highest expressions of the human con-

37. See POPE JOHN PAUL II, *CENTESIMUS ANNUS: ON THE HUNDREDTH ANNIVERSARY OF RERUM NOVARUM* para. 11 (1991) [hereinafter *CENTESIMUS ANNUS*]; see also POPE JOHN PAUL II, *SOLLICITUDO REI SOCIALIS: ON SOCIAL CONCERN* para. 26 (1987).

38. POPE JOHN PAUL II, *VERITATIS SPLENDOR: THE SPLENDOR OF TRUTH* para. 34 (1993).

39. See *id.* at paras. 35, 44.

40. *Id.* at para. 50.

41. Pope John Paul II, *The Dignity of the Human Person Is the Basis of Justice and Peace*, Address to the 34th General Assembly of the United Nations (Oct. 2, 1979), in 24 *THE POPE SPEAKS* 297, 300 (1979).

science of our time.”⁴² In his view, the relationship between fundamental human rights and the interests of society is reinforced by an indissoluble bond between the good for both the person and society.⁴³ Indeed, the mutual interests of the person holding these rights and of the society in which the person lives emerge from the reality of these fundamental rights’ universality and indivisibility, which require protection by all cultures and their respective legal structures.⁴⁴ John Paul II advocated the view that human rights preexist the instruments and legislation of both state and society—a point made in Part I.⁴⁵

With these general ends in mind, I would now like to address briefly John Paul II’s views on the particular human rights issues raised in Part I. I should like to begin by considering the Pope’s views on the right to life. What does this fundamental right mean in John Paul II’s thought? Without any question, his monumental encyclical letter, *Evangelium Vitae* (The Gospel of Life) of March 25, 1995, must be considered. This encyclical presents a synthesis of pastoral sensitivity, doctrinal clarity, and intellectual analysis and provides a coherent approach to this central, fundamental human right. From the human generated challenges posed by abortion, capital punishment, euthanasia, war (genocide), willful self-destruction, and neglectful conduct that threaten life and demand a response from people, other claims to human rights have little meaning if these challenges to the right to life are not confronted in a responsible manner. At the heart of the right to life for John Paul is that intimate relation between man and God—the Pope relies on the thinking of St. Irenaeus to reinforce his point: “Man, living man, is the glory of God.”⁴⁶

The Holy Father elaborates on this point by explicating its relevance to the actions of persons within society. The Pope considers the right to life issue in the context of the *Genesis* account

42. Pope John Paul II, Freedom Cannot Be Suppressed, Address to the 50th General Assembly of the United Nations (Oct. 5, 1995), in 41 THE POPE SPEAKS 32, 33 (1996).

43. See POPE JOHN PAUL II, RESPECT FOR HUMAN RIGHTS: THE SECRET OF TRUE PEACE, MESSAGE FOR THE 1999 WORLD DAY OF PEACE (Jan. 1, 1999), para. 3, at 2 (Libreria Editrice Vaticana trans., United States Catholic Conference 1999) [hereinafter RESPECT FOR HUMAN RIGHTS].

44. See Pope John Paul II, Justice and Peace Go Hand in Hand, Message for the 1998 World Day of Peace (Jan. 1, 1998), in 43 THE POPE SPEAKS 219, 220 (1998) [hereinafter Justice and Peace].

45. POPE JOHN PAUL II, EVANGELIUM VITAE: THE GOSPEL OF LIFE para. 18 (1995) [hereinafter EVANGELIUM VITAE].

46. *Id.* at para. 34 (quoting ADVERSUS HAERESSES, bk. IV, ch. 20, para. 7, available at <http://www.newadvent.org/fathers/0103420.htm>).

of Cain killing his brother Abel.⁴⁷ John Paul uses the scriptural question to Cain, “What have you done?”, to probe “the material dimension of his murderous gesture, in order to recognize in it all the gravity of the *motives* which occasioned it and the *consequences* which result from it.”⁴⁸ The Pope simultaneously examines the individual and social facets of threats to the dignity of human life and the right to life itself. As John Paul continues his examination, he notes that threats to the right to life exist at cultural, social, and political levels. He acknowledges that these threats have a “sinister and disturbing aspect in the tendency . . . to interpret the . . . crimes against life as *legitimate expressions of individual freedom, to be acknowledged and protected as actual rights.*”⁴⁹ Indeed, in this age we often hear about such false “rights” including the “right to abortion” or the “right to euthanasia.” The right to life is the foundational defense that protects all other fundamental rights, but when this defense is compromised by false claims, avenues that threaten the remaining fundamental human rights can begin to proliferate. As the Pope notes: “These attacks go directly against respect for life and they represent a *direct threat to the entire culture of human rights.* It is a threat capable, in the end, of jeopardizing the very meaning of democratic coexistence”⁵⁰

Pope John Paul II does not focus solely on one challenge to this foundational right since he acknowledges a wide variety of circumstances in which life is challenged from the moment of birth to the moment of death.⁵¹ He is concerned about all threats to life—abortion, euthanasia, capital punishment, and genocide, to mention just several menaces to this premier human right. John Paul sees that the root of these threats lies in an exercise of freedom based on an exaggerated or distorted view of subjectivity in which the person or people who hold this view considers the individual totally autonomous.⁵² Such persons tend not to see their own dependence or interdependence; therefore, they are less likely to acknowledge the dependence that the marginalized, such as the unborn or the elderly or the disabled, have on the other members of society for the protection of their human rights. This circumstance raises a problem for John Paul about communication between or among members of society that is essential to the preservation of human rights.

47. EVANGELIUM VITAE, *supra* note 45, at para. 18.

48. *Id.*

49. *Id.*

50. *Id.*

51. *Id.*

52. *Id.* at para. 19.

Human dignity necessitates communication of one's existence to other members of the human family; this is a problem for the unborn and the dying who cannot communicate on their own behalf and must rely on the efforts of others.⁵³

A further challenge posed by the attitude that subscribes to exaggerated autonomy is the lack of solidarity—a major component of Catholic social doctrine and the thought of John Paul II—with those who's right to live is marginalized. It is the presence of these and similar challenges that the Pope identifies as the “culture of death . . . which ends up by becoming the freedom of ‘the strong’ against the weak who have no choice but to submit.”⁵⁴ In this context John Paul powerfully reminds us—as God reminded Cain—that we are our brothers' and sisters' keepers because of the relational nature of human rights—claims and responsibilities—and the just protection of these rights.⁵⁵ Freedom is a wonderful thing and great gift, but it cannot be employed as a means of destroying others or their claims to authentic freedom and rights.

The Pope points out that democratic processes, another important exercise of human rights, can be compromised and made a tool for advancing the destruction of the right to life. In political and parliamentary debates, the inalienable right to life can be questioned or even denied by the will of a majority. John Paul realizes that this is a “sinister result of relativism,” because an inalienable right that must not be taken away in fact is denied to some.⁵⁶ When this happens, the democratic process and the democratic state metamorphose into tyranny, which “arrogates to itself the right to dispose of the life of the weakest and most defenseless members, from the unborn child to the elderly, in the name of a public interest which is really nothing but the interest of one part.”⁵⁷

His views on the right to life serve as an introduction to John Paul's perspective regarding the right of everyone as a person before the law. Inherent in his discussion about the right to life and how exaggerated autonomy of some persons can deny human dignity and personhood to others is the important notion that everyone is a person before the law and must have equal access to juridical structures for individual protection.⁵⁸ To sug-

53. See *EVANGELIUM VITAE*, *supra* note 45, at para. 19.

54. *Id.*

55. *Id.*

56. *Id.* at para. 20.

57. *Id.*

58. See *RESPECT FOR HUMAN RIGHTS*, *supra* note 43; see also *Justice and Peace*, *supra* note 44.

gest that some are more equal than others would simply be a recipe for the denial of the objective truth of God's love for every person as a unique individual bearing the divine image of God.

As is the case with general principles about human rights, John Paul vigorously defended the importance of marriage and the status of the family. Moreover, his energetic defense of these institutions did not relent during the duration of his papacy. We must first of all begin with his endorsement of the principle that the family is the basic unit of society—and, as John Paul specified, it is “the *primary place of 'humanization'* for the person and society” and the “cradle of life and love.”⁵⁹ Since it is the center of social life, the family is the place in which each person is born, educated, and enculturated into living with others.⁶⁰ It is within the family that everyone begins to learn love of and responsibility for others and to expect to be loved by others as a unique human being with individual dignity.⁶¹ As a communion of persons, the family is the central place where individuals begin to live in right relation with one another as distinct persons related by the human and family ties since it is the premier human society.⁶²

Moreover, the family is the basic cell of society that serves as a counterpoint to the dehumanizing influences of exaggerated individualism and collectivism because it is the place where the virtuous practices of social responsibility and solidarity are first learned in accordance with the Church's teachings.⁶³ Just as the individual is prior to the state and society, so is the family.⁶⁴ Not only does John Paul agree with these principles, he also asserts that the state and society must observe the principle of subsidiarity regarding the protection of the family. In short, this means that neither the state nor society can interfere with those matters properly belonging to the family; by the same token, both the state and society have obligations to ensure that the family is sustained with the assistance it needs to carry out its own responsibilities.⁶⁵

59. POPE JOHN PAUL II, *CHRISTIFIDELES LAICI: ON The Vocation and the Mission of the Lay Faithful in the World* para. 40 (1988).

60. *Id.*

61. *CENTESIMUS ANNUS*, *supra* note 37, at para. 39.

62. Pope John Paul II, *Gratissimam Sane: Letter to Families*, in 39 *THE POPE SPEAKS* 208, 212 (1994) [hereinafter *Gratissimam Sane*].

63. See *CATECHISM OF THE CATHOLIC CHURCH* para. 2224 (Libreria Editrice Vaticana trans., 2d ed. 2000) [hereinafter *CATECHISM*].

64. See *THE HOLY SEE, CHARTER OF THE RIGHTS OF THE FAMILY*, pmbl. (October 22, 1983) [hereinafter *CHARTER*].

65. POPE JOHN PAUL II, *FAMILIARIS CONSORTIO: THE CHRISTIAN FAMILY IN THE MODERN WORLD* para. 45 (1981) [hereinafter *FAMILIARIS CONSORTIO*].

Of course, no discussion of the proper role of the family in human rights discussions can take place without considering the nature and role of marriage as the foundation of the family. John Paul's treatment of the family respects and advances this principle. Based on longstanding history and the immutable reality of the nature of the human person—both male and female—marriage is the exclusive union of one man and one woman. It is not a product of the positive law, which has a duty to honor the immutable principles of marriage and family life.⁶⁶ The Pope asserts quite properly that the authentic nature of the human person and the ensuing truth about the essence of marriage is accessible by human reason, and denials of these natures, such as polygamy or other sexual relationships, "is contrary to the equal personal dignity of men and women who in matrimony give themselves with a love that is total and therefore unique and exclusive."⁶⁷ The bond of two persons through marriage provides fullness of life to the "sincere gift of self" and the gift of children who continue family life, society, and the future of the human race.⁶⁸ In the contemporary world, *de facto* unions—both heterosexual and homosexual—have become increasingly common. This fact does not make these unions legitimate families or marriages. Indeed, John Paul noted that they are based on a false conception of authentic human freedom and on a privatistic conception of marriage and the family.⁶⁹

Sadly the political movements for same sex unions and marriages persist in spite of democratic efforts to stop them. Well aware of this situation, John Paul appeals to the exercise of right reason based on sound human anthropology to demonstrate the errors of such movements. As he states, correct human anthropology reveals:

[H]ow incongruous is the demand to accord "marital" status to unions between persons of the same sex. It is opposed, first of all, by the objective impossibility of making the partnership fruitful through the transmission of life according to the plan inscribed by God in the very structure of the human being. Another obstacle is the absence of the conditions for that interpersonal complementarity between male and female willed by the Creator at both the physical-biological and the eminently psychological levels. It is only in the union of two sexually differ-

66. See CATECHISM, *supra* note 63, at para. 1603.

67. FAMILIARIS CONSORTIO, *supra* note 65, at para. 19.

68. Gratissimam Sane, *supra* note 62, at para. 11.

69. *Id.* at para. 14.

ent persons that the individual can achieve perfection in a synthesis of unity and mutual psychophysical completion.⁷⁰

Discussions about family, marriage, and children raise the issue identified and discussed before about the right of parents to have the prior right to educate their children in the manner they see fit. John Paul's thought and advocacy reflected and intensified these principles of fundamental human rights. We must begin by taking stock of the fact that the Church teaches that the task of educating children properly belongs to the family since it is "a community of love and solidarity, which is uniquely suited to teach and transmit cultural, ethical, social, spiritual and religious values, essential for the development and well-being of its own members and of society."⁷¹ The Pope acknowledges that with this kind of education, essential fundamental values are transmitted and assimilated.⁷² Moreover, this educative function of families and parents is inspired by love that is directed toward enrichment that fosters kindness, constancy, goodness, service, and the willingness to freely sacrifice one's own interests for the benefit of others.⁷³

Of course, the primary right and duty of parents to educate their children is essential to many important matters relating to human rights such as the transmission of life itself and the inherent right to life.⁷⁴ Moreover, parents have the corresponding duty and right to provide a religious and moral formation to their children, and the state, in accordance with the Universal Declaration, cannot interfere with the exercise of this right and duty.⁷⁵ The Pope is quick in recognizing that these rights and duties of parents and families also promote the common good and serve society by providing future citizens who are educated in a wide variety of social virtues, including the fundamental virtues of justice and charity, which contribute to the welfare of others.⁷⁶ In this day when some educators insist on separating children from the influence of their parents when it comes to matters of sexual morality and practices, the Pope remains firm

70. Pope John Paul II, Address to the Tribunal of the Roman Rota (Jan. 21, 1999), para. 5, http://www.vatican.va/holy_father/john_paul_ii/speeches/1999/documents/hf_jp-ii_spe_19990121_rota-romana_en.html.

71. CHARTER, *supra* note 64, at pmb. § E.

72. FAMILIARIS CONSORTIO, *supra* note 65, at para. 43.

73. *Id.* at para. 36.

74. *Id.*

75. Pope John Paul II, An Ever Timely Commitment: Teaching Peace, Address for the 1994 World Day of Peace, para. 5 (Jan. 1, 1994), http://www.vatican.va/holy_father/john_paul_ii/messages/peace/documents/hf_jp-ii_mes_20031216_xxxvii-world-day-for-peace_en.html.

76. FAMILIARIS CONSORTIO, *supra* note 65, at para. 43.

in his commitment that this is the prerogative of the parents and families rather than the prerogative of the state.⁷⁷

While many other rights are worth discussing, one final one must be commented on, for it is one most dear to the Church and to John Paul II. This is the fundamental claim to religious liberty and the proper exercise of conscience. For the present day, the Second Vatican Council's document *Dignitatis Humanae* sets the stage for discussion of John Paul II's thought. But, it is important to keep in mind that the title of this central document continues with a further expression that human dignity is linked to the right of the individual person *and* of communities to social and civil liberty in religious issues. As the Council fathers stated, there must be no impediment placed in the way of either the person or the group to achieve these objectives since "the truth cannot impose itself except by virtue of its own truth."⁷⁸ This does not mean, however, that either the individual or the community can claim, under the guise of religious liberty, a grant of authority to subscribe to and follow error. Error is not truth; it is mistake. For John Paul II, the freedom of religion has a strong nexus to the exercise of conscience, and both simultaneously have personal and social dimensions. Again, neither establishes an unchallengeable right; what makes them sacrosanct is when they are disposed to the truth that is ultimately God. Pope John Paul II is quite aware that this vision is not shared by all persons, states, and intergovernmental organizations. As he notes, the right to religious freedom "is being violated by many States, even to the point that imparting catechesis, having it imparted, and receiving it become punishable offences."⁷⁹ The Pope said this shortly after his election, and he undoubtedly had the experience of his own homeland, Poland, in mind. For the state or any other civil entity to tamper with the religious freedom and conscience of a person is to deny the spirit of each person's transcendent nature and to make the person a mechanism, sometimes disposable, of the state or other entity involved. Any tampering with a fundamental right dehumanizes the person by robbing the individual of his human dignity. As the state or civil entity is not the author of human dignity, it is without legitimate power to meddle with it.

77. *Id.* at para. 37.

78. SECOND VATICAN ECUMENICAL COUNCIL, *DIGNITATIS HUMANAЕ: DECLARATION ON RELIGIOUS FREEDOM* para. 1 (1965), *reprinted in* THE BASIC 16 DOCUMENTS OF VATICAN COUNCIL II 551 (Austin Flannery ed. 1996).

79. POPE JOHN PAUL II, *CATECHESI TRADENDAE: ON CATECHESIS IN OUR TIME* para. 14 (1979).

CONCLUSION

Once again, it has been an honor to participate in this Notre Dame symposium on “John Paul II and the Law.” It has been an underlying goal to express these views presented in this paper through my four decades of service to the Church including the more-than-quarter century in which John Paul II sat on the Chair of Peter. I hope that my presentation may assist those of you who exercise your discipleship in bringing the wisdom of the Good News into the temporal affairs of the American political and legal institutions—especially those dealing with fundamental human rights.

I trust that my presentation has also provided some insight into the contributions made by Pope John Paul II that have a significant bearing on what is constitutive of genuine human rights—a topic of critical concern to all people of good will. It is my further hope that my words will assist you in confronting challenges to authentic human rights that you may encounter in your service to the human family. As was noted at the beginning of this essay, the lens through which I comprehend fundamental human rights is a fusion of Catholic teachings as formulated by Pope John Paul II. The Pope understood well the times in which he lived and in which we continue to do so.

For those readers who may remain skeptical to the approach I have taken, I pray that it will nevertheless provide you with an opportunity to reflect further on your own perspective and think about the reasons why John Paul II and the Catholic Church teach what they teach on matters relating to human rights. In the final analysis, it has been my goal to equip you with some of the intellectual tools you may need to assist the preservation and protection of fundamental human rights that are a gift from God and no one else.

May God continue to inspire and bless you in your work. I thank you again for the opportunity to participate in this important symposium honoring a man and a pope who gave of himself so that others may live and flourish in the dignity of the human personhood given to each of us by the Author of life!

