

MICHEL SCHOOYANS

THE HIDDEN FACE OF THE UNITED NATIONS

Translated by
Rev. John H. Miller, C.S.C., S.T.D.

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Central Bureau, CCVA

St. Louis, Missouri

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ABBREVIATIONS

MAI:	Multilateral Agreement on Investments
ICC:	International Criminal Court
ECOSOC:	Economic and Social Council of the UN (New York)
FAO:	Food and Agriculture Organization (Rome)
UNFPA:	UN Population Fund (New York)
ILO:	International Labor Organization (Geneva)
IPPF:	International Planned Parenthood Federation (London)
NAMBLA:	North American Man/Boy Love Association
OECD:	Organization for Economic Cooperation and Development (Paris)
WHO:	World Health Organization (Geneva)
NGO:	Nongovernmental Organization
UNDP:	UN Development Program (New York)
UNESCO:	UN Educational, Scientific and Cultural Organization (Paris)
UNICEF:	UN Children's Fund (New York)

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INTRODUCTION

THE UN AND ITS "LIGHTS"

All the great revolutions were aimed at absolute power, arbitrary and tyrannical. All were accomplished in the name of human dignity which the despotic powers flouted.

All the great documents proclaiming the rights of man are the fruit of a progressively-growing awareness of the inalienable dignity of all men; and all of them, however, were produced at the cost of much suffering and many tears.

From One Despotism to Another

Thus modern history has known *enlightened despotism*. The despot claimed to have the privilege of enjoying the light of reason, inaccessible to ordinary mortals. His will was the source of law. His power was absolute; he did not have to give any account to the people.

Miserable heirs of these despotic episodes are certain pathetic dictatorships that flourish in our contemporary epoch. They reign by simple terror, corruption, the concentration of all power, cynicism and brutality. Such is but a precarious despotism, for it can be overturned at any moment.

Despotism also survives in authoritarian regimes. In these the "despot" — concretely, an individual or a minority — is obsessed with security before some singled-out enemy. A few havens sometimes exist in economic life, more rarely in intellectual and cultural life, but it is forbidden to express any political opposition. The authoritarian regime favors hypocrisy: In your internal forum you can think what you want to; it is enough not to be in opposition, to be spineless. In brief, what is required is external submission.

Dictatorial or authoritarian, these despotic regimes are scarcely burdened with complicated ideological constructions with which to justify themselves. Provided that they have the force, that they are not concerned about means, that they do not hesitate to have recourse to violence, and that they have an effective police force, they have hardly any need to fabricate justifications. Any ideological window dressing here is practically superfluous.

In the twentieth century, totalitarianism has inflamed classical despotism — dictatorial or authoritarian — to its glowing point. What was but small and shabby, and hence often ephemeral, yields place to a despotism of high-pitched professionalism.

The first three totalitarian regimes of the twentieth century — communism, naziism, fascism — have henceforth taken their place in the pantheon of the classics of perversity. Certainly, they used the recipes of the past: abuse of power of every kind, violence, gulags, terror, repression, suspicion, corruption, etc. However, something more has been added, not a simple supplementary ingredient, but something essential.

Totalitarianism results from a disastrous combination, the convergence of the quasi-general tendency to accept slavery voluntarily and the offer of ideologies having a better disciplining effect. One supported, another opposed dictatorship or authoritarianism; when possible one rose against them. But totalitarianism anesthetizes the *I*, subjugates the body, colonizes minds and makes the charms of consensual slavery scintillate. The totalitarian ideology is the drug that kills the capacity of distinguishing the true from the false, the good from the evil, and that inoculates with an ersatz truth, habitually under the form of utopia.

What Rights of Man?

After such a triple totalitarian experience, men have had the wisdom to reexamine themselves. They have asked the essential question: why? Why so much violence, so much malice, so many tears? The answer was given in 1948 in the Universal Declaration on the Rights of Man. In order to avoid such disasters, men had to acknowledge that they were all equal in dignity, that they all had the same rights, and that these rights had to be fostered and protected by States and the international community. It is on this basis that the UN's responsibility is found defined in the matter of man's rights as well as its mission for peace and development.

It is nonetheless surprising to note that, for some fifty years, the UN has progressively distanced itself from the spirit of its origins

and the mission confided to it. This evolution occurred, in part, under the influence of the San Francisco Charter (1945). This foundation document of the UN differs from the Declaration of 1948 sometimes on essential points only rarely brought out. Briefly, the 1945 Charter owes a lot to juridical positivism: the only valid rules are those of positive law emanating from the will of the legislator, while the 1948 Declaration is founded on the general principles based, in their turn, on the nature of things. These metajuridical principles are known by reason and enable us to offer a critique of positive law. Due to the influence of this double inspiration, but also to that of numerous other factors, the 1948 Declaration imperceptibly tends to be reduced to an out-of-date and superseded document. This Declaration and the particular legislation it has inspired are more and more overlaid by strange "new rights of man." The UN and some of its agencies act more and more openly as though they have received a mandate to elaborate a *conception* of the rights of man radically different from that expressed in 1948.

The Universal Declaration was anthropocentric. It acknowledged man to be at the center of the world and at the heart of time — man free, reasonable, responsible, capable of solidarity and love. Since then — according to the UN — man is an ephemeral particle in the cosmos. He is no longer at the heart of time open to the beyond; he is the product of evolution; he is made for death. He is no longer a person, but an individual more or less useful and in search of pleasure. Men are not able to recognize truth and bring their conduct into line with it; they calculate, decide according to an arithmetic of interests and pleasures — an ephemeral triumph of consensus always renegotiable and thence perpetually in reprieve.

Such is the principal source of the so-called "new rights of man." They are no longer authentic or declared; they are negotiated or imposed. They are haggled over. They are the expression of the strongest wills. The values themselves are the simple reflection of preferences, of the frequency of choice.

The new ideology that underlies these so-called "new rights" is *holistic*. All is in all: man has no reality apart from his insertion into Mother Earth, Gaia, whom he must reverence. Therefore, man must accept the constraints imposed on him by the ecosystem that transcends him. He will have to accept a supranational technocracy which, making up the "Lights," will dictate to States what they must do, and to individuals what they must think.

In this incredible holistic jumble, each theme goes back to all the others as in a mirror game. Judge for yourself: when one speaks of

poverty, he refers to population, and from there to "lasting development," from there to the environment, from there to security in food products, from there to "public health" in which the health of society outweighs that of persons, from there to euthanasia, from there to new forms of eugenics, from there to radical feminism, from there to "gender," from there to the family, from there to "reproductive health," from there to abortion, from there to concern for primary health, from there to sex education, from there to the "new rights of man," from there to homosexuality, from there to the defusing of objections that might come from differing national governments, from there to the denunciation of "new forms of intolerance," from there to new courts, from there to the reinforcing of the UN's role and powers, from there to changing national legislation, from there to the expansion of the means at the disposal of the international agencies, from there to the conditions of "aid," from there to the collaboration of certain nongovernmental organizations with the UN agencies, from there to the consolidation of consensus, from there to the necessity of insisting on the "respect for commitments," from there to the concealing of numerous reservations made by participants in the conferences, from there to the need for a working group that will coordinate activity in the field everywhere, from there to placing sovereign States under guardianship with the pretext of fighting against poverty and in fact controlling population growth, etc.: we are at the spinning-wheel. It is like the Pachelbel *Canon* or the *Lambda*: one may enter no matter where or at what moment. The link that one chooses in order to involve oneself in this chain has no more importance than the order according to which the units are arranged; the themes are entangled as whole and parts. Holism insists: really, all is in all.

The UN's "Lights"

We are going to enter this clutter through the door of the so-called "new rights of man." We will be quickly led to note that, with this theme, the UN is in the process of subverting national and international communities. More seriously still, it wants to deprogram man and reprogram him. Convinced that it is the bearer of new "light," the UN *has taken the lead in an enterprise of ideological training without precedent*. The principal agent of this insidious enterprise is the UN fund for Population (UNFPA) whose infectious cynicism rubs off on the whole UN.¹ This agency involves the whole UN machinery in the most frenzied totalitarian enterprise in history.

In its annual report on *The State of World Population 1998*,² this disastrous agency had to concede that fertility tended to fall every-

where. That does not, however, prevent it from reheating its habitual stew that there are too many black, yellow and Latin-American people, too many useless people, and that in the name of the so-called "new rights of man" all that should be put in order. If nothing is done, such programs of clear discrimination will end sooner or later by involving the UN in embarrassment and loss.

We have already devoted several works to these themes. The objective of this publication is to show *how all these themes revolve around two poles: holism*, which aims at checking the traditional anthropocentrism, and the so-called "*new rights of man*," stemming by way of consensus from an individualist arithmetic of interests and pleasure. This linking of holism and individualism gives rise to the formation, under our eyes, of a monstrous hybrid ideology. In effect, holism pushes the totalitarian trend of socialism to its height. As for individualism, it pushes the totalitarian trend of liberalism to its height.

The tragedy is that this subversion, at once anthropological, moral and political, is hardly perceived. The first objective of this work is to open the eyes of our contemporaries to this cunning totalitarianism which, bit by bit, has already been solidly implanted and intends to impose itself early in the new millennium. The second objective is to propose a counterattack against this abuse of power, to this excessive plan of the UN. In this counterattack the family will play a primary role. As the chosen target of the ideologues of these so-called "rights of man," the family shines as a sign of hope in a world that has a definite need to relearn how to love.

¹ Visit the web site <<http://www.unfpa.org>>

² New York: Ed. of UNFPA, 1998. All the usual themes of UNFPA are to be found in *L'état de la population mondiale, 2000*, published by Nafis Sadik (ed.) under the title *Vivre ensemble dans des mondes séparés. Hommes et femmes à une époque de changement* (New York: UNFPA, 2000). Regarding this report, see the interview given by Mary Ann Glendon under the title "La ONU no afronta las razones de la discriminación femenina," in <seminall@zenit.org> of Sept. 25, 2000.

PART ONE

THE CONSENSUS EMPIRE

CHAPTER 1

RIGHTS OF MAN AND DEMOCRACY

The year 1998 was marked by the fiftieth anniversary of the *Universal Declaration of the Rights of Man*, adopted and proclaimed in Paris on December 10, 1948. In order to understand well the importance of this document, we must situate it within the tradition of which it is the most beautiful flower, extract the meaning and impact of the principles enounced therein, uncover the misinterpretations endangering this major text and, finally, draw attention to the tragic consequences to which the conception of the "new rights of man" presented under the banner of the UN will lead.

In this analysis, we proceed from the viewpoint of political philosophy.

Before developing these points, let us recall that in Europe, the Declaration gave rise, on November 4, 1950, to the European Convention to safeguard the fundamental rights proclaimed in 1948, including those relative to the family. But now it is a question of a document of positive law which the European Court of the Rights of Man, whose seat is in Strasbourg, is called upon to have respected.¹

FORMAL DEMOCRACY

A Comparative Study of Institutions

Studies on democracy are frequently characterized by a concern to compare the merits of different regimes. Following variable criteria, one establishes typologies and outlines a list of winners crowning those regimes considered to be more democratic than others. In order to arrive at such classification, one has recourse to certain *parameters* which one analyses and evaluates. One distinguishes, for example, direct or indirect democracy, presidential or parliamentary. One takes into account the origin of power, the definition of "elector" and its extension, the type of suffrage, the manner of electing,

the representative character of the elected persons, the constitution, the way governing persons are designated, how controls are exercised over them, the manner of rendering justice, the choice and independence of judges, the weight of public opinion or pressure groups, respect for minorities, the separation of powers, freedom of expression and movement, etc.

All the manuals describing Greek society and institutions certainly mention slavery but hasten immediately to celebrate Athenian democracy. Up until our contemporary epoch, regimes that were incontestably totalitarian strove to provide themselves with constitutions or laws responding to certain criteria of formal democracy.

Another Debate

However, as Marx and de Tocqueville have remarked — each in his own way, of course — formal democracy, running through various institutions, does not allow us to judge beforehand the democratic worth of a society, even where, both by pleonasm and anti-phrase, this same society characterizes itself as a popular democracy.

The comparative study of institutions, then, is useful and indispensable, but it offers a limited interest as far as analysis of what is essential to democracy goes. This same holds true for other areas: the comparative analysis of social legislation does not enable us to judge effectively beforehand the social services available in the societies compared.

These comparative studies about institutional models of democracy continue, and rightly so, to fascinate researchers. However, one debate can hide another. Without always being evaluated as to its proper importance, a new debate, rather considerable, is presently unfolding: it concerns the *relationship between democracy and the rights of man*. This debate is reflected above all in political, diplomatic and juridical practice, within nations and even more so on the international scene. It equally gives rise to a discreet thematic expression, little perceived by the public but whose stakes are capital.

THE RIGHTS OF MAN IN THE REALIST TRADITION

In its contemporary form, this debate is the result of the Second World War. The *San Francisco Charter* (1945) in a reduced form,² and very clearly the *Universal Declaration on the Rights of Man* (1948) were aimed at building peace within nations, world peace and development firm as rock.

These documents are largely dependent on an Aristotelian and Stoic heritage, which emphasizes the relationship between friendship and justice, and the Roman heritage, which singles out the licit and decent.³ This is not the place to trace in detail this long historical journey. However, it is appropriate to stress the fact that the Declaration of 1948 is inscribed in the line of law of this rich tradition. Let us recall very quickly that the Roman jurists admitted a clear distinction between men and things. Curiously, there too, we have a reflection of the experience of war which brought about progress in the law. In effect, to the degree that slavery is considered a product of war, the slave tends to be recognized as a human being: no one is born a slave. The influence of Stoicism is brought out here, for it regarded men as free and equal.⁴

Moreover, the Declaration of 1948 above all reactivated the best acquisitions of the natural law tradition. This tradition, already honored by Cicero,⁵ includes two major and successive contributions: the one medieval, the other modern. These two traditions are characterized by a common *realism*: man doesn't have to prove himself; he exists and is the subject of rights anterior to political and juridical institutions.⁶

The Medieval Contribution

According to the medieval tradition, these rights are linked to the very nature of man, a unique being in the world, since he is the only being created to participate in the existence of God by way of personhood. That he is a person means that he is an individual, subsistent being, naturally endowed with reason and free will, capable of reflection. This conception of personhood so adheres to the *reality* of man that it will be taken up again, from the medieval tradition, by Descartes and Locke.

It is from his intrinsic dignity that man draws his fundamental rights to life, personal judgment, free decisions, property, freedom to express himself, to associate with others, to found a family, etc. Human sociability is not simply utilitarian, nor even less purely instinctive; it is not reducible to simple complementarity. It is the natural consequence of the fact that, being endowed with reason and will, men can discern the true from the false, good from evil, to agree, to deliberate, to dialogue, to cooperate: "To prefer the word to war," as Levinas writes.⁷ Men are capable of discovering together certain truths concerning their life and death, of accounting for their conduct. They are capable of living virtuously, and, in particular, of practicing the virtue of justice. The latter is essential in the relations among persons, and between persons and society. In brief, if men

have rights and duties, it is not because they are individuals, but because they are all persons.⁸

In this eminently realist vision, the rights of man have then from the outset a universal scope: from the moment a human being exists, he has the right to be recognized as having the same dignity as all other human beings.

In the Service of Persons

This conception of the foundation of man's rights is strengthened by the complementary doctrine of the *universal destination of the earth's goods*. The goods of the world are at the disposition of the whole human community. The right of private property, then, has its limits. The hungry person who swipes a loaf of bread or the poor woman who pinches medicine for her dying child must not be excused for stealing, for they are not stealing; they are exercising the primary right to life, a right that supersedes the right of another to private ownership. This last right, is in effect, limited and supplanted by the right of all men to life. There is, then, a hierarchy among the rights of man; the keystone of this structured and indivisible ensemble is the right to life, the right to take care of oneself.

From these premises flow a precise conception of political society. It must be at the service of persons and of the communities of persons; its role must be "subsidiary."⁹ It must help people to blossom, which cannot happen without respect for the family (the first place of socialization), and respect for intermediate groups, especially the nations. The latter, in particular, must be respected, for the nation is a privileged melting pot of developing culture in which persons and families are nourished.

One of the first ones to take advantage of the medieval conception of natural law and the universality of man's rights was Francisco de Vitoria: in the sixteenth century he made it the basis of internationalism. Alas, his conception was not above all criticism, precisely because Vitoria inverted the natural order of things. Due to his desire to legitimize Spanish colonialism and to do so on the basis of the universal destination of goods, he forgot that the right of appropriation of goods by the Spanish was subordinate to the primary rights of the Indians to life and liberty.

One must note a paradox, then. Stimulated by the Christian conception of the person, medieval theorists in natural law had, in a flamboyant manner, extracted the foundation of man's rights, their inalienable character, their universal extension. But they did this in a context in which institutions scarcely responded to the criteria of for-

mal democracy. On the other hand, Athens, which rejected the Spartan model, was dedicated to formally democratic institutions. But paralyzed by a defective anthropology (by reason of its subordination to cosmology), Athens failed to elaborate a valid conception of personhood, to extract from it the inalienable right of man, to show that it extended to the slaves as well as the masters.

The Modern Contribution

In the modern epoch, reflection on the rights of man was re-
prised by the theorists of natural law, such as Grotius and Pufendorf. For them, man is not an autonomous individual as Hobbes conceived him and the Enlightenment exalted him. Even if these natural law theorists opened the way to absolutism, they still considered man a person, certainly a reasoning being, but whose individual freedom is limited by the rights of other persons.

However, exhausted by the wars of religion, deceived by the decadence of a certain kind of Scholasticism but ignorant of the existence of the rich Spanish political philosophy, finally impressed by the new methods brought into play by learned physicians, the natural law theorists, Grotius and above all Pufendorf, wanted reason as sole master. They observed society, analyzing the nature of man; they confirmed his *appetitus societatis*, his natural sociability. Reason allowed them to know natural law, to make it the basis of internationalism by Grotius, the basis of civil law by Pufendorf. Differing from them in more than one respect, Locke proclaimed that, on entering civil society, man does not lose the inalienable rights he had in the society of nature.

This modern conception of natural law and, with it, the rights of man, presents thus a real relationship to the medieval conception. It is even illustrated by the fundamental fidelity of Descartes, Locke, and even Barbeyrac to the traditional conception of "personhood": man is conscious of himself, reasoning, free in the sense of being endowed with free will.¹⁰

This conception of natural law and the rights of man, however, withdraws from the traditional conception on an essential point. Noting, after Jean Bodin, that the references to God were a cause of wars, Grotius and, following him, Pufendorf, severed natural law, and consequently, man's rights from all connection to God. We know that this understanding is retained in the 1948 Declaration.¹¹ Other authors maintained this connection — sometimes, it is true, with lip service — but God no longer had a real impact on the reflection about rights. Grotius and others believe they had found the best

safeguard of civil peace and peace among nations by methodically putting God in parentheses.

It is still true that, despite this divergence, *the two schools of natural law, medieval and modern, have nourished all the great declarations on rights and, thereby, all the modern and contemporary liberal democracies.* This twofold tradition prompted the idea that the rights of man had to be *proclaimed*, this proclamation being the logical prerequisite of every democratic society.¹²

THE COMMON PATRIMONY OF MANKIND

Universality and Cohesion

The *Universal Declaration on the Rights of Man* of 1948 is the concluding moment of this remarkable evolution, which went through, among others, *Habeas corpus* (1628, 1679), the *Bill of Rights* (1689), the *Declaration of Independence* (1776) and the *Declaration on the Rights of Man and the Citizen* (1789). But what in former times was perceived as the conquest of particular societies, became recognized thereafter as the *common* patrimony of all humanity.¹³ As for the implementation of these rights, this was seen as the best protection against the return of barbarism.

One observes also a growth in the various declarations. The first stress the rights of limited groups: barons, bourgeoisie, owners, male citizens, then female citizens and finally, all the members of the human community without exception, even stateless people.

Thence was made a major discovery: the rights of man are *universal*. That means that they transcend regimes, nations, states, governments, parties, intermediary bodies and individuals. What is more, it is by reason of their universality that the rights of man bring unity to society — including that of the world — and assure them cohesion and duration. It is the rights of man that make a community of persons of equal dignity out of what could be a society of self-interests.

History's Part

Moreover, the documents declaring the rights of man are no longer only the result of reflection by philosophers, theologians and jurists. They are also the fruit of historical experience realized in diverse contexts. These experiences, little by little, became the object of thematic systematization, i.e., reflection by philosophers, theologians and jurists. That these rights of man are universal—this is a discovery, certainly historical, but one which from the outset is accepted as a definitive acquisition for all humanity.¹⁴

This history of the rights of man does not mean, then, that it is *relative* to this or that situation or to particular cultures. It means that in the moral, political and juridical order, it has to do with a discovery springing up, of course, in time and space, but offered at the outset to all.¹⁵ From this point of view, this discovery can be compared with the discovery of fire, or electricity in the technical and scientific fields, or in the field of esthetics, to the discovery of the beautiful, whether in Borobudur or the works of Chopin. All this knowledge was offered, at once and definitively, to the whole of the human community. The societies in which the rights of man first sprang up would not be able to use this priority in time as an argument for presuming to keep these rights as their own peculiar property. No political community was founded to conceal the universality of these rights, just as no community was founded to reserve to itself experience of the beautiful.

A "CULTURE OF THE RIGHTS OF MAN"

Solidarity and Effectiveness

The influence of these diverse documents which we have mentioned, and especially the Declaration of 1948, is profound, and we will allow ourselves to bring out two points. On the one hand, the articles of the Declaration of 1948, as a whole, set in relief the sociability of men.¹⁶ But this sociability is not presented as purely utilitarian. The Declaration holds that man is naturally endowed with a relational capacity with those like him, that the inclination to sociability and to communal solidarity are part of his constitution.

It is precisely the sociability of man that gives rise to civil society, in which persons, mutually recognizing one another, recognize themselves as subjects of rights. Political society here appears as a technical instrument in the service of civil society and its institutions — the family above all — and its members. This anteriority of civil society compared with political society is the necessary condition for the establishment of a democratic political society. Under pain of leading to statism, the power of the state must be characterized by "subsidiarity": the state is at the service of civil society, of its institutions and members. It is to limit the abusive hold of the state and supranational political institutions that we must hold firmly to the distinction and separation of powers (executive, legislative and judicial). Once this reference to civil society disappears or is erased, political society — concretely the state most of the time — lays its hand on the whole domain of civil society and ends by arrogating to itself the "right" to express and interpret the "general will."¹⁷ Now the le-

gitimacy of the state cannot come from itself; it can come only from civil society which gives itself the most appropriate political organization for promoting sociability and solidarity among the parts constituting civil society itself.

This solidarity is strongly emphasized in the Declaration, which highlights the fundamental forms of subsidiarity: family, unions, religious groups, nations. Democracy and peace require the contribution of everybody and all intermediary groups to build up the common good.

On the other hand, the influence of the great declarations, above all that of 1948, is also due to the fact that these documents have an *intrinsically moral value*, while the rights which they proclaim, by their very nature, have a binding force — a value these documents have precisely because they are *not in any way legislative documents*, a fact that constantly keeps them exposed to the dangers of being rewritten and to political hermeneutics. However, the fact that they are anterior to law implies that they should be translated into law. That is what one means when he affirms that they are of the *metajudicial* order: in effect, they underlie the laws. States are here called to promote a culture of justice, to establish a just society as they fully ply their subsidiary role, in the richest sense of the term. As it happens, this role consists in ensuring the serving of every man's rights in the precise and concrete framework of a particular political environment, for example, the nation.

A Powerful Stimulus Contested Today

It should be acknowledged that this Declaration, as well as the conventions and pacts that followed it, has, for some fifty years, often produced remarkable *fruits*. These documents have prevented conflicts. Thanks to them, even those who had plunged the world into blood and tears were able, without losing face, to rejoin all men of good will who wanted to *nail down the peace*.

The Declaration has also been the stimulus for decolonization, the motive for melting the Cold War, and for political, economic and social development. It is painful to have to observe that in this regard the totalitarian dictatorships and the military technocracies retained the sorry privilege of presenting the rights of man as obstacles to development.

By proclaiming that the rights of man extended to all human beings without exception, the Declaration opened the way for all the colonized peoples to recognize their own dignity, to discover that,

being the subjects of inalienable rights, they could also become subjects of their own history.

Moreover, these same documents have established what has, for good reason, been called a "culture of man's rights," and thereby favor cohesion and peace in particular societies and among nations. Almost everywhere in the world, these documents have insisted, in practical politics, on the idea that there is an *essential link between democracy and the rights of man*, and that on respect for this link depend, along with development, the internal peace of nations and peace among nations.

Finally, a great originality of the Declaration of 1948 is precisely having intended to *found the new international order on the universal recognition of the rights of man*, and not simply on the precarious foundation of a pragmatic nature or an inspiration purely positivist.

However, today the prestigious heritage that found its last solemn expression in the Declaration of 1948 has been breached. We are going to analyze this radical questioning by pointing out successively the perverse reinterpretation of the rights of man operating under the influence of voluntarism and holism; the opposition to sovereign States prompted by the UN, the establishment of a lay inquisition under cover of tolerance and the use of law to "legitimize" violence.

1 The principal documents concerned with the rights of man have been collected by Michael Herode (et al.) under the title *Droits humains. Textes de base. 1789-1997* (Brussels: Buch, 1998). The text of the European Convention on the Rights of Man is found on pp. 222-224. One had to wait until May 3, 1974, for France to ratify this convention. Documents before 1789 always deserve to be studied. They can be found in the collection of Maurice Duverger, *Constitutions et documents politiques* (Paris: PUF, 1964).

2 We will return to this Charter in Chapters XI and XIII.

3 The theme of sociability is inseparable from that of friendship. This is confirmed and illustrated by the precious work of Jacques Follon and James McEvoy, *Sagesses de l'amitié. Anthologie de textes philosophiques anciens* (Fribourg: Ed. Universitaires, 1997).

4 On this see Bernard de Lanversin, "Dérives juridiques dangereuses dans les décisions des grandes Organisations internationales concernant la vie de l'homme," to appear in *Nouvelle Revue Théologique* (Brussels).

5 See especially the very beautiful developments of Cicero in his *Traité des lois* I, VII, 22-X, 28; XIV, 40-XVIII, 48. This text was published by Georges de Plinval (Paris, Ed. Les Belles Lettres, 1959).

6 A good historical exposition devoted to the rights of man and natural law can be found in the work of Philippe de La Chapelle, *La Déclaration universelle des droits de l'homme et le catholicisme* (Paris: LGDJ, 1967) 207-283. One can also refer to Jacques

- Mourgeon, *Les droits de l'homme* (Paris: PUF, 1978). On the contemporary teaching of the Church concerning the rights of man, two instruments are available: Giorgio Filibeck, *I Diritti dell'Uomo nell'insegnamento della Chiesa: da Giovanni XXIII a Giovanni Paolo II, 1958-1998* (Vatican City: Libr. Edit. Vaticana, 1999). This collection has been translated into Portuguese under the title *Direitos do homem: de João XXIII a João Paulo II* (São João: Ed. Principia, 2000).
- 7 Emmanuel Levinas, *Humanisme de l'autre homme* (Montpellier: Ed. Fata Morgana, 1971) 37.
- 8 We have examined this question in detail in *Démocratie et libéralisme chrétienne* (Paris: Ed. Lethellieux, 1985), especially in Ch. VII: "Implications politiques del'anthropologie thomiste," 141-176.
- 9 In the meetings of the European Union there is often question of subsidiarity. Since this is often the case, the term is frequently twisted from its original meaning. To see this more clearly, one can refer to Jean-Yves Naudet, "Le principe de subsidiarité: ambigüité d'un concept à la mode," *Journal des Economistes et des Etudes humaines* (June-Sept. 1992) 319-331. There is also the book by Chantal Millon-Delsol, *L'Etat subsidiaire* (Paris: PUF, 1992).
- 10 On the European contribution to the reflection on the rights of man, see Vittorio Possenti, "I diritti dell'uomo nell tradizione europea," *O Direito* 3-4 (1990) 487-502.
- 11 This point figures among the "Parts of the Declaration rejected." See the classic by Albert Verdoodt, *Naissance et signification de la Déclaration universelle des droits de l'homme*, (Louvain-Paris: Ed. Nauwelaerts, 1963) 275-281.
- 12 Studies concerning natural law have had a revival. They especially benefit from the rich impetus given by Xavier Dijon in *Droit naturel*, Vol. 1: *Les questions du droit* (Paris: PUF, 1998).
- 13 On the genesis of the Declaration of 1948 see Mary Ann Glendon, *Right Babel: The Universal Rights Idea at the Dawn of the Third Millennium, pro manuscripto*, given at the 1997 McCarthy Conference. Also we owe another very elaborate study to the famous Harvard professor entitled *Knowing the Universal Declaration of Human Rights*, again *pro manuscripto* of 45 pages, 1998.
- 14 This reading of the rights of man, and above all the Declaration of 1948, has received the especially authorized support of Kofi Annan in "Les droits de l'homme, trame de notre existence," an article that appeared in *Le Monde*, Dec. 8, 1998. It is true that the Secretary General of the UN is not always so inspired in his statements on the question.
- 15 This is illustrated by the *Encyclopédie des droits de l'homme* the *Summary* of which was presented by Marc Agi (Paris-La Défense, Fondation international des droits de l'homme — L'Arch de la fraternité, 1997).
- 16 The text of the Declaration is extensively printed in Appendix I.
- 17 Concretely, this encroachment of political society on civil society is the tendency observed in states. The novelty is that it can be seen today in the big international organizations, such as the UN.

CHAPTER II

CONSENSUS AND MAJORITY, FROM ONE TYRANNY TO ANOTHER

In order to understand how we have come to the radical questioning of the Declaration of 1948, we have to go back to Grotius.¹ In effect, the tendency toward the secularization of political thought noted in him came to be, little by little, radicalized under the influence of three factors, which the Reformation would help to accentuate because of its scriptural fundamentalism and Lutheran contempt for philosophy.

The first of these factors, and the most obvious, is the exaltation of the *individual*, his own reason as the final source of truth, his total autonomy. This is the typical heritage of the Renaissance, which was to lead man to choose his truth. The second is the tendency toward *skepticism* and even *agnosticism*. These two tendencies would blossom in Hume and above all in Kant, who would add to them *voluntarism*.

However, to understand the seriousness of calling the 1948 Declaration into question, it is indispensable to examine also the evolution of the word *consensus* as well as the ambiguities infecting this term.²

THE "TYRANNY OF CONSENSUS"

Kant and Illuminism

Kant, with whom we may begin, obviously abstained from basing human rights on a metaphysical reference, since he said this was impossible. He tried, then, to save these rights by appealing to the will. Explained in his *Groundwork of the Metaphysics of Morals* (1785),

the categorical imperative, according to him, would provide this basis: "Act in such a way that you treat humanity in your person as well as in the person of everyone else always as an end and never simply as a means."³ We note that Kant considers this foundation principle of morality as having universal scope, even though it is impossible for him to recognize any metaphysical foundation. In his *Project for Perpetual Peace*⁴(1795), he shows that the requirement of universality, posed by an ethic based on the categorical imperative, is found in politics and more precisely in international relations. In the final analysis, peace is not possible unless States, as individuals before them, accept the principle of universality included in the categorical imperative. In certain respects, Kant appears here at the turning point, on the one hand, between the traditional and modern conceptions and, on the other hand, the contemporary voluntarist re-reading of the rights of man.

The combination of elements we have just pinpointed — individualism, agnosticism, voluntarism — is going to be absorbed by *Illuminism*. Each of us is totally free to chose his own truth and act according to his conscience. There are only individuals, more or less endowed, no longer persons sharing in the same nature. Just as among individuals there is no longer a common nature, so there is no longer natural sociability or solidarity. The meaning of the words that give sense to life — right, family, values, truth, fidelity, happiness, etc. — depend on consensual definitions which each one wished to give them.

What characterizes this new upside-down and perverse vision of the rights of man is the primacy given to the will of the "mortal god" rather than to reason. This characteristic was already proposed in Hobbes' work. Reason can be effective in the natural sciences, but questions of metaphysics are beyond their scope and interest. Before such a selective disqualification of reason, one must try to find another foundation on which to base the rights of man and democracy.

The new way, which is retained today in this twofold objective, destroys in its very foundations the conception of human rights and hence democracy that underlies the great contemporary documents since 1948. That is what confirms the analysis of the word *consensus*.

Consensus: A Semantic Fraud

The transition from the classical conception of man's rights to the new conception that the UN wants to disseminate also appears in the two meanings connected to the words *consent* and *consensus*. True, today the second word is used more than the first. Since the

word *consensus* appears very frequently in the documents of the UN, the nongovernmental organizations, and in political milieux in general, we must examine more closely its significance.

Reflection on consensus or consent has been explored since Antiquity within the framework of philosophical research on liberty. Among the Stoics, the term *sunkatathesis* means *assent*, mental agreement. In the Middle Ages, the same theme is explored, and in the same context, by Richard of Saint-Victor (1110-1173). The occasionalists of the modern era, beginning with Malebranche, wonder if man's liberty does not consist in consenting to or refusing divine interventions.

Actually, the word *consent* is somewhat eclipsed by its synonym, *consensus*. These two words, practically interchangeable, are taken in different ways which interest us directly.⁵ In a first sense, considered old, *consent* and *consensus* signify adherence to an affirmation. The metaphysician, Aimé Forest, spoke, for example, of "consent to being": one gives his assent to the existence of being. In this sense, one speaks of "universal consent," concerning, for example, the validity of metaphysical, logical or moral principles, or the validity of the principles of natural law. In this sense, *consent* or *consensus* signifies the "concordant judgment of men affirming the truth of certain propositions."⁶

The use of these terms in this first sense is always justified in certain cases. In these pages, we will avoid, however, referring to this first sense, for the simple reason that it is not in this sense that the word *consensus* is generally used in the actual documents of the UN.

What interests us is the second meaning actually given to this word in the UN's documents. *Consensus*, or, more rarely, *consent*, signifies the "acquiescence given to a project"; the "decision not to oppose it" (Robert). Foulquié is still more precise: "The act by which someone gives to a decision, for which someone else took the initiative, the personal adherence necessary for it to be put into execution."

While in the first sense, the emphasis is placed on the mental assent to a reality which is affirmed, in the second sense, the accent is placed on the agreement among persons in view of a proposed action. Briefly, general accord of intellects in the first case; accord of individual wills in the second.

In the use which is made of it today, the word *consensus* is, then, a very ambiguous term, since one slides easily from the second meaning to the first. The term *falsely leads one to think* that one refers to

propositions of truth regarding which one assents, whereas it refers to adherence to some voluntary decisions whose relationship to truth is in no way taken into account.

This ambiguity is constantly exploited in recent UN documents. For the natural law theorists, including Grotius, there are certain "principles of right reason which lead us to know that an action is morally good or evil."⁷ There are principles that are the object of knowledge, and reason bows before their truth.

The "new rights of man" are the fruit of voluntary decisions to which one holds fast. But one falsely imputes to these *decisions* the same status as the truth that had been recognized in the principles having already been the object of assent. This semantic fraud allows one to make an ideological use of the classical tradition of man's rights with the aim of legitimizing inadmissible programs of action. This fraud that establishes the tyranny of consensus is completed by the immoderate role given today to the majority.

THE "TYRANNY OF THE MAJORITY"

The Civil "Sanctity" of Laws

Since Rousseau, and especially his grandiose theories of the *Social Contract*,⁸ political society is considered as the result of the will of individuals who renounce, totally or partially, according to the theorists, their individual will. They freely consent to obey the sovereign people and their laws, infallible expression of the general will, which is expressed by the majority. There is, then, a "civil religion" which commands obedience to the laws, which are favored with a civil sanctity.⁹ In the eyes of civil religion, whoever does not respect the laws is guilty and must be pitilessly punished. Rousseau claimed that in obeying the law, the individual ultimately obeyed himself. But this nasty trick never fooled anyone about the irremediably totalitarian nature of his utopia that signals the shipwreck of the person and even the individual for the benefit of the sovereign people.

In many respects, the work of John Rawls, a contemporary philosopher, contributed to reviving the influence of Rousseau as well as that of Kant.¹⁰ It is vain to agree on some fundamental truths, on some universal moral norms. Practical necessity is nonetheless there: we must act "justly." And to act justly we have to begin a procedure during which we, who must decide, pay courteous attention to each one's position, and then judge and decide.¹¹ The decision will be just, not because it honors the rights of man which one would have known and respected, but because it is the expression of a consensus,

acquired eventually at the conclusion of a majority vote. That is what certain people call, in the spirit of de Tocqueville, "the tyranny of consensus."

Different in many respects from that of Rawls, the thought of Jürgen Habermas contributes, as does that of the American philosopher, toward condoning the "tyranny of consensus."¹² After having announced, as usual, the destruction of the foundations of traditional philosophy, the German philosopher, without doubt, intends to go beyond utilitarianism. He even admits the possibility of recognizing universal norms. However, these norms are always subordinated to the consensus, which concludes, as it happens, the "communication act." Nevertheless, the position of Habermas is a problem by reason of its formalism: one cannot, in effect, forget that freedom of expression, respect for the opinion of others, *fairness* in communication do not suffice as a basis for norms or values — Rawls himself would probably agree: these are but preconditions to such a basis.

The Paradox of the Majority

Recourse to the majority deserves special attention, for today many want to pass off majority rule as the essential characteristic of democracy. De Tocqueville spoke, in this regard, of the "tyranny of the majority."¹³ Thus is abandoned, in this case, the fundamental idea that democracy rests on the equal dignity of *all*, on freedom of thought, of expression, of association.

However, once the rule of the majority ceases to be just a functioning rule, it becomes absolutized in some way and serves as the ultimate source of law. That is what happens during consensual procedures; that is what habitually takes place in committees on ethics. Certainly, from the beginning, one tends toward consensus, and it is understood that every one forces himself to reach that point with *fair play*. However, even before the consensual procedure is put into motion in such and such a case calling for decision, the parties involved in deciding what is just in such a case have subscribed to a unanimous accord. This preconditional accord is passed "behind a veil of ignorance"; it provided that, in case of the impossibility of achieving procedural agreement, the rule of the majority will be applied and prevail. This rule, admitted *a priori*, that is, in a purely formal fashion, brings it about that the values characteristic of democracy vary according to the pleasure of majorities and that they derive in the end from the majority of voices, since respect for this is the supreme norm.

It follows that, by reason of inevitable unforeseen events of the consensual procedure as well as by reason of the purely formal imperative of the majority rule, no value has the slightest chance of being recognized as universal. *Whence the paradox*: democracy rests on the *equality* of all, on the freedom of thought, of expression, of association, etc.; but since it is absolutized, majority rule insures that the "values" of democracy derive from the *preponderance of certain voices*. Consequently, the values thus defined have no chance of ever being accepted as universal, even though they have the claim of being imposed *on all* in the number of a fiction: the general will, regarded as having been expressed by the majority of votes.

As a consequence, majority rule, in its sharp interpretation, is not only insufficient but dangerous, if it is not supported by moral reference and supplied with essential correctives, namely, truth and subsidiarity (or sociability). The formal rule of the majority legitimizes *a priori* the tyranny of the most numerous and their leaders. This same rule implies an *indifference of principle* before truth or good. In themselves, nothing guarantees that the consensual procedure or majority rule will not arrive at truth or good. Moreover, in the procedure preconditional to consensual decision, if it happens that someone has a reason based on truth, nothing demands *a priori* that he will be followed or that the truth in question will be recognized. And what would happen should the minority be right? It would be wrong for it to be so. And if the majority were wrong? The reply given to us by Le Chat de Philippe Gelluck: "The majority is right to be wrong."

The role given to the majority explains the essential function left to opinion and sentiments which have to be worked on and manipulated.¹⁴ Moreover, since the majority is regarded as reflecting the general opinion, it must call into existence a permanent tribunal charged with designating dissent and condemning it.

In sum, the methodical indifference vis-à-vis the question of truth fatally engenders blindness vis-à-vis good as well as evil; it is one of the chief causes for the facility with which totalitarian ideologies have been introduced into the twentieth century.

It is important to remark, however, that liberty is not possible in an environment in which each one can choose "his" truth. In effect, in such a milieu I would necessarily wish to impose "my" truth on the liberty of others. Here universality is taken over by intolerance. The way is then open to imposed ideologies, furnishing an ersatz of the truth, paralyzing reason, strangling dissent, ruining solidarity.

It is necessary, then, to know what kind of a society we wish to build and what heritage we want to bequeath to our successors. We cannot limit ourselves to experiment with values on an individual basis alone. Value lends itself to sharing and seals solidarity. In the western world we are the heirs of a culture that honors the rights of man.

THE HOLISTIC VISION OF THE WORLD AND MAN

Prekarious Cohesion

The celebration of consensus, then, leaves open the question of society's cohesion. The problem was already posed in Antiquity. Thus, we know how strong is the obsession with unity in Plato's *Republic*. Athenian democracy did not admit opposition, in the sense in which we understand it. It aimed at punishing dissidents with ostracism, for difference of opinion was perceived as a danger to the unity of the city, and therefore of the cosmos. In order to maintain its cohesion, democratic society even had to have recourse, as it happened, to denunciation or elimination of trouble-makers. Socrates, for example, was blamed for showing that the unity of the city was a façade. As the song of Guy Béart has it, "He has told the truth; he must be executed."

The traditional humanist conception of man's rights reconciles the requirement of social unity with respect for each member. *It is precisely the extension of rights that assures the cohesion of society.*

Now from the moment the *unifying* reference to man's rights proclaimed in the great declarations is swept away, the eventual source of unity can no longer be found except in consensus. However, by reason of its voluntarist essence, consensus is always threatened or ready to be threatened. It offers but a precarious unity, a cohesion on borrowed time. The procedures it uses can endlessly be called into question. Those voices which, by chance, want to bring out reservations, to express their singularity, to signify their disagreement, are necessarily designated as breaking the unity acquired with such difficulty, the result of the procedure which consensus decided upon. Dissent is always culpable.

The Shipwreck of Duties

As a result of the voluntarist and "consensual" rereading of man's rights, one arrives at a last observation that is especially troubling. The new conception, the reverse of man's rights, signals, in effect, the shipwreck of the traditional notion of duties: *a person no longer has to answer for another person.* Parents themselves no longer have to an-

swer for their children, whose "new rights" — notably to sexual pleasure — must be withdrawn from every parental right of concern.¹⁵

There is a residue of the notion of duty: that of responsibility, exposed by Jonas and suggestive in more than one respect.¹⁶ However, the "ethic of the future," developed by this philosopher, is frequently made up for by the ecological current. According to those who hold the latter position, the "vulnerability of nature" today justifies taking measures for containing development within enduring and admissible limits (sustainable development). Here it is not so much a question of asking men today to sacrifice themselves in order for the utopia of a radiant future to be born. In the name of future generations, draconian measures must be taken without delay to restrict the wrong done by human interventions in the planet. To recover this "ethic of the future," ecologists, strongly impregnated with New Age ideas, will exalt the cult of Gaia.¹⁷ They will conclude that the rights of Mother Earth are more important than the rights of these ephemeral beings called man.¹⁸

Man in the Reality of the Whole

The inverted and voluntarist reinterpretation of man's rights leads, then to the exaltation of Mother Earth, of the environment, of the ecosystem. A new technocracy, depository of new "Lights," will watch over their interests. The anthropocentric paradigm proposed by Protagoras, proclaimed by Christianity, celebrated by the Renaissance, illustrated by Newtonian science, is rejected: no, man is no longer the center of the world.¹⁹ He may no longer exercise ascendancy over nature; to transform it is to spoil it; in the end, it is to destroy it. Man must resign himself to being immanent to the world. That means that the world is not constituted by component parts having their own reality, even — in man's case — an intrinsic "personal" dignity. The perspective here is *holistic*: the world is envisioned in a material monist sense, as a unique material reality into which everything else is fitted. Man himself is internal to the world; he does not have a reality distinct from it. This immanence of man to the world is even — to be precise — the actual final outcome of cosmic history. Whence comes the renewed interest in evolutionary theses and the success of ethnology, which aims at clarifying the behavior of men on the basis of animal behavior.

Certain intrepid spirits refine this rejection of anthropocentrism and even claim that the rights of the strong animal are superior to those of weak Man.²⁰

From this pantheistic, so to speak, vision of the cosmic Whole, it follows that man must reverence this Whole outside of which he is nothing.

Hence, we are at the very opposite extreme of anthropocentrism to which Sartre still gave resonant expression: "Man is the being whose appearance makes the world exist."²¹ The world is no longer even nature given to man, to which he gives meaning. If the expression were not something of a cliché, we would speak of a new Copernican revolution: it is the *whole* that gives *reality* and *meaning* to the part, in this case, to man. It is no longer simply a question of man respecting nature, because if he does not, he will damage his biotope by not doing so; nor is it even a question of disciplining his behavior and techniques that risk poisoning the environment. It is, much more radically, a matter of admitting that man's reality is the very reality of the whole. Of this whole, man is but a part; he must not, then, claim to be the "center of the world," the subject of personal and inalienable rights, free to transform the world and make it the base of his action.

¹ See the Introduction.

² At a time when this term was scarcely used as a tool for mental manipulation, Herve Cassan studied "Le consensus dans la pratique des Nations Unies," *Annuaire français de Droit international* (1974) 456-485.

³ See the translation done by Victor Delbos (Paris: Ed. Delagrave, 1959) 150 f.

⁴ Translated by J. Gibelin (Paris: J. Vrain, 1948).

⁵ See the word *consentement* in Paul Foulquié, *Dictionnaire de la langue philosophique* (Paris: PUF, 1962) and in Robert.

⁶ See Virgilio Giorgianni, "Consenso universale," *Enciclopedia filosofica* (Venice and Rome: Istituto per la collaborazione culturale, 1957) vol. I, col. 1195-1197.

⁷ Hugo Grotius, *De jure belli ac pacis* (1625), cited in the collection of J. Imbert (et al.) *La pensée politique des origines à nos jours* (Paris: PUF, 1959; see esp. pp 219 f.

⁸ Jean-Jacques Rousseau, *Le Contrat Social*, IV, 8.

⁹ On this see *Le Contrat social*, IV, 8.

¹⁰ See John Rawls, *A Theory of Justice* (Oxford: University Press, 1972).

¹¹ As a prelude to the actual idea of consensus, the idea of *consent* obtained from ad hoc committees or commissions appears already in the work of Abbé de Saint-Pierre (1658-1743), *Projet pour rendre la paix perpetuelle en Europe* (1713); see in Marcel Merle, *Pacifisme et internationalisme, xvii-xx siècles* (Paris: Armand Colin, 1966) 72-77; esp. art. 11 and 12.

¹² See especially the work of Jürgen Habermas, *Théorie de l'agir communicationnel* (Paris: Fayard, 1987).

¹³ The expression appears in *Democracy in America* (New York: Knopf, 1945) I, 15, 257-258, an essential chapter that treats of the "omnipotence of the majority." Machiavelli himself wrote: "A prince who has no other rule but his will is insane. A people which can do whatever it wants is without wisdom" *Discorsi sulla prima*

Deca di Tito Livio, I, 58.

- ¹⁴ The situation thus created recalls, to a certain point, the tragic juridical errors in which the majority (a popular crown court jury), itself an expression of popular sovereignty, condemns to death the accused whose innocence is brought out after or before his execution. In the case here evoked, it is nevertheless remarkable that a privileged and explicit reference is made to the truth — since one recognizes the judicial error — without this acknowledgment insuring the abandonment of the execution.
- ¹⁵ We will return to this matter in Chapter III.
- ¹⁶ Cf. Hans Jonas, *Le principe responsabilité. Une éthique pour la civilisation technologique* (Paris: Cerf, 1995); see esp. pp.24-27; 64 f; 179-195, etc.
- ¹⁷ On this matter see our work, *The Gospel Confronting World Disorder* (St. Louis, MO: Central Bureau, 1999), 49-61.
- ¹⁸ Cf. three classics of the New Age: Marilyn Ferguson, *The Aquarian Conspiracy* (New York: J. P. Tarcher, 1981); Thomas S. Kuhn, *Structure of Scientific Revolutions* (Chicago: University Press, 1970); Alice Bailey, *Discipleship in the New Age* (New York: Lucis, 1968 and 1971, two vols.). It is in her two volumes that the New Age plan for humanity is explained.
- ¹⁹ On this subject see Luc Ferry, *Le nouvel ordre écologique* (Paris: Livre de Poche, 1998), esp. pp. 26-29.
- ²⁰ See, for example, Peter Singer, *Animal Liberation* (New York: Avon, 1977) and *Que dois-je faire* (Paris: Grasset, 1997).
- ²¹ Cf. *Situations* (Paris: Gallimard) I, 234.

CHAPTER III

THE UNITED NATIONS CONFRONTED WITH ITS ORIGINS

Among the merits of the 1948 Declaration, there is one to which we owe special attention: this document provides references that permit us to pass judgment on the activities conducted by the UN since its origins. By its nature, the 1948 Declaration certainly called for concrete applications on the level of each State. But, also by its nature, the Declaration called for the UN to involve itself — while respecting subsidiarity — in activities concretizing the rights that it had solemnly proclaimed.

Guardian of Man's Rights?

It is to be feared that the UN today prefers to avoid this confrontation with the spirit and letter of its origins. Nevertheless, it has an account to render regarding what it has done to fight against poverty.¹ For example, what does it do so that everyone's right to food or education is matched with the possibility being *offered* food and education?

A true (and provisional) account of its activity would permit the UN to redefine the priority of objectives that it gives to its program today — in fidelity to its origins. The UN, in effect, is not at all a simple guardian of formal rights. The proclaimed rights have a binding force that demands something of the UN itself, always, however, respecting subsidiarity. At this level, the account to which the UN must proceed without delay will certainly bring lacunae to light, but it will show the way the UN must involve itself.

Toward Greater Speed?

The audit to which the UN should proceed would lend itself to a program of action prolonging what has been achieved, with varying fortunes, since 1945. After having placed emphasis on the 1948 Dec-

laration of the Rights of Man and having invited the international community to recognize them, the UN could have proceeded with greater speed to urge the translation of these same rights into deeds. In principle, it has the agencies necessary to this application.

This action spoken of here does not belong to Dreamland. It cannot, however, happen without a profound examination of the allocation of available resources presently used up by the demands of the execution of programs that are the very negation of the 1948 Declaration.

Thus the UN is confronted with a dilemma today. Either it invests more in concrete involvement in favor of the rights of man as they were traditionally conceived, or, desirous of masking its failures, omissions and errors, it supports an inadmissible new conception of so-called "rights of man." A diversionary tactic would permit it to procrastinate and relieve itself of necessary involvements. That is what we must examine more closely.

Impossible Democracy

It is enough to note contemporary discussions on vital questions, such as euthanasia, abortion, mass sterilization, homosexuality, etc., to realize how much of an upside-down and perverse interpretation of man's rights has been insinuated everywhere. This reinterpretation enjoys great success in an ethics committee in which the dominant opinion, the object of consensus, takes over the relay from ancient orthodoxy: "Let us renounce the search for truth and be content with the common opinion." This kind of thinking has been accepted and disseminated above all by international organizations, and in the first place, the UN and its agencies. On this fundamental point, the *UN of the beginning is unrecognizable in the UN of today.*

International society is hardly based on the conception of human rights proclaimed in 1948. Now society appears more and more as the voluntarist project of the UN's technocrats. In effect, recourse to consensus, and therefore to relativism, is systematic in the big international conferences: Cairo in 1994, Beijing in 1995 and New York in 2000, to cite only three. The reservations brought out by some participants were systematically concealed. This consensus is constantly invoked, in a specious fashion, to override national legislation that continues to be based on the objectivity of man's rights, typical of the classical tradition. *National legislation, then, is more and more made to seem false* in relation to these "conclusions," "agenda" and other "plans of action," that rest on general principles of law, or, more exactly, no longer rest on any general or metajuridical principles. Na-

tional governments and judges are thus intimidated and tend to be discredited.

The world community and nations signatory to the 1945 Charter and the 1948 Declaration are on the way toward switching to an opposite form of man's rights that no longer has anything to do with the founding bases of the UN. This form, which tends to be imposed cunningly, is a prelude to the impossibility of a democratic society. This deserves a word of explanation.

Nations and States: Weaknesses

The thing that is so serious in the present situation is that, first of all, the UN *weakens nations* in many ways. Consensus is obtained in international assemblies with "sure" nongovernmental organizations doing quite a job at *lobbying*. (On this score, the prize goes to the International Planned Parenthood Federation.²) Then this consensus is invoked to bring pressure on nations so that they may "be true to themselves," to sign *pacts* or *conventions* bearing on matters and programs of actions reached by consensus. Once ratified, these juridical instruments will have the force of law in participating nations. By this means, it is easy to bury progressively first the spirit and the letter of the 1948 Declaration, then national legislation.³ Furthermore, it is easy to pass out as "new rights of man" what is nothing else than the product of a consensus which produces conventions, etc.; here we go again!⁴

Several conflicts have already arisen between national legislation of States and the conventions of the UN. We can cite, for examples, the pressures brought to bear by UNICEF on the Australian government concerning national laws regulating the imprisonment of minors, concerning the aborigines, immigrants, etc. And so it is a question as to what remains of the autonomy of sovereign nations if these same nations are ruled by the UN's conventions. Another example is furnished by Great Britain. Its national legislation recognizes the rights of parents to decide if their children may or may not attend classes in sex education. Opposed to this right of parents is respect for the UN's tract on the rights of the child.⁵

Totally abolished is the very important distinction between the rights of man proclaimed by the Declaration and the national laws which concretize their expression. There remain alone the "juridical" texts, produced by the initiative of an organization that increasingly exceeds its mandate. Is it necessary to indicate that these texts are approved by assemblies of suspect representativity, by means of the votes of representatives stricken with aphasia and exposed to the most subtle forms of corruption, seduction and coercion?

In the end, then, what is at stake is the very existence of States and nations, which will be reduced to nothing more than chambers of ratification (for parliaments), or executives deprived of all responsibility (for governments), or judges whose principal task will be to eliminate the force of national legislation, if this trend is not stopped. This same undermining practice is, moreover, already at work in international economic relations, in which nations are increasingly treated as units of production before being integrated into a "global" project that supersedes them.

This inverted, purely "positive" or voluntarist conception of man's rights obviously destroys the *principle of subsidiarity*, prerequisite of all international society and keystone of all democratic thought. If we open our eyes, we will see emerge a *System of Unique Thought*, totalitarian in inspiration, in its methods and ends, a system that wrecks political life, destroys the roots of every intermediary body, muzzles civil society, and enthrones a totalitarian juridical voluntarism of worldwide extension. If the rights of man such as were proclaimed in the 1948 Declaration are essential to any democracy and to peace among nations, the way "rights" are presented today in the international assemblies makes them heralds of a new totalitarianism put into place by those who have the elbow room to manipulate international institutions and form public opinion.

Passions as Values

At the very beginning of the new conception of man's rights, we find an over-simplistic conception of man. The present hyperliberal climate pushes individualism to its limit. *We are living through an anthropological revolution*: man is no longer a person, a being open to others and to transcendence; he is an individual dedicated to choosing truth for himself, to choosing an ethic; he is a unity of force, interests and pleasures.

This anthropology, basically materialistic, immediately involves a purely empirical conception of *value*. There can no longer be any room for objective moral norms common to all men; it is no longer a question of values which would be enjoined on man because desirable in themselves. It is no longer a question, for example, of bowing before the dignity of every human being, whoever he is. From now on the new values, which Gérard-François Dumont calls inverted values,⁶ are the result of utilitarian calculation ruled by consensus. These inverted values are expressed in the frequency of choice observed among individuals. Values? In the long run, they are what pleases individuals. Now such values cannot but divide men, for out of mimicry I will desire what the other man desires.⁷ In the end, then,

this conception of value is not only destructive of the social tissue, but it also serves as the prelude to barbarism.

With such a conception of man and of value, man's rights wind up being reduced to an unstable catalog of periodic claims of individuals, obtained by means of successive consensual agreements and reflecting an arithmetic of interests. Since there are no longer any objective values, and, in any case, reason is not capable of knowing them, value in its inverted conception is, in the end, that which satisfies man's passions. In sum, *the fundamental right of man is the right to satisfy his individual passions, and that is what positive law should confirm.*

Happiness does not depend on the common good any longer, since there is only particular good. And there we are in opposition to traditional humanism, according to which happiness depends on the common good, thanks to which the city, concerned about general justice, endeavors to offer to each and every one of its members the best conditions for personal development.⁸ With the destruction of the universality of man's rights, happiness is reduced to being the residue of pleasure, and only of individual pleasures.

From Individual Violence to Institutional Violence

It follows that it is the same with consensus as with the general will: it is dressed up in "civil sanctity", those who fail to reverence it are guilty of civil impiety and must be punished for not having submitted to it.⁹ That is why every time individual, not personal, "new rights" are passed in the name of an inverted conception of man's rights — the right to homosexuality, euthanasia, suppression of parent's oversight of their children, pedophilia, divorce, prostitution, etc. — we advance a step in the march toward civil sacralization of violence.¹⁰ To this advance contribute, not only political decision-makers, or the media, but also Christians too anxious to grasp the hand extended to them, still today, by the angel of darkness.

However, for good measure, at the end of this neo-Nietzschean journey, the right to individual violence will have to be *protected* and guaranteed by *institutional violence*. This latter will, moreover, be twofold: it certainly aims at the bodies having become "available." But it aims above all at the psychological *me* of individuals. For the best way of halting opposition and deviance is to prevent it by imposing on all men the same "new ethic" recorded in the convention, having the force of law.¹¹ By its very nature, this same "new ethic" will then be intolerant, as it must be to be able to procure social uniformity and make individuals unidimensional. It will then call for a

civil inquisition, for which the International Penal Court, created in July of 1998, would be able to become the highest tribunal. Furthermore, one of the problems to be faced with regard to this Court is the separation of powers. The point is to know whether this Court will have enough independence not to be an instrument at the service of the UN machinery. Will it be empowered to exercise juridical control over the UN?

Thus, slice by slice, as in the salami tactic, the so-called "new rights" of man, speciously ordered by a UN decidedly led astray from its origins, are shown to be a coldly calculated construction which already provides itself with instruments of world-wide enforcement.

¹ We will return to this capital point in Chapter XV.

² Visit the web-sites: <www.ippf.org or www.ippf.org/newsinfo>

³ The procedure which we describe here and which consists in legislating by bypassing national authorities is described and recommended, for example, in "Advancing Reproductive Health through Human Rights and Laws," anonymously published in *Progress in Human Reproduction Research* (Geneva), a bulletin coproduced by UNDP, UNFPA, WHO, n.50 (1999) 1-4. See another article in this same bulletin: "Protecting Reproductive Health through National Policies and Laws," 6.

⁴ Christine de Vollmer has succeeded in bringing to light the pitfalls of these "new rights" in *Is "Reinterpretation" Making a Tragedy of Human Rights? pro manuscripto* of eight pages (Washington, D.C., 1998).

⁵ Cf. the dispatch of the Zenit agency, March 25, 2000: *Análisis: Soberanía nacional: conflictos con los tratados de la ONU*.

⁶ On this subject see Gérard-François Dumont, *Le festin de Kronos* (Paris: Fleurus, 1991).

⁷ In some famous works René Girard has developed the thesis of "mimetic rivalry." See, for example, *La violence et le sacré* (Paris: Grasset, 1994) esp. 201-234; *Quand ces choses commenceront. . .* (Paris: Arléa, 1994) esp. 27-48; 70-78.

⁸ Cf. Mary Ann Glendon, "Du bon usage de la Constitution américaine," *Pierre d'angle* (Aix-en-Provence) 3, 1997, pp. 39.

⁹ See above "The Civil Sanctity of Laws."

¹⁰ The bulletin *Progress*, cited in note 3, carries on p. 8 a brief article devoted to "Reproductive Rights of Adolescents: The Role of Social Science Research." For her part, Anna Graham explains the advantages presented by various methods of contraception for adolescents in "Contraceptive Clinics for Adolescents," the IPPF *Medical Bulletin* (London), June 1998, pp. 3 f. The profound reason why these services must be offered to adolescents appears in the very first sentence of the article: "More than a billion inhabitants are between 10 and 19 years old: a fifth of the world's population"; emphasis ours.

¹¹ The facts about this "new ethic" are presented in the "Rapport de la Commission mondiale de la culture et du développement." This report, presented in November 1995 by Javier Pérez de Cuellar, President of the Commission, is entitled *Notre diversité créatrice* (Paris: Ed. UNESCO, 1995). See above all Ch. 1, "Vers une éthique

universelle," pp. 35-55. The part played by Hans Küng in the development of this "new ethic" is evident in his contribution to the *Power of Culture Conference*, organized on Nov. 8-9, 1996 at Amsterdam by the Development Cooperation Information Department of the Dutch Ministry of Foreign Affairs. Küng's contribution is entitled "A New Global Ethics"; it appears on pp. 55-67 of the *Power of Culture. Conference Report* (2nd ed. The Hague, 1998). This can be completed by the *Manifeste pour une éthique planétaire. La déclaration du Parlement des religions du monde*, edited with commentary by Hans Küng and Karl-Josef Kuschel (Paris: Cerf, 1995).

CHAPTER IV

THE EARTH CHARTER AND THE ECOLOGICAL IMPERATIVE

The errors of the UN in the matter of man's rights can be illustrated by another example that calls for great vigilance. By way of final elaboration, the Earth Charter confirms the fact that the UN is determined to *deify* the Earth and *desacralize* man.¹

THE ORIGIN OF THE CHARTER

A Labored Birth

The origin of the Charter goes back to the UN Conference held in Stockholm in 1972. This conference was devoted to the environment.² The work of this conference was pursued by working sections. Profiting from these efforts, the Brundtland Commission emphasized in 1987 that it was urgent to create a new charter on the place of man for sustainable development. President of the Commission bearing her name, Mrs. Go Harlem Brundtland was chosen president of the Earth Summit held in Rio de Janeiro in 1992. She was then in 1998 designated Director General of the World Health Organization.

At Rio, it was under the impetus of Gustave Speth, Secretary General of the Summit — later to become the Administrator of UNDP — that the Earth Council was constituted at the end of 1992, a non-governmental organization whose seat was in Costa Rica.³ The Council became the Secretariat charged with the preparation of the "rough draft" required by the Commission for the Earth Charter. The Council worked on the charter project with another nongovernmental organization, the International Green Cross, founded in 1993 by Mikhail Gorbachev.

Diverse meetings have been organized or planned for pursuing the elaboration of this draft. If we are to judge from the slowness of

the work, the number of ad hoc meetings, the few published results and the resources invested, we have to acknowledge that the birth is abnormally laborious. In itself, this fact alone suggests that the dissemination of the final text will have to be consistent with a sequence of events according to an already determined calendar.

Among the meetings devoted to the composition of the charter's draft, there figure the meeting at The Hague in 1995, as well as that in Rio in 1997, which was planned as the celebration of the fifth anniversary of the Earth Summit.⁴ In September 1998, the Earth Council organized at Cuiaba (Brazil), with the support of UNESCO, the Continental Conference of the Americas (Conferencia Continental das Americas). The objective of this conference was to prepare the Charter on the American level. At this moment, the proclamation of the Charter was planned for January 2000, but it never took place. Announced many times, this proclamation was often reported. Decidedly indefatigable, the writers of this interminable draft met once again in Paris, at UNESCO's headquarters, during March 12-14, 2000.⁵ As for the Earth Council, it met again during June 24-29, 2000, at San José in Costa Rica.

A New Dialogue

Presently, a group of some twenty-five members is working on the preparation of the Charter. This group includes personalities as famous as Toumani Toure, Kamla Chowdry, Mercedes Sosa, Princess Basma Bint Talal, Ruud Lubbers, and Mikhail Gorbachev. At the conclusion of the meeting at UNESCO headquarters in March 2000, Gorbachev wanted the Charter to become the "decalog of the new global ethic." The head of this group is a veteran of the UN, Maurice Strong.⁶ He hopes that the Earth Charter will be welcomed like the 1948 Declaration. This Charter would have to give rise to a *Universal Code of Conduct* and replace the moral codes of traditional religions as well as the values presently acknowledged. Excuse us a little.

The writers of the "reference draft" of the Charter actually work under the direction of Professor Steven Rockefeller, who stepped into the breach for the moment. They hope to be able to have the product of their labors adopted by the UN in 2002, on the occasion of the tenth anniversary of the Earth Summit.

Another working session took place at the end of June of 2000 at The Hague. The interest the government of the Netherlands has in the Charter is confirmed by the presence of several Dutch personalities at this meeting: Ruud Lubbers, Laurens J. Brinkhorst, Phon van

den Biesen, Anne Lie van der Stoel, W.J. Deetman, etc. Her Majesty Queen Beatrice of Holland felt that it was her duty to put in an appearance at this meeting.⁷

EXCERPTS FROM THE DRAFT

The charter project, such as it appeared in the draft of 2000, obviously contains measures that are especially interesting. On the other hand, the abandonment of anthropocentrism justifies great apprehension. Man no longer stands out from the surrounding world; he is but a fragment of it. The proposed title of the document must be taken literally: it is a question of a charter that consecrates the pre-eminence of the surrounding world in relation to the beings that arise from it by way of evolution and are subordinate to it. The English word *sustainable* (as well as the Spanish *sostenible*) which is habitually, but badly, translated by the French word *durable*, appears about twenty times in the text. It means that the ultimate criterion by which any political, economic, social, etc. program is decided is presented as the determined, necessary constraints imposed by the Earth on everything found in it.⁸ Here are a few revealing extracts attached to this draft.⁹

Preamble

We are at a critical moment in the history of the Earth, the moment for choosing its future. . . We must unite to found a sustainable global society, based on respect for nature, universal human rights, economic justice and the culture of peace. . . .

Humanity is part of a vast evolving universe. . . The surrounding global milieu, with its finite resources, is a preoccupation common to all peoples. Protection of the vitality, the diversity and beauty of the Earth is a sacred duty. . .

The dominant models of production and consumption cause the devastation of the environment, the exhaustion of resources and the massive extinction of species. . . An increase of the human population without precedent has overburdened the economic and social systems. . .

Here is our choice: to form a global society to take care of the Earth and one another or to expose ourselves to the risk of destroying ourselves and the diversity of life.

We urgently need a shared vision of the basic values that offer an ethical foundation to the emerging world community. For that, together and with great hope, we affirm the following principles, which are interdependent for a form of sustainable life, as

a common foundation by means of which we must guide and evaluate the conduct of persons, organization, enterprises, governments and international institutions.

Principles

To recognize that all beings are interdependent and that every form of life, independently of its usefulness, has value for human beings. . .

To insure universal access to health care that promotes reproductive health and responsible reproduction. . .

To insure that important information vital for human health and the protection of the environment, including genetic information, be available to the public domain.

To affirm the equality and fair treatment of gender as a prerequisite for sustainable development and to insure universal access to education, health care and economic opportunity.

To insure the human rights of women and girls and to put an end to all violence against them.

To strengthen families and guarantee the security and loving education of all their members. . .

To eliminate discrimination in all its forms, such as those based on race, color, gender, sexual orientation, religion, language and national, ethnic and social origin. . .

To demilitarize national systems of security to the level of nonprovocative defense and to employ military resources for peaceful ends, including ecological restoration. . .

To recognize that peace is the integrity created by correct relations with oneself and other persons, cultures, other forms of life, the Earth and with the greater whole of which we are parts. . .

THE CHARTER'S IDEOLOGY

A "Remake" of Evolutionism

With a reading of these brief extracts, and even more so with a reading of the whole text, it becomes apparent that the Earth Charter is impregnated with all the stereotypes disseminated by the New Age.¹⁰ One notices especially the central place given to the theme of holism: the great whole of the surrounding world has more reality than the elements that come from it and are part of it.¹¹ We are going to explain what the Charter owes to contemporary evolutionary currents.

The Earth Charter faithfully reflects, while simplifying them, the contemporary versions of evolutionary scientism. These versions are presently riding on a new wave, especially in Anglo-Saxon circles.¹² According to this evolutionism, man belongs to the living world whose genetic code is universal. One also concludes that man has no biological specificity that allows him to claim that he rises biologically from the rest of the living world. Like all living beings, man is the product of an evolution extending over billions of years and going back, in the final analysis, to matter.¹³ In the name of biological scientism they reject anthropocentrism in the Western and Judeo-Christian traditions. All the "humanism" of these latter must be rejected as "pre-scientific."¹⁴

This summary vision of evolution, to say the least, fails to recognize a fact which, nonetheless, pertains also to the process of evolution, namely, the appearance in man of the ability to wonder, to inquire about the meaning of things, the meaning of his existence, the meaning of his life and death and the necessity of freedom.

Since this radical evolutionary current, when all is said and done, relates everything to matter, it no longer makes sense to speak of man's dignity or rights. On the contrary, man must accept his ephemeral situation in the evolution of the material universe. As the draft of the Charter invites him to do, he must regard the protection of the "vitality, diversity and beauty of Earth as a *sacred* duty" (our emphasis). Man must, then, acknowledge, not only the rights of Earth in general, but also the rights of living beings, especially the animals. In brief, man must accept being subject to the ecological imperative.¹⁵

By supporting the Earth Charter, the UN supports this *remake* — this new rehash — of Darwinian evolution completed by Galton's eugenics. The Charter is, in effect, criss-crossed by the idea of selection: not only the natural selection as presented by Darwin and Malthus, but also the artificial selection recommended by Galton. According to the Charter's ideology, man's respectful management of the Earth demands taking into account the criteria of quality. Biology and genetics furnish, along with these criteria, the instrument allowing their application.

The Blank Check of the UN

The Earth Charter thus claims to cut short authoritatively a debate that has been discussed in intellectual circles since the nineteenth century. Unfortunately, it totally ignores the complexity of this debate and opens it wider than ever. It takes no account of spiri-

tual evolutionism, illustrated notably by Bergson and a great number of other philosophers and biologists of worldwide reputation.

By reason of its precarious foundations, the Charter risks being stillborn, because it leaves in parentheses the present discussion to which it refers. Nowhere does it make allusion to the return in force of finality.¹⁶ Finality welcomes the question of learning why things were made. In the philosophy of science, the influence of final causes is more and more admitted in explaining the order of the world. The Earth Charter regards this debate between materialistic evolutionism, on the one hand, and on the other, spiritual evolutionism and finality, to be closed.

Thus we see revealed the ideological character of the document, using language that claims to be scientific in order to have accepted a vision of the world and man totally closed to transcendence. More precisely, the Charter aims at having accepted as solely valid the mechanistic and immanentist holistic paradigm as well as the purely utilitarian values that are its corollary. There is a whole series of phenomena that are determined in time and space. It is up to man to submit to these determinisms.

One last question remains. In whose name and in virtue of what mandate have two nongovernmental organizations, the Earth Council and the Green Cross, undertaken the mission to prepare this Charter? In the UN system, the representative quality of these two nongovernmental organizations is nil. Strictly speaking, this document should bind only those who drew it up. And neither famous name-dropping by the media, nor the invoking of "wide consultations" will permit them to "drug" this document with any kind of legitimacy.

Finally, we must wonder: in the name of what does the UN consider itself authorized to confer upon this initiative a blank check, which, in all logic, must lead to rendering ineffective the realist conception of man's rights?

¹ On the Charter consult web-site <www.earthcharter.org>

² In addition to those mentioned here, several authors have developed alarming proposals regarding the environment and draw inadmissible projects from debatable premises. See, for example, Lester R. Brown (et al.) *The Environmental Trends that are Shaping our Future*, published in the series *Vital Signs* (New York and London: Norton, 1997).

³ Regarding this Council see <www.ecouncil.ac.cr>

⁴ We touch on this point in *The Demographic Crash* (St. Louis: Central Bureau, 2000) 63.

- ⁵ For more information on this Charter see <<http://pagina.de/noticiasdelaonu>> This web-site from now on will be called Noticias globales.
- ⁶ On March 5, 1998, Maurice Strong gave an interesting interview on the Charter: see <www.earthcharter.org/welcome/intro_fr.htm>
- ⁷ Always inclined toward messianism, Holland for a long time has been one of the leading laboratories of the "new rights of man." When it is a question of financing campaigns in favor of these, Holland shows a prodigality hardly customary. Spinoza's adopted country has already acquired a funereal renown due to its abortions à la carte and its having made euthanasia commonplace. On September 13, 2000, Holland legalized "marriage" between homosexual persons and matched this with the "right of adoption."
- ⁸ Regarding the manipulations of which ecology is the object, let us point out the work of Pascal Bernardin, *L'Empire écologique ou La subversion de l'écologie par le mondialisme* (Drap: Notre-Dame des Grâces, 1998).
- ⁹ The complete text is available in English, Spanish, Portuguese and Japanese at the web-site mentioned in note 1. We have literally translated this using the Spanish text.
- ¹⁰ We have offered a study of the "New Age: Its Paradigm and Networks" in Chapter IV of *The Gospel Confronting World Disorder* (St. Louis: Central Bureau, 1999).
- ¹¹ The principal theorist of holism is a South African, Jan Christiaan Smuts (1870-1950). He played a significant role in the composition of the United Nations' Charter. See *The Gospel Confronting World Disorder*, Chapter IV, note 2.
- ¹² Bertrand Russell's influence (1872-1970) is very visible in the present debates on evolution and the "new rights" of man. The familiar theses of the turbulent English philosopher have been assembled in a work characterized by a second-rate anti-Christian bias: *Religion and Science* (Oxford: University Press, 1961).
- ¹³ In a reworked formulation we find some themes that flourished in the eighteenth century in an author like La Metterie. For this materialistic doctor, "The human body is nothing but a clock" *L'homme machine* (1747) (Paris: Ed. Mille et une nuits, 2000).
- ¹⁴ We have already touched on the question of anthropocentrism: Chapter II, *Man in the Reality of the Whole*.
- ¹⁵ Regarding the themes discussed here see Luc Ferry, *Le nouvel ordre écologique. L'arbo, l'animal et l'homme* (Paris; Livre de Poche, 1998), as well as the works of André Comte-Sponville.
- ¹⁶ See, for example, Michael Denton, *L'Evolution a-t-elle un sens?* (Paris: Fayard, 1997); *Evolution: A Theory in Crisis* Bethesda, Md.: Adler & Adler, 1986.

CHAPTER V

THE RIGHTS AGAINST THE RIGHT

Up until now we have seen that the UN has adopted and wants to impose on the entire world an interpretation of man's rights at once inverted, voluntarist and holistic. By means of successive slices, as is appropriate to the salami tactic, the UN has cunningly repudiated the traditional conception of man's rights. Evaluating its words, we have to state that the movement of which the UN has taken the leadership cannot but lead to the abyss. That is what we are about to demonstrate.

From Individualism to Absolutism

In order to reply to the utilitarian and hedonistic justifications of some individuals, it is helpful to remember the Hobbesian approach. We have to see in the *Leviathan* a foreboding vision of what is unfolding before our eyes. As the author of the *Leviathan* shows, in order to be consistent, hyperindividualism calls for not only an enlightened *absolutism*, but also an "enlightened" *totalitarianism*.¹ The new Leviathan finds its incarnation in a technocracy that dictates to individuals what, for them, are the paths of justice and happiness.

Such is the trend towards which the UN is inevitably rushing to the extent to which it has committed itself to rendering ineffective the anthropological and moral foundations that justified its birth and legitimized its mission of peace and development.

Certainly, for the moment, the worldwide directorate that is being put in place under its aegis is not a government by judges. It is rather a government by administrators who want to rule the planet by destroying whatever national legislation gets in its way and by neutralizing dissidents. In fact, as we have already pointed out, most national laws honor the rights of man as they were proclaimed in 1948. But the UN bureaucrats are trying to appropriate juridical instruments that avoid national control. With the help of certain non-governmental organizations having a lot of resources and organized

as a permanent *forum*, the law proper to nations tends to be drained of meaning and the political power of these sovereign nations tends to fade like a face of concern. Once the law of nations has been emptied of its substance and their political power wrecked or bought, these nations will find themselves deprived of all the defenses against totalitarianism that their traditional right afforded them — the “new” rights against the Right, as it were.

The precedent set by Kelsen should be remembered:² The triumph of juridical positivism constructed by this author deprived Austria and Germany of the law inspired by classical thought which had been a powerful weapon to prevent and combat Naziism.

What International Penal Court?

Well founded, then, are the fears linked to the creation, on July 18, 1998, of the International Penal Court.³ Without doubt, this Court, desired by the UN for a long time, fills a serious lack, since its objective is to punish war crimes, crimes against humanity and genocide; it will also have a deterrent role of great importance. We must also point out, somewhat tardily, that the creation of this Court is consistent with the line of traditional thought on man’s rights, in the name of which the two Nuremburg trials were held: that of the leaders of Nazi organizations (from November 20, 1945 to October 1, 1946) and that of the Nazi doctors (from December 9, 1946 to July 30, 1947).

But under pressure from certain lobbies, especially radical feminists and/or homosexuals, the competence of this Court could extend to “crimes” concerning the so-called “new rights of man” obtained by way of “consensus,” protected by convention and fluctuating according to the inclination of jurisprudence and of forces making themselves felt. The conception of man’s rights to which the International Penal Court will have to refer, then, already appears to be a hybrid, since it sways from the realist conception of man’s rights to the consensual conception expressed in the so-called “new rights.” This flaw risks compromising the Court’s credibility and exposes it to manipulations of every sort.

Thus, after the approval of the new instruments like the Declaration on the Defenders of the new rights or the Earth Charter,⁴ crimes against the “new rights of man” could be judged by this Court. For example, to the extent that abortion or homosexuality are recognized as some of the “new rights of man,” opponents of abortion, homosexuality and euthanasia, etc., could be judged by the International Criminal Court.⁵

Added to this basic fear is the fact that neither the United States nor China adopted the Treaty. In effect, they fear that some of their citizens, among others the military people, might be prosecuted directly by this jurisdiction. Here called into question, once again, is the sovereignty of States, and more precisely "national competence."⁶ How can a State admit that one of its nationals can be directly cited to appear before this Court without seeing in this citation an infringement on its sovereignty?

Finally, one can fear that this International Penal Court might pursue an evolution similar to that of the U.S. Supreme Court. It is well known that this latter, in fact, plays an excessive role in legislative matters, a role that the Constitution does not recognize. We also know that this same Supreme Court has weakened the jurisdiction of the federated States.⁷

The Declaration on the Defenders of the "New Rights"

Other reasons for worry arise concerning the Declaration on the Defenders of the Rights of Man. On November 26, 2000, the UN's Commission on the Rights of Man, meeting in Geneva, adopted, by a vote of 50 out of 53, the resolution creating the post of Special Representative of the Secretary General of the UN charged with the protection of defenders of the rights of man.⁸ The wording of this text's title, disseminated in March of 2000, reads: "Declaration on the right and responsibility of individuals, groups and organs of society for the promotion and protection of the universally recognized rights of man and of fundamental freedoms."⁹

This Declaration project was first discussed in May of 1998 by the UN's Commission on the Rights of Man meeting in Geneva. The Declaration needed to be recommended by the ECOSOC (Economic and Social Council of the UN) during its summer session of 1998 (end of July to beginning of August); it had to be approved in mid-September of the same year by the General Assembly of the UN. According to this Declaration, the "new rights of man" would have to be actively promoted and quickly made part of national legislation. While the promoters of these "new rights" (Human Rights Workers) would have to be protected, those opposing them would have to be prosecuted and punished. The opposition could be States, groups or individuals.

The Declaration aims first of all at sheltering the most radical "defenders of the new rights of man" from all opposition and attack. These "defenders" will, then, need to have the benefit of the protection of the UN and the States. Thus, even national laws punishing

sexual perversions can wind up being abolished. Neither States nor individuals will be able to oppose these practices once they have been granted the label "new rights of man" (cf. art. 7 of the Declaration on the Defenders¹⁰). In its last formulation, article 7 reads: "Individually or in association with others, everyone has the right to develop and discuss the ideas and principles of the new rights of man and to advocate their acceptance." And so the defenders of the rights of man would be able to declare as "new rights" ones that haven't even been "negotiated." Moreover, in order to have these "new rights" respected, they would benefit from the guarantee assured them by the Declaration. The latter guarantees, in effect, not only the privilege of initiative, but also that of immunity.

It follows that, to the extent that the universal Declaration of 1948 is in opposition to the prerogatives of these defenders of the rights of man, the 1948 Declaration will have to be considered as discriminatory and treated as such. Especially explicit is art. 9 of the Declaration on Defenders which provides that individuals and associations opposing these so-called "new rights" can be — and even must be — prosecuted in justice. As for art. 12, it provides that States will have to protect the defenders of the "new rights," restrain and even punish those who oppose them.

These prosecutions will be within the competence of national jurisdictions, but no doubt is left that they will belong equally to the International Penal Court. The association NAMBLA (North American Man/Boy Love Association) has already made it known that it hopes to take advantage of the protection afforded by the Declaration to protect itself against those opposed to pedophilia.¹¹ Furthermore, voices have already been raised to call for "sexual majority" at ten!

MAI, Really?

The influence of this totally positivist new conception of right is even perceptible beyond the strict limits of the UN. At OECD, and with a suspect discretion, the principal industrialized countries discussed a Multilateral Agreement on Investments, called MAI.¹² If the 29 countries concerned arrive at a "consensus," the rights which the investors will have determined and arrogated to themselves will impinge upon the rights of all the other countries. The rights of poor populations to foodstuffs, health, education, even life: all these rights will be subordinated to the discretionary will of the oligopoly resulting from the MAI.

Furthermore, according to an analogous plan we have pointed out in the UN, to be effective, this MAI will have to be able to count on an appropriate jurisdiction. The multinationals will exercise here a pressure exercised elsewhere by nongovernmental organizations. They will eventually be able to prosecute the recalcitrant States that are opposed to the interests of the signatories of the MAI.

All during this review, a question has been arising with increasing clarity. Does Europe, more precisely the European Union, subscribe to this UN vision of "new rights"? Isn't it from Europe that a liberating impetus can arise? That is what we will have to examine ultimately.¹³

¹ On the difference between these two notions, see our INTRODUCTION.

² We will take up Kelsen in PART TWO.

³ In order for the treaty concerning the ICC to take effect, 60 signatures are required. France was the twelfth country to ratify it, June 9, 2000.

⁴ See below; on the Earth Charter see above, Chapter IV.

⁵ During the discussions that preceded the creation of the new Court, the radical feminists were very active. They would have wished that every pregnancy occurring in a context in which there was "no right to abortion" could be denounced as an enforced pregnancy. If they had been successful, States refusing abortion as well as groups or persons opposing it could have been hauled before the new International Penal Court.

⁶ The area of national competence is mentioned in the Charter of the United Nations, art. 2 § 7.

⁷ This reflection was suggested to us by Mary Ann Glendon in her "Du bon usage de la Constitutions américaine," a brilliant interview published in *Pierre d'angle* (Aix-en-Provence) 3, 1997, pp. 35-46; esp. p. 43.

⁸ A visit to the following web-sites is recommended:
 <www.hri.ca/uninfo/hrbodies/defender.shtml>
 <www.unhchr.ch/html/intlinst.html>
 <www.lchr.org/lchr/un/defenders.htm>

⁹ The text carries the mark A/RES/53/144. See the references to this text to the preceding note.

¹⁰ Some extracts from the project on the Declaration on the Defenders of the Rights of Man were published in *Le Monde* of Dec. 8, 1998; curiously, art. 7, which is especially important, is omitted from this selection.

¹¹ On this association see "USA : enquête sur la responsabilité des groupes pédophiles," *Correspondance européenne* (Rome, Brussels, Paris) CE 48, Aug. 10, 2000, p. 6.

¹² This project was denounced with special force on the occasion of the "Nuit des Césars" by the French actress, Brigitte Fossey, a member of the Economic and Social Council, in an interview with RTBF (Brussels), March 1, 1998.

¹³ See Ch. IX.

CHAPTER VI

FROM TOLERANCE TO SECULAR INQUISITION

That the UN's "new rights" of man are actually bearers of a new totalitarianism is confirmed by the incessant and specious recourse to tolerance. We are going to show, first of all, that the use of this word masks a relativism ready to accept everything, including the worst. Then we will show that this tolerance is utilized by international secularism to impose an inexorable anti-Christian rationalism.

TOLERANCE AND VIOLENCE

From Doctrinal Tolerance to Civil Intolerance

Starting from the time of the wars of religion and under the impetus of Jean Bodin, this theme of tolerance has been strongly developed since the sixteenth century. Little by little, Illuminism treats this theme in itself. These developments result from the increasingly clear affirmation of the autonomy of the individual, his claim to freedom of thought, his "rejection of dogma" (understanding here every revealed truth and its possibility) and of all authority. It also flows from skepticism or philosophical agnosticism: from the moment in which no one is able to know the true and the good, everyone must respect the opinions and decisions of others. Tolerance, thus conceived, evidently implies a moral relativism from which one can escape by choosing — "in complete freedom" — what pleases him, whatever is useful.

This tolerance, which we can call "doctrinal," nevertheless has to be distinguished from true tolerance, "civil" tolerance whose objects are not philosophical or moral positions, but concrete men and women. I must respect them whatever may be their opinions.¹

At first glance, the distinction between these two forms of tolerance is clear and neat. For example, I can very well respect M.

Dupont, even if he does not share my philosophical opinions. However, in reality, things are often more complicated. That is precisely the case as soon as human rights and democracy are called into question. In effect, if I state as a principle that society in general, and political society in particular, must have total doctrinal tolerance, that is, indifference before all questions of truth, good or evil, etc., this same society will obviously find itself completely incapable of saying what men's rights are. This void of references recognized as true plunges society into the unknown, and even the unknowable, realm of what is good or bad for man and for society.

By reason even of the agnosticism which it implies, doctrinal *tolerance*, with its whole relativism, finishes, then, sooner or later, by leading to civil *intolerance*. In effect, if, according to *my* conception of morality, I can exploit, exclude or eliminate others, they must give evidence of tolerance toward me and let me exploit them. There are no longer any landmarks, since there are no longer any foundations; there is no longer anything forbidden, since there is no longer anything to transgress; nothing any longer prescribed, since there are no longer any duties. To claim that civil tolerance is possible where all affirmations are true or false, the one as well as the other, is to ignore man; it is to deny his sociability and, very shortly, to send him back to the jungle.

Now, precisely because the theorists of doctrinal tolerance lay down the principle that "all ideas are equal," and that, hence, specters of the jungle or anarchy are not far off, we must find a way out of this *cul de sac*. We know what is happening, of course. A first step is to empty of their substance the 1948 Declaration and other documents pertaining to the same humanist tradition. One begins by introducing derogations or corruptions. The Veil Law of 1975, legalizing abortion in France, derogates from the fundamental right of every human being to life, which it nonetheless affirms in the first sentence of article One. With the second sentence of this same article, the derogation is introduced, and it is legalized in the following articles.

The *derogation* in itself reveals the embarrassment, the shame, and even the bad faith of the legislators: under the conditions they define, they *permit* or *authorize* an attack on human life; the idea of an evil they are admitting still underlies their law. Now derogations are quickly erected into "new rights." There is no longer any question of considering that man and his rights are the primary data. *Civil tolerance*, which would lead to recognizing that man is the subject of these rights, is here disqualified in the name of subjective relativism and *doctrinal tolerance*. And so, to get out of this impasse, one con-

structs a new conception of the rights of man which has no connection, either in its source or content, with the traditional humanist conception, as we have already explained in our analysis of consensus.²

AN ANTI-CHRISTIAN RATIONALISM

In practice, the theme of tolerance is a screen used by international secularism to mask its desire to impose and spread abroad fundamentally anti-Christian rationalist thinking.

By *secularism* we understand, for one thing, a totally rationalist *doctrine* that fights for the elimination of all Christian, and in general religious, belief. This doctrine gives rise to programs of action. By *secularism*, we understand, secondly, *movements* of militant activity aimed at realizing the triumph of this antireligious rationalism among individuals and in society. It is well-known that Freemasonry is one of the principal purveyors of secularism, understood in the two senses we've just mentioned.³

Now this secularism is presented as the guardian of tolerance, but a tolerance that has a pitfall, as we have explained. In fact, in the name of this tolerance, what this secularism desires is to smother the voice of the Church, under the pretext that she would be "intolerant" by reason of the fact that she proclaims a true message, and that she admits the entry of God's revelation in time.

Secularism thereby goes back in time. It reproaches today's Church with desiring to intervene in an untimely fashion in political affairs in the name of her doctrine and morality. That is a matter that without doubt arose in the history of the Church, but it is no longer true today. For a long time every theocratic tendency has been gone from the Church; it exists, however, in non-Christian religions, such as Islam.

On the other hand, this same secularism of which we are speaking wants to restore, to its profit alone, a kind of caesaropapism that is totally secularized, in which Caesar, that is, the political power, wants to govern society and consciences in the name of the religion it institutes. The new caesaropapism consists in imposing complete rationalism on society and consciences by using the label of tolerance. Now, as we have seen, by virtue of its nature this conception of tolerance justifies and even requires the exclusion of dissidents, of those who claim the right to differ, of those who reject this rationalism and remain open to revelation. This so-called tolerance gives rise to a secular religion. It becomes civil religion, a system of unique

thought. It is regarded as legitimizing political power and involves a pitiless secular inquisition in order to protect itself.

Contemporary history is full of instruction on this kind of caesaropapism. Communism, both in its Soviet and Chinese brands, shows very well that a radically "secularist" regime, to be consistent, must be intolerant; it needs to equip itself with a secularist magisterium and instruments for the repression of deviation.

It is toward the restoration of this kind of caesaropapism that the conception of tolerance presently developed, supported and disseminated by the UN leads. The obstinacy which it shows in imposing its "new rights of man" reveals that the UN has the ambition of posing as a secularized church, intending to impose its rationalism on human society and on all consciences.

The link between secularism and tolerance — in the sense we just explained — contains no surprises. Both of them consider as demonstrated fact that Christianity is a danger for political society. More precisely, secularism regards Christianity as intolerable because it would place in danger secularism, that is, the distinction between and separation of Church and political society.

Now, what exactly is involved in this separation, the central characteristic of secularism? It postulates that political power not encroach upon religious power, nor religious power encroach upon political power. We know that presently the separation of the two spheres, political and religious, is no problem in democratic countries. If, then, in the name of secularism, we demand separation of Church and political power, we would only be ramming an open door. On the other hand, when in the name of pseudotolerance, secularism wishes to impose a system of unique thought on societies and institutions, it is not respecting the necessary distinction between the two spheres.

It follows that, if, in the name of secularism, one expects political institutions — national, international or supranational — to give their support to radical rationalism, rejecting *a priori* even the possibility of revelation, then we are returning to a situation similar to that which existed before separation was introduced: Caesar, that is, the political power, is also "pope," that is, head of the civil religion. It imposes its radical rationalism, its secular religion, as an exclusive principle of social integration. Any reference to other principles is destined to be declared irrational and struck with exclusion.

Under cover of freedom and tolerance, we see thus emerging structures of a society in which one sole act of liberty exists: to consent to servitude.

That is where the UN's reading of Hobbesian liberalism, revised and completed by Rousseau's socialism, ends up.

¹ We have examined this question of tolerance in *Droits de l'homme et technocratie* (Chambray-lès-Tours: Ed. CLD, 1982) 28-32; see also *Démocratie et libération chrétienne*, pp. 70 f.

² See above our treatment of "THE TYRANNY OF CONSENSUS."

³ We recommend a visit to specialized web-sites, beginning with: < //humanist.net/websites >.

CHAPTER VII

BEIJING + 5: A HISTORY OF A GRAIN OF SAND

From June 5-10, 2000, a conference of the UN was held in New York celebrating the fifth anniversary of the Beijing Conference.¹ It was concerned with drawing up an account: Was the action plan determined in 1995 carried out? Did it meet any obstacles? What is needed to go forward? This June meeting was officially entitled: "Women 2000: Gender Equity, Development and Peace for the 21st Century."² Some 8,000 participants represented 180 countries, and 2,000 nongovernmental organizations sent delegates.

Despite this deployment of heavy artillery, despite numerous preparatory meetings, this conference ended "without great results," according to the newspaper *Le Monde*.³

THE ACTORS PRESENT

Delegates and Functionaries

Various actors were present. Especially determined was a group of wealthy countries supported — need we say it — by functionaries of the UN. All of them were strongly determined to have adopted, or to accelerate the process leading to the adoption of the "new rights of man" according to the UN.

Let us recall these rights regrouped around "sexual rights":

— The "Gender" Perspective: the role differences between men and women in society are not natural; they are cultural.

— "Sexual orientation": everyone is free to choose his sex or to change it; homosexual unions with the "right" of adoption.

— Multiple “models” for the family: natural, (monogamous and heterosexual), one-parent “families,” same sex unions. The “right” of divorce of spouses or partners.

— “Health services” for women, understanding by that the legalized and easy access to contraception in all its forms and to abortion.

— Obligatory sex education for adolescents from the perspective of “gender” and “sexual orientation”; sexual freedom for adolescents withdrawn from parental control. This item involves easy and discreet access to contraception and abortion at dispensaries and ad hoc clinics set up in the schools. Some went so far as to claim “sexual majority” beginning at 10; others claimed the right to pedophilia.

— Rights of the “sex workers,” spurring the USA to refuse to condemn prostitution; the lax attitude of many countries toward poronography, etc.

As one can see, it is a question here of the “new rights of man” propagated by the UN and/or pushed by representatives of some rich countries: USA, Canada, the European Union.

The Radical Feminists

These same “sexual rights” are noisily supported, and often with an appalling verbal violence, by several nongovernmental radical feminist organizations. At Beijing + 5, they have returned in force with their old tunes. The catalog includes, it goes without saying, the “sexual rights” we just mentioned and, further, the topics of discrimination and work opportunities. Nor did it escapt the habitual return of the self-named “Catholics for Free Choice,” according to whom “the Vatican is opposed to women’s liberation.”⁴

Those Opposed to “Sexual Colonialism”

The “Women 2000 Conference” is distinguished from the others of the same sort by an increasing dissent on the part of certain countries. Several of them from the Mid-East, Africa and Latin America have introduced a grain of sand into the beautiful mechanism. They have rejected the UN Bible concerning “sexual rights” and “sexual orientation.” Special mention should be made of positions taken in these matters above all by Senegal and Nicaragua, but also by Egypt, Libya, Pakistan, and the Sudan. Poland, as well, did not let itself be confounded by the blackmail of marginalization in the European Community in case it would not align itself with the famous “consensus.”⁵

One notes also the role acquired by the Group of 77 which, in fact, presently brings together the 138 developing countries. Most of

these countries are increasingly aware of the danger represented by the ideology of the "new rights of man." They especially realize that this ideology clearly has as its goal the giving of a semblance of "legitimization" to the programs aimed at curbing the demographic growth of their populations.⁶ According to an expression that came to be used at this meeting, most of these countries reject the "sexual colonialism" of the UN and the wealthy countries.

Unfortunately, divisions arose within this Group of 77. The old trick, "divide in order to conquer," was used by the rich countries. Certain delegations have given in to the charms of money. It is but a question of a residual phenomenon. If, in effect, some delegates are sensitive to under-the-table dealings, all are unanimous in recognizing, in private as well as in public, that accepting the "new rights of man" would consolidate the mechanisms keeping them in colonial humiliation.

The Holy See: Realism and Truth

At this Conference, as at the others, the Holy See, represented by the Nuncio Renato Martino, played a major role.⁷ Once more, he made it a point of honor to proclaim the truth. He did this through Kathryn Hauwa Hoomkwap. Charged with the official pontifical pronouncements, this Nigerian led the debate very properly on the level which she never left: that of realism and truth. Opposing the ideologues of sex, the Holy See's spokesman reminded everyone that women needed potable water, nourishment, schooling, work, protection against the ills of poverty, and respect. How could developing countries that had preserved their good sense and their realism subscribe en masse to such a concrete program?

A PROMISING APPRAISAL?

What Surprises?

After this table of contrasts, one will not be surprised to learn that the editing of the final document has held some surprises, good for some, disappointing for others. The passages regarding "sexual rights" and "sexual orientations" were made mincemeat of; the traditional family, that is, natural, was not reduced in value. The Holy See's permanent observer at the UN, Nuncio Renato Martino, had every reason to display his satisfaction over the result of the work. Nor was he the only one to do so.

One will understand, however, that his sentiments were not shared by Patricia Flore, the fidgeting leader of the German delega-

tion. Crushed by her repudiation, she abandoned the ship before the conclusion of work. The disappointment of the European delegates was practically unanimous.⁸ For Madame Nafis Sadik, who had hoped to end her career in grand style, it was, so to speak, the failure of her life. She could not keep back her tears, or her aggressiveness, berating the delegates who had smashed to bits the pre-imposed consensus and exercising her final lack of self-control by pressuring the medical personnel to learn how to perform abortions, even if this is against their conscience! Astonishing way to express her respect. . .

The Power of Prayer and Truth

What happened at the "Women 2000" Conference nevertheless justifies a certain optimism. For the first time in years, realism returned in force. This return to the truth of situations, as well as to the truth about the rights of man and woman, activated among and within Christian circles sources of courage which the irresistible power of a fraternal and prophetic voice was enough to energize.

Reviving interest in truth and justice was favored still more by the entirely justified realization that what the excessive series of preceding meetings left behind was totally ineffective. The countries most concerned with development experienced an increasing weariness before "programs" and "plans of action" which didn't fool them, since the ideology that inspired them gave signs of being out of breath, and let warning creaks be heard comparable to those that preceded the implosion of the Soviet system.

"Women 2000" is especially rich in pointed lessons for Christians. The Conference revealed with lightning-like clarity the effectiveness of prayer and truth. For, let us not forget it, Goliath had decided to rush at David. It is true that Christians were well prepared and organized, and their example deserves to attract a following. "Women 2000," in effect, calls for a follow-up. It is urgent that on national and local levels Christians organize themselves, as they do on the international level, to be able to approach their representatives, governors and delegates, as well as the media on every level, in order to open their eyes to the mined terrain on which they have to maneuver.⁹

The War Continues

But this optimism must remain very moderate, and caution is advisable. Without doubt, the rich countries harassed (ideologically, that is) by the radical feminists committed a major strategic error in claiming to modify substantially the plan of action fixed at Beijing. For manipulation has its limits: the action plan could not be altered.¹⁰

It is true, however, that the final document did not fail to insist that the Optional Protocol had to be signed concerning the Convention for the elimination of every form of discrimination vis-à-vis women. Adopted on March 12, 1999, this Protocol provided for prosecution in cases of "serious or systematic violations of women's rights." It laid bare one's flank to interpretations that went beyond what was agreed upon at Beijing in 1995.¹¹

But the force of inertia of a ship like the UN is such that even if a sudden and radical change of course were decided, it would not be achieved except at the price of immense difficulties and at the end of a long delay. And the UN's decisions have to be reversed. The reason for this is to be found in the fact that all the cogwheels of the UN are impregnated with the ideology of "gender" and the "new rights of man."

That is what is happening right before our eyes with the decline, often alarming, of fertility. And the UN, which recognizes this phenomenon, continues imperturbably to finance campaigns to foster it! Incapable of being recycled, a whole generation of technocrats have to be replaced by functionaries who have a free spirit, who bring new blood in order to be able to produce the ideological purification needed.

Everything leads us to believe that if a battle has been won, the struggle continues, nevertheless. There can be no doubt that those who were rejected in June of 2000 in New York are ready to bounce back with a redoubled determination. Another big conference on women has to be held in 2005. Like all the others, it will be preceded by a whole range of "preparatory meetings." The 2005 conference will be organized in Central or Eastern Europe. It is precisely in these regions that there is such urgency to have "sexual rights" accepted, according to the ardent voices of the *gender* "promoters"

This is an obvious sign that the war continues, even if the front is moved: the European Union is in the process of putting the finishing touches to the Charter of Fundamental Rights, that mistakenly reflects the UN's ideology about the "new rights of man" — a Charter that Europe, without doubt, will try to impose on itself and to export everywhere it finds candidates who are receptive to the ideological swindle.¹²

¹ See *The Demographic Crash*, Ch. IV: Cairo 1994, p. 58.

² The final document adopted by the plenary assembly of the twenty-third special session of the General Assembly for "Women 2000: Gender, Equity, Development

and Peace for the Twenty-first Century," is entitled *Further Actions and Initiatives to Implement the Beijing Declaration and the Platform for Action*; it contains 44 tightly packed pages. Concerning this conference one may visit the following web-sites (found there are the text of the final document as well as a descriptive analysis of it):

<www.un.org/womenwatch/daw/followup/beijing+5.htm>

<www.un.org/womenwatch/daw/followup/analysis.html>

<www.un.org/womenwatch/daw/followup/finaloutcome.pdf>

One may also refer to the information and analyses disseminated by the Zenit and ACI Prensa agencies before, during and after the Conference. Special mention should be made of the dispatches of Austin Ruse disseminated by Catholic Family and Human Rights Institute (C-Fam), especially June 9, 19 and 23. Web address: <www.c-fam.org>; e-mail address: c-fam@fam.org.

³ See the editions of June 11 and 12, 2000.

⁴ On this lobby and its financing see the brochure of Magaly Llaguno and James Miller, *Católicas pelo Direito de Decidir sem Máscaras*, (Brasília; Human Life International, 2000). Web addresses: <www.providafamilia.org>; for English and Spanish: <www.hli.org> and <www.vidalhumana.org>.

⁵ Later we will return to the case of Poland.

⁶ The literature on this theme is legion. See, for example, *A Focus on Population and Human Rights*, a pamphlet published in New York, 1998, by FUND. More details on this subject in *The Demographic Crash*.

⁷ There is available a remarkable collection devoted to the Holy See's activities at the UN. It was prepared by Carl J. Marucci and has for a title *Serving the Human Family, The Holy See at the Major United Nations Conferences*. Its prefaces were written by Cardinal Angelo Sodano, Secretary of State, Archbishop Jean-Louis Tauran, Secretary for Relations with States, and Archbishop Renato Martino, Apostolic Nuncio and Observer of the Holy See at the UN. The work was published in New York: The Path to Peace Foundation, 1997. For a study of the whole work see the book by Jean-Yves Rouxel, *Le Saint-Siège sur la scène internationale* (Paris: Harmattan, 1998). It is a very thorough study, at once historical and juridical, of the Holy See's activity.

⁸ See below: *European Radicalism*.

⁹ See some suggestions in this regard in *The Demographic Crash*, Ch. VIII: A Lobby for the Poor, pp. 97-103, and Ch. VIII: A Pro-Life Action Plan, pp. 105-114.

¹⁰ On this subject see Austin Ruse, dispatch of June 10, 2000, at <www.c-fam.org>.

¹¹ Cf. *The Demographic Crash*, pp. 67-69.

¹² About the European Union case see Ch. IX below.

CHAPTER VIII

THE MILLENNIUM OF ALL PERILS

By reason of its special repercussions and stakes, Beijing + 5 Conference needed the clear expose given to it in the preceding chapter. This conference on women would not, nevertheless, be able to eclipse the events that dotted the year 2000. We are going to examine some of them by highlighting in a particular way the initiatives with which Kofi Annan, Secretary General of the UN, was charged. With this review all the reasons for the preoccupation that we have brought forth until now will appear more precise. We will concentrate our attention on the project of *globalization* already known but confirmed by various converging initiatives. Our attention will focus especially on the economic, religious and political projects.¹

THE REPORT *WE, THE PEOPLE*

A Program Document

In view of the Summit and the 55th General Assembly held in New York in September 2000, The Secretary General has prepared a Millennium Report, entitled *We, The People*, on the role of the UN. Made public on April 3, 2000, this report avoided every reference basic to the 1948 Declaration. It is founded on the values reflecting the spirit of the 1945 Charter: fairness, solidarity, tolerance, respect for nature, shared responsibility. This program document includes different categories:

- New century, new challenges;
- Globalization and government;
- Living shielded from need;
- A world liberated from fear;
- For a viable future;
- Renewing the United Nations.

We will highlight certain theses brought out in these pages and refer to the numbers that figure in the report.

It is necessary to redouble our effort to take action especially on the level of world population, for its growth, important above all in developing countries (93), risks accentuating poverty and inequality (72). Such is the vital lead in the report.

Demography, this report assures us, is not fatal, but it is a major problem both by reason of the number causing poverty and of the destitution to which the population will be doomed, if we do not intervene now in a decisive manner (94).

The report also launches an appeal for the education of girls: certainly one can only subscribe to that. But the reasons advanced for it astonish us since they are ambiguous. The objective is to offer women a vast choice of employment in order to open up for them greater possibilities in life. "Thus, they will be able to marry later, and that will lower the fertility rate" (82 f.).

The centrality of international law and the role of the International Penal Court is also reaffirmed (211). Since man is supposed to be the great predator on the planet, measures must be taken to limit the damage. According to the report, the number of human beings is more the cause of degrading the environment rather than their irresponsible conduct:

During the last hundred years, our natural milieu has had to support the pressures caused by human population growth which has quadrupled, and by worldwide economic production, which has been multiplied by 18. Estimates indicate that world population, presently at 6 billion inhabitants, will reach nearly 9 billion individuals between now and 2050. The risk of causing irreparable damage to the environment really and truly exists (256).

Incorporation into the International Legal System

On May 15th Kofi Annan insisted again on the centrality of international law. In a letter addressed to the participants invited to the September Summit, he insistently asked them to profit from this meeting by signing the treaties and conventions of which the Secretary General is the depositary.² It was up to the invited participants "to seize this unique occasion to express their support in order for them to be incorporated into the international legal system." Among the twenty-five multilateral treaties or conventions that the accredited participants were invited to sign there figured the international Convention on economic social and cultural rights; the international

Convention on civil and political rights; the second optional Protocol of the international Convention on civil and political rights; the Convention for eliminating all forms of discrimination vis-à-vis women (CEDAW); the optional Protocol of the Convention for eliminating all forms of discrimination vis-à-vis women; the Convention on the rights of the child; the status of the International Penal Court. A sign of the importance attached to these signatures was the fact that Kofi Annan returned to the charge on several occasions during the last sessions.

FORUM FOR THE MILLENNIUM

As usual, the nongovernmental organizations have been closely associated with the celebrations of the Millennium. Special mention should be made of the Forum which, once more, reunited them in New York from May 22-26, 2000. Coming from about a hundred countries, 1350 delegates represented the carefully accredited nongovernmental organizations.

During the opening ceremony, Kofi Annan delivered a discourse indicating what the Secretary General expected of the UN. The nongovernmental organizations, Annan points out, "have put pressure on governments and have worked with them . . . The revolution of the nongovernmental organizations is one of the happiest consequences of . . . globalization." The Secretary remarked in this regard that "it is not only peoples and nations that are interdependent but also the problems." Globalization not only concerns the "widest markets"; for it to be "a success, we must learn to govern together better." And he warned: "Your action is concerned with the promotion of women or education, humanitarian aid or health; it cannot succeed unless the benefits of globalization are shared more equitably." Referring to his Millennium Report, of which we just spoke, Annan, solemnly as well as with anxiety, said:

Today I ask you, you the nongovernmental organizations, to be at once the leaders as well as partners: when necessary, guiding governments and arousing them to be equal to your ideals and, when necessary, working with them for the realization of their objectives.

After having asked the nongovernmental organizations to support the World Treaty (of which we will speak below) and having broached the question of moving on technology, education of girls, war and AIDS, Annan became particularly insistent:

By bringing pressure to bear on governments to sign and ratify the international treaties and conventions, you can keep going

the world campaigns that you have already led with success in favor of reinforcing the multilateral norms and the organization of juridical regimes. Once these treaties and conventions are ratified, you can help apply them. Since the creation of the UN, more than 500 multilateral conventions have been adopted; all together they constitute a vast juridical framework which lays the bases of a better world. . . I expect you to do what you know how to do so well: spur the governments into action by demanding that reasons of State give way to the aspirations of the people.

Finally, decidedly not skimping on flattery, the Secretary waxed lyrical:

You would become for sure the new superpower. As for me, I will do whatever I can so that our other partners of the international community will listen very attentively to you.³

Here, then, we behold the reappearance of some of the central themes developed by the UN: globalization and the holism that inspires it, and, above all, setting up the international juridical order. The nongovernmental organizations are being called to echo the UN's orientations by pressuring, even circumventing if necessary, national governments and parliaments.

THE WORLD PACT

The Appeal to the Private Sector

In the allocution he gave at the opening of the Forum for the Millennium, Kofi Annan recalled the proposition he made in 1999 to the businessmen meeting for the economic Forum of Davos. It concerned proposing to the interested parties adherence to "certain essential values in the area of norms for work, the rights of man and of the environment." In his opinion that would be a way of reducing the negative effects of globalization. He felt that in order to fill up the gulf separating the rich North from the poor South, the UN must make a broad appeal to the private sector. It would be a matter of obtaining the adherence to this pact of a large number of economic and social forces: companies, businessmen, unions, nongovernmental organizations.⁴ This *Global Compact* or *World Pact* would be needed to regulate the world markets, to set forth the basic concerns in the matter of health, etc. Several multinationals, spanning the ensemble of sectors concerned with scientific, technical and industrial activity, have already subscribed to it — among them the Deutsche Bank, Dupont of Nemours, BASF, Daimler-Chrysler, BP Amoco, Shell, Unilever, Volvo, etc. Among the nongovernmental organizations,

Amnesty International and the World Wide Fund for Nature also figure. Personalities from the business world also support this pact: Ted Turner of CNN, Bill Gates of Microsoft, George Soros, dominant billionaire. Mikhail Gorbachev also declared himself in favor of this project during a speech given at a dinner costing \$500 a plate — quite an original way of declaring war on hunger. Even more surprising is the fact that several international union organizations have also supported the pact.

Nine principles — not very explicit, it is true — already present at Davos inspire this World Pact. To mention but a few examples, the first one recommends supporting and respecting the international rights in their sphere of influence; the third asks for the freedom of association and the right to bargain collectively. The last three bear on the environment, by which we must understand, among other things, population.

Towards a "Global Coalition"

A meeting of the highest level of those devoted to the World Pact was held at New York on July 26, 2000. Among the conclusions figure the commitment of companies

to associate themselves to the UN in projects of partnership, whether on the level of determination of policy. . . , whether on the operational level. . . All the participants were equally in accord to involve the supplementary forces and to attain, within three years, the goal of adding to the global coalition 100 big transnational corporations and 1,000 companies from the entire world. . . Associations of entrepreneurs are also committed to begin concrete planning to achieve the Pact's objective.

Doubtless, the World Pact raises serious questions. Can one count on the big world companies to resolve the problems which they could have helped resolve a long time ago if they had so wished? Does the multiplying of international economic exchanges justify the progressive establishment of an authority called upon to run world economic activity? What sort of freedom will workingmen on every level still enjoy, and the unions as well, if labor legislation incorporated into international law, must submit to the "global" economic "imperatives"? What power to intervene in social and economic questions for the sake of justice will the governments of sovereign States still enjoy? One can see by that how much this Pact is of a nature to diminish the rights of man declared in 1948 and how much it risks hastening the decline of sovereign States. More serious still: since the UN is always approaching bankruptcy, it risks being the victim of a takeover by a consortium of large worldwide companies,

delighted with the idea of having at its disposal a formidable political and economic lever. The haste shown by these companies to agree to the pact, far from being satisfying, should be a source of anxiety.

THE SUMMIT OF SPIRITUAL AND RELIGIOUS LEADERS

At the invitation of the UN, this special Summit for peace gathered together some 1,000 religious leaders from around the world. The Holy See was represented by Cardinal Francis Arinze, president of the Pontifical Council for Interreligious Dialogue. This Summit revealed the desire of the UN to cast its net wide and to extend its interventions in domains until now escaping its attentive solicitude. Henceforth the UN no longer keeps its desire to step through the doorway reserved for consciences a mystery. Thus arose a curious "Joint Initiative of Religions," having the objectives of peace, the health of the Earth and that of all living beings.⁵ This Initiative was started in 1995 by an Episcopalian bishop, William E. Swing. Well crossbred with the New Age, this initiative would endeavor to create a world religion,⁶ which would also entail the prohibition against proselytizing by all other religions. From its own perspective, the UN octopus would be interested in supporting this project, for globalization must not concern only the spheres of economics, politics, law, etc.: it must concern the global soul. In this milieu, they dream of a "new planetary ethic."⁷ Here we find once again the theme of holism in its clearly pantheistic form. The ideas of the "Joint Initiative of Religions" would have to be disseminated, among others, by "Circles of cooperation" composed of a few people who resemble, if I'm not mistaken, the New Age "networks."

The absence of the Dalai-Lama caused a certain malaise to hover over the beginning of this meeting. The spiritual leader of Tibetan Buddhism, who lives in exile in India, had not been invited to the Summit simply to avoid angering the Chinese authorities. . . Only in China is there a limit to religious freedom.

The discussions of this assembly concerned peace, disarmament and the support of religions to these two eminently laudable objectives. On the other hand, we see reappearing the old tunes about tolerance badly understood.⁸ Definitely, this special Summit ended in a manner so deceiving that it augurs nothing good for the future of the "Initiative," and even less for the use to which it would have been put. It is, in effect, paradoxical that a meeting of religious leaders ends with a eulogy on badly understood tolerance, agnosticism,

radical relativism. It was impossible for Cardinal Arinze to sign a final declaration affirming that all religions are equal.

THE MILLENNIUM SUMMIT

The UN wanted to mark the beginning of the new Millennium by organizing an incalculable (so to speak) number of meetings, meetings to prepare for meetings and meetings to give account of preceding meetings. Some meetings have, so to speak, a permanent place. For the year 2001, three announced meetings were "important": about children, living space and racism. There is no doubt that during these meetings some question would arise about the rights of children, their liberty vis-à-vis their parents, de facto unions, sustainable development, the gender perspective, sexual orientation, international law, etc.

In the meantime, the UN calendar for the year 2000 reached its climax with the Summit for Heads of State and of Government, which was held at New York, September 6-8. This Summit was followed by the General Assembly. And this was held from the 12th to the 16th and from the 18th to the 22nd of September. An astonishing thing indeed: though the Summit was reported in the media in a very flashy way, the General Assembly passed in silence, at least in the following days.⁹

Some Feverish Parallel Activities

On the occasion of the Summit, several meetings were planned and took place in a feverish atmosphere. We will mention but a few of them, those cited by Louise Fréchette, counselor of the Secretary General, during her press conference of August 24, 2000:

1. Meeting of the Security Council, September 7. It had been devoted, one suspects, to maintaining peace and security and to reforms necessary the better to insure these objectives. It was also a matter of the designation of the Council members and of the status of the "permanent members."
2. Meeting of the Economic and Social Council on the dissemination of technology and development.
3. Meeting of the five permanent members of the Security Council.
4. Forum for education of girls, organized by UNICEF on the initiative of Mme. Annan.
5. *Dialogue and Civilizations* Conference, organized by UNESCO on the initiative of President Khatami of Iran.

6. Conferences of nongovernmental organizations with the Department of Public Information of the UN.
7. Conference of the Presidents of national parliaments.
8. Meeting of women parliamentary delegates.
9. Forum for the state of the world: Forum 2000.
10. World Summit of Spiritual and Religious Leaders for peace.
11. Seventh annual conference of young businessmen.

The Summit for Heads of State

Many will remember that the year 2000 was the year of the Summit bringing together in New York some 170 heads of State or government from September 6-8. Covered by nearly 6,000 journalists, this brilliant cavalcade was planned three years in advance. It was bound to be greatly publicized due, especially, to the presence of personalities as contrasted in certain respects as Castro and Clinton.

This meeting was characterized by a flood of speeches which produced a touching unanimity. All were in accord in affirming the need to fight against illness, poverty, ignorance, violence, pollution of water and spoiling the environment. Everyone was in favor of peace: yet here nuances began to appear. The Russian and Chinese dreaded interference in their internal affairs in the name of man's rights. On the other hand, in the name of these rights, the Americans and English were inclined to relativize a little the national sovereignty of others. Other differences of opinion were also expressed concerning the globalization of the world economy. If Mr. Clinton stigmatized as insufficient the means available to the UN for maintaining peace, he avoided announcing that the USA would pay the 1,700 million dollars his country owes to the UN. Neither did the same Mr. Clinton announce that the United States was going to sign the Kyoto Protocol (1997) concerning protection of the environment.

At the heart of this meeting, Cardinal Angelo Sodano, Secretary of State, took advantage of this exceptional circumstance to set the record straight.¹⁰ He reiterated the support of the Holy See for the UN to the extent that it works for peace, development, the rights of man, and that it respects the equality of its members. But he reminded his hearers of the Holy See's reservations concerning demographic control, de facto unions, and all the confusion about the family.

As agreed on beforehand, the assembly gave a standing, vibrant and sincere acclamation in approval of a declaration gloriously entitled *We, Heads of State and Government*. This September 8th declara-

tion ratified the catalog of good intentions we enumerated above. It added to them the desire to promote freedom and tolerance, equality, solidarity, coresponsibility, the rights of man and democracy. It called for more means to guarantee the peace. It proclaimed the will to eradicate poverty before 2015 and, by the same date, to reduce by more than half maternal and infant mortality.

Regarding events that received less publicity in the media, the Millennium Summit was a gigantic enterprise of diversion in the two senses of this term. It concerned, of course, a showy event intended to relax those invited by giving many of them the flattering illusion that they were going to commit themselves for a thousand years to the fate of humanity. But it also involved an effort to divert attention from other clearly more deserving and important events.

We should also mention the fact that the Summit and the General Assembly of the Millennium as well as the cluster of meetings planned for this occasion became the object of 91 manifestations of protest in the streets of New York.¹¹

TOWARD AN UNPRECEDENTED CONCENTRATION OF POWER

The review that we have just given concerned only a few of the high points that distinguished the Millennium year. A first observation forces itself upon us. Acting as its head, or more probably having enough popularity at the moment for making decisions, the Secretary General applied his efforts to erecting the UN into a veritable breeding ground for a worldwide sovereign "elite," and to transforming it into a place of concentrated power without precedent in history. The theorists of total warfare distinguished the factors which, bundled together, provided a measure of power to the antagonistic nations.¹² Classically, these factors are four: political, economic, military and psychosocial. This latter factor includes the media, the ability, the techniques, ideology, right and religion. Under cover of "shared responsibility," sustainable development and "incorporation into the international legal system," the UN is in the process of setting up a supercentralized control of the four factors, not in order to meet some challenge coming from a coalition of nations, but very simply in order to rule the world and to impose itself on the world as the uncontested center governing all factors of power.

Thus the UN increases its political power by wearing down the sovereignty of nations and by endeavoring to impose the primacy of international law such as it conceives it; it would leave to governments and parliaments but a residual role. The UN would insure the

partnership of most powerful economic agents on the planet. Fore-shadowing an authoritarian liberalism, this alliance would facilitate control of the environment as well as the grip on commercial rights and labor rights; even the unions would be well on the way to "recovery." The UN also intends to provide itself with reinforced military means which one hopes would be used only for keeping the peace. But who will prevent the rights of man from being invoked to "justify" abusive interference? The influence of the UN also extends to the domains concerned with the psychosocial. Whether it concerns control of information, acquisition of means to spread knowledge, access to new technologies or still more international treaties and conventions which control States' rights, the International Penal Court, etc., the tendency is always the same and aims at the concentration of power.

From a perspective markedly more theoretical, in our second part we will take up again the examination of this concentration without precedent. For the moment let us limit ourselves to observe that the Millennium is being used by the UN as a new occasion to reaffirm its habitual goals: sustainable development, control of the population, of health, of knowledge, of resources, of international exchanges, of law and the rights of man. "Sharing responsibility" is a new booby-trapped expression indicating that the UN is no longer satisfied to play a subsidiary role. It intends to place itself at the center of world power and to equip itself, little by little, with all the apparatus of control which it needs to exercise what it believes to be its mission during the new Millennium.

¹ One the Millennium consult:

<www.un.org.french/millenaire/sg/report/key.htm>

<www.un.org.french/millenaire/sg/report/full.htm>

<www.ipsdailyjournal.org>

<www.nscentre.org/tvmonthly>.

² Cf. *Noticias globales*, n. 58 (Sept. 11, 2000).

³ This text can be found in the document SG/SM7411 of May 24, 2000; cf. the first two addresses in note 1.

⁴ Visit the web-site <www.unglobalcompact/org>.

⁵ Cf. The "Informe especial" published by Zenit in *La Semana internacional* of Aug. 5, 2000.

⁶ On this special Summit see on the internet the bulletin *Noticias globales*, n. 56 (Sept. 9, 2000); cf. also the "Informe especial" as in the previous note.

⁷ This theme is especially developed by Hans Küng and by the Parliament of World Religions: *Manifeste pour une éthique planétaire. La déclaration du Parlement des religions du monde* (Paris: Cerf, 1995).

- ⁸ On the matter of tolerance see TOLERANCE AND VIOLENCE in Ch. VI.
- ⁹ The magazines *Time* and *Newsweek* of Oct. 2, 2000 (on sale already on Sept. 25) don't breathe a word about this assembly. Ghostly?
- ¹⁰ See the communiqué of the Zenit agency (Sept. 10, 2000) as well as the interview with Cardinal Sodano, *ibid.* Sept. 11, 2000.
- ¹¹ Cf. *Noticias globales*, n. 56 (Sept. 5, 2000).
- ¹² We have analyzed this theory in *Destin du Brésil*, esp. pp 47-65.

CHAPTER IX

EUROPE SWINDLED AND PROUD OF IT

It is well-known that the U.S.A. uses and abuses the UN in order to make sure its interests prevail. It does this sometimes with an astonishing cynicism. Operation "Desert Storm," waged against Iraq in December of 1998, showed the contempt in which the U.S. can hold the UN when the latter interferes with the convenience of the U.S. This is one of the reasons why the U.S. has refused to sign the treaty creating the International Penal Court. On the other hand, whenever it suits its convenience, that is, frequently, the U.S. uses the UN like a gigantic instrument in the service of its project of world hegemony barely camouflaged as "globalization."¹

THE "WHITE TERROR"

The real risk appearing here is the extension and generalization on a worldwide scale, of the North American juridical model, of Anglo-Saxon inspiration, to the detriment of the Latin tradition. This Anglo-Saxon tradition, so friendly to custom and jurisprudence, lends itself easily to a use of positive law as a lever of power. Throughout this work we have seen how this model was installed in the UN during the promotion of the "new rights of man."²

Europe, Accomplice and Victim

However, in order to transform the UN into a machine for "global" colonization, the U.S.A. needed the complicity of other rich countries; for obvious reasons, that of Canada posed hardly any difficulties. It is more astonishing that the U.S. obtained with hardly any effort that of Europe, which consented to be the first community of nations to fall into the net.³ This neutralization of Europe has been painless and it will remain so, without doubt, for some time: until the moment of a hard awakening. It is, then, necessary that we examine Europe's case with special attention.

Recently Europe agreed to lower its guard by disarming itself, psychologically and militarily, before the communist peril, though the latter persisted.⁴ It is still lacking in vigilance before the perils coming from New York and Washington, that today threaten its moral, political, cultural and religious identity. Despite economic and even political differences, the European Union is letting itself be domesticated by the U.S.A. to the extent of renouncing the realist conception of man's rights, born in Europe, granted, but whose universal import has been recognized. Many of its leaders of opinion have interiorized the North American conception — consensus — of these rights and of law. For, as Mary Ann Glendon, the famous Harvard professor, has ably demonstrated, the U.S.A. is the laboratory of this new conception of man's rights and of the instruments which its application calls for.⁵ According to the logic of its present leaders, the U.S.A. *must* dismantle the traditional conception of man's rights in order to be able to consolidate, in its favor, the "ethic of responsibility,"⁶ itself served by an appropriate juridical positivism.

Europe has thus become at once victim and accomplice in a project of world domination, the iron of whose sword is no longer military power, nor even economic power, but rather positive law. The European Union presently finds itself very badly armed for unmasking the new conception of right concocted by the U.S. and echoed by the UN.⁷ For these so-called "new rights of man," and, more fundamentally the *new conception* of law and rights which the UN is endeavoring to impose on all nations and every man, have the North American model as their source. In this model, judges, harassed by some feminist and homosexual lobbies, or by some violently anti-Christian cabals⁸ do not hesitate to invent so-called individual "new rights," totally fragmented and deprived of any reference to personhood and to man as a being of relationships.

An Ideological Swindle

As a result of this new juridical logic, the instrument for providing for the application of the so-called "new rights of man" cannot but be, in the end, a government of *discretionary* judges, who themselves are lacking in points of reference that would allow them to discern the good from the evil, the just from the unjust, the true from the false. Their role, as well as the role of the International Penal Court, would then consist in verifying whether any obstacles are placed in their way in the name of the old conception of man's rights — the realist one of 1948.

Because of the UN and the culpable complicity of its richest and most influential members, this *insane* conception of right is on its way to extending its ramifications on a worldwide scale. One understands the Third-World countries, especially those of Group 77, which see in these so-called "new rights of man" the most sophisticated means for the North's domination of the developing countries.⁹ Even if these latter are mistaken in smelling a hoax in the Declaration of 1948, one could not incite them enough to rebel against the so-called "new rights of man," chef d'oeuvre of an ideological swindle. Furthermore, in the end, this conception of right, product of the monied oligarchy, will contribute powerfully to the decline of the U.S. and Europe, but, beforehand, it will have established what one has called the "White Terror" and sown death everywhere around the world.

EUROPEAN RADICALISM

Brussels' Dissatisfaction

During the Beijing + 5 Conference, held during June 5-10, 2000, the positions taken by the delegates of the European Union were striking in their radicalism.¹⁰ These positions were sometimes more radical than those promoted by the U.S. and Canada. We know that the rich countries have not been very well followed during this conference, and this failure was not to the liking of the Union's delegates.¹¹

The dissatisfaction of the European Union reached Brussels right after the conference.¹² Taking into account their participation, many delegates did not hide their lively hostility towards the religions which had been listened to in New York. Their target of habitual choice, of course, is the Catholic religion. In a beautiful exercise in confusion, Christianity and Islam were criticized harshly for their "integrism" and "fundamentalism." Such a confusion presupposes either an immense ignorance of the nature of each of these two religions, or a bad faith which, it is true, is hardly surprising on the part of those who care little for truth.

Everything leads us to believe that the next conference, as well as the preparatory meetings, will be the theatre of new attacks generally against the Catholic Church and the Holy See, which insures that the international plan will be clearly seen.

The Charter of Fundamental Rights

To round off the relative failure of "Women 2000," the European Charter of Fundamental Rights is going to arrive at just the right

time. We know that this Charter has come to the end of the process of its elaboration.¹³ Now some compilers of this Charter tried hard to incorporate into it the "new rights of man" propagated by the UN. And that work was made relatively easy by certain dispositions of the Amsterdam Treaty.¹⁴

Let us remark, first of all, that at France's request the reference to the *religious* patrimony of Europe has been suppressed in the Preamble. Let us then point out that article 2, line 1 of this Charter says that "Every person has a right to life." In its present draft this key article is simply unacceptable. Besides opening the notion of *person* to the wildest interpretations, this article should be precise about the fact that the right to life extends from conception to natural death. But the text passes over in peculiar silence the ninth Preamble of the UN's Convention on the rights of the child (1989), which provides for it "a special protection. . . before as well as after birth." And so it is not astonishing that while this text holds a "prohibition of reproductive cloning of human beings" (art. 3 §2), it remains silent on therapeutic cloning.

Moreover, article 13 of the Amsterdam Treaty, concerning discrimination, opens the door to article 12 §1 of the Charter. This paragraph "forbids all discrimination" based on any criterion, of which "sexual orientation" is one. They thus reserve a juridical protection for homosexuals. This conception of "sexual orientation" strongly affects the conception of marriage and the family. Introduced by article 7, article 9 states that "the rights to marry and the right to found a family are guaranteed *according to the national laws that govern their exercise*" (emphasis ours). In other words, just as article 21 §1 provides for the choice of "sexual orientation," national laws will have to incorporate the right of homosexuals to "marry each other" and to "found a family." The most unforeseen unions will be able then, if national laws permit it, to enjoy the same rights as the family, which is the issue of monogamous and heterosexual marriage. The text also causes concern in its dispositions about the education of children. Besides article 14 §3, possessed of a studied obscurity, article 24 §3 is devoted to the protection of children: this article doesn't even mention the duties of parents! Article 10 §1 stipulated that "the right of conscientious objection is recognized *according to national laws that regulate its exercise*" (our emphasis). The Charter also subscribes to the usual "principle of sustainable development" (art. 37), which we know involves population control. Finally, rather than mentioning the 1948 Declaration, the text pays allegiance to right and international convention: "No disposition of the present Charter must be in-

terpreted as limiting or impeding the rights of man and recognized fundamental freedoms, in their respective fields of application, by the rights of the Union, international rights and international conventions to which the Union is party. . .”(art. 53).

By reason of its content and the traps with which it is dotted, it is difficult to see how such a text could be received without being immediately contested. It will however, be invoked in order to bring pressure to bear on the rebellious who have not incorporated the UN's "Lights."

Advice to the Rebellious

And so, among the admonitions directed at Poland, that of Lowe Dybkjaer deserves to be cited by reason of its clarity:

The role of the family in the life of women constitutes a fundamental element in the context of equality. The perception of responsibility in regard to children is essential for determining the status of women in society. In a number of candidate countries, the traditional model for women, whose role is essentially to be at home, is certainly in great part an inheritance from the communist epoch, but it is often in our day reinforced by the State Church, particularly in Poland. In the past, the public authorities encouraged women to work, but not to neglect their family duties, so that for them the work week could reach as high as 70 hours. Such a situation is no longer acceptable in a social economy of the modern market. The practice of "screening" conducted in Poland led to the appearance of a certain number of deficiencies in the domain of equality of opportunity, notably the absence of legislative dispositions in the matter, laws forbidding abortion, allocation of unemployment affecting only the man of the house, etc.¹⁵

Finally, to show the world that the promotion of the "new rights of man" still requires an effort, Europe is seeing that here, and the pilot balloons are afloat advocating the legalization of what is already being practiced: infanticide of individuals who require too much care among the neonatology groups.¹⁶

Internationalist Messianism

European "messianism," anti-family and anti-life, has worldwide ambitions, declares Romano Prodi. The president of the Commission acknowledges with modesty that "the model for European integration. . . is a mine to exploit for world government." In order to be able to play this exemplary role, Mr. Prodi explains, the Commission will have "to concentrate better on its fundamental functions."

He enumerates a few of them, the most important ones. The parliament will have to speak with one voice on the world scene, to give itself a Constitution, and in any case a Charter, that will restrict basic rights.

Such a Charter with such aims means that Europe persists in planning its own decline — already legible in its own demographic collapse¹⁷ — a crash that still allows the U.S., renewing its population, to look toward the future with serenity, while Europe's population, with its birth rate at 1.4, is growing old, is not renewing itself and is in decline.¹⁸

Furthermore, Europe's demographic crash is confirmed, for since one foresees that Brussels, the capital of Europe, will in 2006 have a population 50% of which will be of foreign origin, and that the same percentage in 2015 will be reached in the four most important cities of Holland: Amsterdam, The Hague, Rotterdam and Utrecht — the other big cities of Europe should reach the same levels at the same time.¹⁹

While awaiting this date, the anti-family and anti-life proselytism of Europe, swindled and proud of it, will have incurred the general hostility of the poor countries. In effect, if these latter, especially within the Group of 77, continue to reject the Malthusian programs that the UN presents under the guise of "new right," they will reject with even greater vigor these programs when it becomes obvious that they receive the approval and support of those who should have been the first to denounce them. Unfaithful Europe will be able to die in peace; it will have pushed to the end the funereal mission it assigned itself. It will have cleared the road for the consolidation of the Empire and for the international globalist project.

¹ We examine the role of the U.S. in *The Totalitarian Trend of Liberalism* (St. Louis: Central Bureau, 1997) 37-61; see also *The Gospel Confronting World Disorder* (ibid., 1999) 11 ff.

² Gérard-François Dumont and his collaborators have defined the characteristics of European nations by bringing clearly to light their common traits. The crucial question is put: Is Europe powerless to make the rights of man respected in its own territory? Cf. *Les racines de l'Identité européenne* (Paris: Economica, 1999). This work has a preface written by Jose Maria Gil-Robles, then president of the European Parliament.

³ For this see the especially penetrating analysis of Roland Hureaux, *Les hauteurs béantes de l'Europe. La dérive idéologique de la construction européenne* (Paris: de Guibert, 1999). R. Hureaux brings to light the centralizing and anti-national tendency of the European project, which to attain its objectives, tends to impose one "Unique Thought." It is toward these converging conclusions that Jean Foyer leads us in *France, qu'ont-ils fait de ta liberté?* With the same reference points as the

preceding work. J. Foyer analyses the alienation of sovereignty and criticizes the centralism of the "Brussels red tape." Appealing to juridical technique, Georges Berthus and Dominique Souchet lead us to the same observations in their work, *Le Traité d'Amsterdam contre la démocratie. Texte intégral comparé et commenté* (Paris: de Guibert, 1998). The conduct of the European Union in the recent big international assemblies illustrates and confirms the pertinence of these authors' analysis.

⁴ On this subject see Jean-François Revel, *La grande parade. Essai sur la survie de l'utopie socialist* (Paris Plon, 2000).

⁵ See Mary Ann Glendon, "Du bon usage. . ." pp. 35-46.

⁶ Max Weber introduced a famous distinction between the *ethics of conviction* (that of the prophets and saints who desired to do good and avoid evil) and the *ethics of responsibility* (that of the politician who is not hampered by considerations of good and evil). In the name of the ethics of responsibility, the politician must gain power, exercise it and maintain it by having recourse, if necessary, to "legitimate violence." On this point Weber is as cynical as Machiavelli. See "Le Savant et le Politique," *Le Monde* (Oct. 18, 1959) 172-175. We have analyzed this distinction in our *The Gospel Confronting World Disorder* (St. Louis: Central Bureau, 1999) 45 f. One can compare Machiavelli, for example, *Il Principe*, 18: *Discorsi sulla prima Deca di Tito Livio* 1, 7, 10, 25, 34; 3, 41 f.; etc.

⁷ Preamble B bis (new) to the Amendement 1 of the *Projet du Rapport* of Lowe Dybkjaer, ref. 287.005/1-13, shows very well the tendency of the European Parliament's Commission on the rights of the woman to grovel before the UN's ukases. The proposed amendement begins in this way: "Considering that the member States of the Commission are always held to apply in an appropriate manner the platform of action of Beijing and will have to establish new policies in the framework of their competence in order to conform to the declaration of the UN's Conference 'Beijing +5' of last June." The norms of State laws, then, will have to seek their validity in the norms of supra-State law. Why, in this case, do they not economize on parliaments, including the European Parliament?

⁸ See the web-site <http://humanist.net/websites>.

⁹ See above: *Those opposed to "Sexual Colonization"* in Ch. VII.

¹⁰ Already celebrating in 1999 the fifth anniversary of the Cairo Conference on Population and Development (1994), the European Union was surprised by the complacency with which it was aligned with the positions of the UN. See on this subject *The European Community's Response to the Challenges of the International Conference on Population and Development. ICPD + 5: A Five Year Review 1994-1998* (Luxemburg: Office for Official Publications of the European Communities, 1999). See above, see the beginning of Ch. VII.

¹¹ See above, Ch. VII: A PROMISING APPRAISAL.

¹² The Beijing + 5 "Women 2000" Conference is the object of various commentaries in which discontent was often expressed. Poland, in particular, was criticized several times. See, for example, the dossier prepared by the Commission on the Rights of Woman and the Equality of Opportunity of the European Parliament, reporting the meetings of July 10-11, 2000. This dossier includes several documents including the verbal trials from the meetings of May 23-24, 2000. For the benefit of those who were not put off by the muddled structure of the dossier, we give here the simplified references: *Verbal-trials* from the meetings of May 23-24, 2000. PE/XVI?PV:00-07; the *Projet de rapport* on the aspects of the procedure for broadening related to gender, presented by Lowe Dybkjaer, dated June 6, 2000, provisional reference 2000/***(INI); *Amendements 1-27* to Dybkjaer's report, dated June 26, 2000, reference PE 287.004/1-27; *Projet de rapports* on the annual reports of the Commission on "The equality of opportunity for women and men in the European Union - 1997, 1998, 1999," presented by Lowe Dybkjaer, provisional reference 1999/2109

(COS); *Amendements 1-13* to the *Projet de rapport* of Lowe Dybkjaer, dated June 27, 1000, reference PE 287.005?1-13; *Amendements 14-17* to the *Projet de rapport* of Lowe Dybkjaer, dated July 3, 2000, reference PE287.005/14-17; *Projet d'avis* (on the same questions) of the reporter of opinions Maria Martens, June 30, 2000, provisional reference 1999/0225 (CNS).

¹³ On the Charter of fundamental rights of the European Union we recommend visiting the following web-sites:

<fundamental.rights@consilium.eu.int>.

<<http://www.europarl.eu.int charter/fr/default.htm>>.

We have used the original French dated Sept. 28, 1000, coté Charte 4487/00; Convent 50. This text was supposed to be examined during the Summit of 15 at Biarritz, Oct. 13 and 14, 2000.

¹⁴ Cf. the work of Georges Berthu, *Le Traité d'Amsterdam*, p. 114.

¹⁵ This text appears on p. 11/14 of the document PE 287.004. One can compare it with the proposals expressed by Lionel Jospin in his discourse of June 15, 2000.

¹⁶ See <<http://www.the.lancet.com/newlancet/current>> which refers to the article "End of Life Decisions in Neonatal Intensive Care: Physicians' Self-reported Practices in Seven European Countries," *Lancet* June 17, 2000) 2112-2118.

¹⁷ See *The Demographic Crash* (St. Louis: Central Bureau, 2001) 10-13, 38.

¹⁸ In countries presenting the best conditions of life, each woman of child-bearing age should have 2.1 children in order to renew the population. All the countries of Europe are below this level.

¹⁹ Cf. Correspondance européenne n.45/06 (June 10, 2000) 4 f.

CHAPTER X

RIGHT, "LEGITIMATION" OF VIOLENCE

A reading of the UN's version of the rights of man shows the making of right into an instrument aimed at "legitimizing" violence and the "gift" of death. That is what we are going to explain in order to conclude this part and lead into the second part.

THE SELF-LIBERATION OF MAN

We have seen that at the root of the conception of man's rights presently preached by the UN lies a pronounced exaltation of the individual. However, as Hobbes had foreseen, these rights of the individual must be validated by Leviathan. As we shall soon see, it is in this direction that Kelsen is going to develop his theory. Society must be built up beginning with individuals totally autonomous, that is, owing nothing to anybody, having no duty or responsibility toward others. These individuals have no further need to relate to any transcendent Being whatsoever. This extravagant liberalism deified man, and, in his critique of religious alienation, Feuerbach will expose this materialist vision of man who, to liberate himself, must appropriate divinity. Man frees himself all alone, and the first expression of this auto-liberation translates into his giving himself his own laws of conduct, which laws he can modify at his pleasure.

The influence of the nominalist tradition, so much alive in the Anglo-Saxon milieu, is going to give more potential to this Germanic contribution of Feuerbach. According to this tradition, men do not have anything at all in common, neither nature or values. They are singulars, individuals.

Elaborated by the philosophers, this individualism was at first expressed concretely in the economic field. Under the influence of a certain kind of reading of natural reality, the market, a simplistic vi-

sion of man is going to be elaborated. Doubtless one must admit that the market is the place of exchange, competition, and trading. Where things begin to take on a disquieting trend is that point when the market becomes the place where a choice is made of individuals looked upon essentially as producers-consumers. Thereby liberal individualism opens the way to Marxist ideology: the economic infrastructure takes into account all men and every society.

This economic vision of man then rubs off on all anthropology, that is, on the general conception of man. Since the liberal logic is individualist, it freezes sociability, and if it freezes sociability it cannot but be anti-family. Malthus is not interested in the family except insofar as it embraces economic agents more or less useful in the production-consumption system. In the Malthusian logic, there is no room for what we today call "dependent persons," that is, children and the aged. For the same reasons, always according to its logic, there is no place for the poor.

REFUSAL OF FINITENESS

Death and War

Liberal individualism thus leads man to reject his limits, to refuse his finiteness and death. The other is perceived as a limitation of my individualistic self. He is an obstacle to my self-affirmation. The same holds true in the order of possessing: what the other has, I am deprived of, and this privation is an obstacle to my existence, to the quality of my existence. I must, then, push aside whatever seems to be an obstacle to my being, to my having, to my life. Nothing that contributes to the control of my death must be neglected.

It is precisely for that reason that certain present decisions in the state-of-the-art biological research reflect the prevailing liberalist ideology. The manipulation of cells and tissues must procure a victory for man over death, and insure, by recalling the myth of the eternal return, a parody of immortality.

Actually, the twofold rejection of finiteness and death "legitimizes" the relentless violence of the individual: violence vis-à-vis things, which the individual can destroy at his pleasure through consuming them; sexual violence of man vis-à-vis woman whom he must captivate and subjugate; but also (theory of radical feminists) the hold of women over men whom they must seduce and control and on whom they must take revenge by triumphing over their "machismo"; general violence vis-à-vis others whom the individual may well be able to reduce to slavery or kill; finally, violence of the indi-

vidual toward himself if he believes that in suicide he will find the greatest expression of his individual freedom — a paradoxical way of denying his finiteness.

The interesting thing about the dialectic of the Master and the Slave proposed by Hegel¹ rests in the fact that the famous philosopher sees in the master the prototype of the triumphant individual: the liberal bourgeois, master of life and death. Nevertheless, the Jena philosopher was not slow in extending this "Lordly" conception, that is, one characteristic of the lord and master, from relations among men to relations among societies. By means of war, the most powerful nation can impose itself on other nations. And this nation, victorious and dominant one moment, must in a final moment accept its withdrawal from the forestage of history. Right must justify this warrior vision of international relations.

One will notice that here is verified once again the observation of Solzhenitsyn, according to whom, in our society, right tends to swallow up morality.² In effect, by beginning with an individualistic ethic, characteristic of the original liberalism, violence insinuates itself into right and becomes part of it. In a first stage, violence is manifested in the economic field in which unregulated "free competition" takes care to marginalize the unfortunate competitors. But already in Malthus, then in Darwin and Galton, "free competition" goes beyond the domain of economics. It invades the sphere of the individual's existence, becomes "natural selection" then "artificial," with the elimination of the less capable. Moreover the same process of selection and elimination must be admitted among nations. This emerges already from the thought of Hegel, and Spencer goes on to develop it. Here right appears as the legitimizing superstructure, not only of violence in every relationship, but also of the gift of death, essential corollary of the right to violence.

The Vertigo of Self-destruction

Thus one stands before a paradoxical situation. On the one hand, right, guardian of equality that could be the rampart against the extravagances of individualism, here chases away every moral consideration and justifies force. But, on the other hand, force is the source of right.

Under our eyes this evolution reaches its paroxysm. Right actually has the *inordinate* claim to acknowledge the *legitimacy* of the gift of death. This is what happens in abortion and euthanasia. In this latter case, right comes to arouse the desire for assisted suicide. Right liberalizes the homicide of certain individuals.³ There would be no

dignified death but the gift of death. The "Lordly" act par excellence is the gift of death; sovereign freedom triumphs in the delegated auto-destruction. It is no longer so much a question of justifying euthanasia with considerations of compassion and intolerable suffering; it is not even a matter of euthanasia for social and economic reasons. Here euthanasia appears as the haughty expression of a philosophical conception of man dominated by the fascination with death and by the vertigo of self-destruction.⁴

It is not astonishing that a society that can accept a right so perverse goes from programmed destruction of individuals to programmed destruction of itself. This twofold will to self-destruction, this urge toward death is, without any doubt, the principal cause of the demographic crash in Western Europe.

¹ See the explanation of this dialectic given by Franz Grégoire, *Etudes hégéliennes. Le points capitaux du système* (Paris: Nauwelaerts, 1958) 57-61; one will find there the references to Hegel's work. The most extensive version of the dialectic figures in the *Phénoménologie de l'Esprit*, trans. by Jean Hyppolite (Paris: Aubier/Montaigne, 1939) 161-166. Regarding war see, among others, the work of Hegel, the *Principes de la philosophie du droit* (Paris: Gallimard, 1940) III, 3, B §330-347, pp. 358-362. On Hegel, philosopher of death, see Alexandre Kojève, *Introduction à la lecture de Hegel* (Paris: Gallimard, 1947) 529-575.

² This is one of the central themes developed by Alexander Solzhenitsyn in his famous "Discours de Harvard," the text of which was published in *L'Express* (June 19 and 25, 1978) 69-76.

³ Such is the thesis propounded by Karl Binding and Alfred Hoche, *Die Freigabe der Vernichtung lebensunwerten Lebens* (Leipzig: Meinert, 1922). In collaboration with Klaudia Schank we will publish the French version of this work.

⁴ On the question of euthanasia see the substantial pages devoted to it by Xavier Dijon, *La réconciliation corporelle. Une éthique du droit médical* (Brussels: Lessius, 1998) 129-180. See also the chapter we wrote on it in *The Gospel Confronting World Disorder* (St. Louis: Central Bureau, 1999) 121-132.

PART TWO

TOWARD WORLD GOVERNMENT

CHAPTER XI

KELSEN AT THE UNITED NATIONS

The UN's Charter, signed at San Francisco in 1945, presents a *twofold inspiration* which is very striking. On the one hand, reference is made to the rights of man. These are mentioned in the Preamble as well as in articles 1,3; 13,1b; 55c; 62,2; 76c; and there are allusions to them in other articles. This reference had been recommended by various persons or institutions among the most prestigious of the epoch.¹ In this respect the Charter opened the way to the Universal Declaration of 1948.

On the other hand, at the very beginning of the UN there appear the role and preponderant status of the Security Council, on which the five big powers sat by right in a permanent fashion, each with the right of veto. At the UN all decisions concerning peace depend on the Council. The General Assembly gathers together representatives of "sovereign" States, and the "equality" of these States is reflected in the fact that each has a vote. However, compared with the Security Council, the powers of the Assembly and its members are limited.² Later changes have not fundamentally modified this general structure.

Here is found the source of the present project of establishing a system of world government. The English language uses for this proposal the word *governance* which is translated by the somewhat aged French word *gouvernance*.

"PURE" THEORY

In this part we shall show that this project of government has its theoretical foundations in the philosophy of law developed by Hans Kelsen (1881-1973), in his system of norms, in his pyramidal conception of law.³ We are then going to follow the principal stages of his *Pure Theory*. It is not an exaggeration to say that the UN conceptions of the "new rights of man," of consensus, of internationalism and of most of the other themes that we have encountered find their source

in this theory of totally rationalist and positivist law. It is well understood that Kelsen probably had no knowledge of the perverse use that was made of his thought in the UN's milieu. It is no less true that the capital work of Kelsen, whose influence continues to be exercised on the jurists of the entire world, is a guide that cannot be overlooked if one is to understand the present trends of the UN. That is all the more patent when one realizes that the Viennese professor at Berkeley influenced the drafting of the Charter.

In the following pages we will base our arguments exclusively on the last edition of *Pure Theory*. The French translator received "the liveliest and most cordial thanks" from Kelsen himself (p. 1). As the author himself explains, the first draft of this work goes back to 1911. The first edition dates from 1934. The second dates from 1960, and Eisenmann's translation was first published in 1962. The text of this version, then, offers us the final edition of *Pure Theory*. That is why we are using this version in its 1999 edition. The translated text benefited from numerous changes and additions, appearing above all in the form of notes written by Kelsen himself. Beginning students will be able to study the influence of Kelsen on the UN by exploring the other numerous writings in which the master explains his conception of right and especially international right.

Full Rationalism

Like all innovators, Kelsen is confronted with the positions of his predecessors. Without any doubt he does not devote any important detail to explaining or discussing them. He does not lose time in writing a postscript on Cicero, Vitoria, Grotius, Hobbes or Locke. Even Hegel is not really discussed. A brilliant, cold and verbose spirit, Kelsen reminds us a little of the rationalism of Spinoza as well as of his clarity. He has but one sole concern: to explain the only scientific theory of law — his own. All the other theories are denounced as pre-scientific: they confuse law with morality, law with politics, law with history, etc. Kelsen hunts down the sophisms that have but an appearance of logic (p. 339), the sliding from historical anteriority to logical anteriority (p. 339). He can thus make a *tabula rasa* of the history of internationalism. Authors who are honored with at least a mention are very rare. Political and diplomatic history is nowhere taken into account.

As for a reference to any kind of anthropology or to history (in particular that of the rights of man), or to morality (especially to a theory of justice), or to religion (let us think of his message about brotherhood), or to psychology (so clarifying, for example, in ques-

tions of responsibility), etc., we cannot find the least trace. Everything is as though this bundle of factors had not exercised, or exercises, or should exercise the least influence on right. Law is a purely formal construction without any regard for questions of content. "Law [regulates] the procedure by which it itself is created" (p. 53). The only thing that interests Kelsen is the system of producing norms, their validity, the obligations that flow from them. "We must reject any definition of law that does not determine it as a coercive order" (p. 54). Such is the price that must be paid for arriving finally at a theory of right of irreproachable scientific purity.⁴

Reduction and Dissolution

Furthermore, following his *reduction* to its conclusion, Kelsen empties *a priori* subjective law of any pertinence. The pure theory of law eliminates the dualism of law understood in the subjective sense, that is, the subject of law (physical or juridical person with rights and obligations) and law understood in the objective sense, that is, the juridical order, namely a system of norms (cf. p. 191). This subjective law is but an effect of the norm which, under pain of sanction, obliges the individual to conduct himself according to this norm (cf. pp. 173-175). Moreover, after having recalled the distinction made in the traditional doctrine between physical person ("natural" person), and juridical person ("artificial" person), Kelsen concludes that in reality the "physical person" is itself an artificial construction of the science of law, itself nothing else but a "juridical" person (p. 173). Consistent as he is, Kelsen even goes so far as to affirm that "the *Pure Theory of Law*. . . dissolves the concept of 'person' as the personification of a complex of juridical norms" (p. 191).

One will observe right away that this conception of the physical person totally ruins, right down to the roots, any possibility of invoking these rights of man, which would have been declared real. The Kelsenian formalism makes such a *declaration* unthinkable. The concept of person being dissolved, the State alone can decide to *personify*. It will do it "artificially," by means of a "complex of constricting juridical norms." Man cannot exist except as an artificial person by the grace of the restricting juridical order indentified with the State.

And so, according to the strict juridical positivism stemming from Kelsen, norms can be enacted postulating life and death in their definition even as acts of law.⁵ Kelsen himself illustrates his proposal. He envisions the possibility of *slaves* "who would have no legal personality" (p. 172). Not only is there no longer room for recog-

dition by the State of an inalienable right of every human being to life, but, furthermore, the dignity of the human being will vary according to the norms, thus ruining *a priori* the idea of the universality and equal dignity of man. The same would hold true for the family: "The family also is, as a juridical collectivity, older than the centralized State that embraces many families; and yet it is indeed on the State's order that today the validity of the juridical order of the family rests" (p. 339).

One will observe that Kelsen thereby offers the theoretical bases which are unfailingly used by partisans of abortion and euthanasia — bases also referred to by the ideologues of sexual orientation, same-sex unions, "one-parent families," etc.

The Norm

The question of the norm is central in *Pure Theory*. Law orders the norms: it is a question of commandment, order, will.

By norm we mean. . . that a man ought to behave in a specific way (p. 4). . . . To say that an objectively valid norm commands a certain behavior for a man is equivalent to affirming that this man is obliged to behave in this way. . . . If he behaves in the opposite way, he "violates" the norm, or his obligation (p. 15). The norm considered as objectively valid functions as a standard of value applied to actual behavior (p. 17).

The question of truth as the foundation for norms is in no way pertinent:

The object of a scientific theory of value can only be norms enacted by human will and values constituted by these norms (p. 18). Norms cannot be either true nor false; they are only valid or invalid (p. 19).

Lack of respect for the norms demands restraining actions, alone legitimate, which belong to the state to perform because it represents the juridical order (pp. 34, 36). Toward this end it must establish courts and executive organs:

Collective security reaches its highest degree when the legal order installs law courts with compulsory jurisdiction and central executive organs whose coercive means are so effective that resistance of any kind is hopelessly vain (p. 37 f.).

Already it appears that courts of justice and other agencies can impose wilful acts carrying an obligation as well as legitimate restraining acts.

The objective validity of a norm which is the subjective meaning of an act of will that men ought to behave in a certain way does

not follow from the factual. . . but from a norm authorizing this act (pp. 8-9).

Custom and Consensus

Kelsen adds straightaway that "some norms by reason of which conduct that is declared obligatory. . . can be imposed are acts that constitute custom" (p. 9). Therein we can understand why in the milieu of the UN so much importance is attributed to *consensus*.

Let us recall what we have seen regarding transgressions. A doctor, for example, proceeds to perform an abortion. He becomes guilty of a transgression against the right to life proclaimed in article 3 of the 1948 Declaration and codified in most State legislation. The judges must, then, know of this transgression, or this crime; they must decide to sanction it. But the cases of transgression multiply; there is a high bid for provocation. The media works on public opinion; pressures increase. The nongovernmental organizations speak out; their role in public life increases. The judges prosecute less and less. Proceeding "slice by slice," authorities tolerate the criminal practice and soon permit it. A precedent is created: the judges do not prosecute anymore. A consensus is born in public opinion: "This has become custom."

In countries of the Latin tradition, in which law is the source of right, it would be necessary to prosecute. But as in these countries custom is also a source, albeit secondary, of right, *what is done* according to the scheme described above is invoked more and more, not only to judge a particular case, but to demand a change of law. In fact, parliaments end by decriminalizing, liberalizing. On the basic question of the source of right, custom wins over the law that codified the inalienable right to life. The change thus brought about introduces an alteration almost imperceptible but nevertheless radical in the *nature* of legislative right. In effect, according to this conception of right, custom can be the origin of a juridical rule but on condition that it does not go against codified law.

In countries of Anglo-Saxon tradition, things are somewhat more simple. The common law, which is not codified, leaves a wide space open to the subjective interpretation on the part of judges and to their assessment of the subjective motivation in cases which they have to decide. In these countries, the influence of custom is determinant in the formation of general norms. The absence of codified law, as origin of norms, has this effect:

The system of customary law has a favorable climate for the development of precedential jurisdiction. It is understandable that

such jurisdiction flourished especially in the sphere of Anglo-American *common law* which is essentially customary law (p. 254).

On this point Kelsen does not hesitate to approach the sociological conception of right. The norm should reflect what the members of a group do. Consensus is the expression of the general will. Kelsen even offers, before the term was invented, a legitimation of "contagion by way of mimicry."⁶

At first the acts that constitute the fact of custom have no subjective significance of an *ought*. But later, when these acts have existed for some time, the idea arises in the individual member that he ought to behave in the manner in which the other members usually do, and at the same time the will arises that the other members ought to behave in the same way. If a member of the group does not, then his behavior will be disapproved by the others as contrary to their will. In this way the custom becomes the expression of a collective will whose subjective meaning is an *ought*. But this subjective meaning of the acts that constitute the custom can be interpreted as a valid objective norm only if the custom has been instituted by a higher norm as a norm-creating fact (p. 9).

THE PYRAMID OF THE JURIDICAL ORDER

In Kelsen's system, the State and law are not only inseparable but identical (cf. pp.281-310). Sovereignty is inherent in the State, which alone can say what is a right (cf. 235). The State alone has the power of legitimate constraint (p. 61). The State comes from law and is the law. The State is identified with law because it is order and commandment in society; it must regulate the use of force in human relationships (cf. 12, 41-46).

A System of Norms

Especially through its courts and its administration the State is the origin of obligatory norms. Norms are the juridical expression of the will of the State. It organizes these juridical norms into a system. At this stage of our analysis, the word *system* must not be taken in the concrete sense that we will find later. By *system* we must understand here an ensemble of juridical propositions considered in its rational coherence rather than in its correspondence to reality. This is what leads Kelsen to set aside facts, content and doctrine to the degree that they are not in accord with his theory. What Kelsen seeks is the logical solidarity of the norms.⁷ They are bound together logically and ordered in a pyramidal fashion. By virtue of this pyramidal

conception of norms, Kelsen asserts the existence of different levels of norms.⁸ Here is what he writes in this regard:

Since because of the dynamic character of the law, a norm is valid because it has been created in a certain fashion, that is, in a way determined by another norm, therefore that other norm is the immediate reason for the validity of the new norm. The relationship between the norm that regulates the creation of another norm and the norm created in conformity with the former can be presented as a relationship of super-subordination. The norm which regulates the creation is the higher one, the norm created in conformity with the former is the lower one. The legal order is not a system of coordinated norms of equal level, but a hierarchy of different levels of legal norms [a pyramid or hierarchy formed by a certain number of "floors" on which the juridical norms lie]. Its unity is brought about by the connection [among elements]. . . . This is a regression that ultimately ends up in the presupposed basic norm. The basic norm, therefore, is the highest reason for the validity of the norms, one created in conformity with another, thus forming a legal order in its hierarchical structure (pp. 221-222).

The Symbolism of the Pyramid

The image of the pyramid used by Kelsen is at once both fascinating and troubling. This image can be understood in two senses. It can evoke the type of architectural construction of which the famous examples are found in Egypt. The classical pyramid was then a solid thing composed of a square base and four triangles converging in a common summit. This pyramid includes various grades, various layers. It evokes the power that is concentrated at the base of the summit.

On the other hand, speculation about the pyramid flourished in the Pythagorean tradition. According to it, the *tetraktys* is the perfect number 10, the quaternary number formed by the addition of the four first numbers: $1+2+3+4$. For this tradition, this was the foundation of all things.

This *tetraktys* can be represented in two ways. First of all, it can take a plane geometric figure forming an equilateral triangle whose sides represent the number 4. Then, going from the base to the summit, we have the representation of the number 3, then at the following stage the number 2, and finally, at the summit, the number 1. The whole, then, constitutes totality, perfection. This is composed, then, of three superimposed steps.

Nevertheless, the *tetraktys* can also be the object of a representation in space. This evokes, then, a regular tetrahedron, that is, a solid defined by four equal equilateral triangles. One of these triangles is, however, always invisible, hidden. It forms the base of the pyramid and evokes the opening toward the knowledge of the foundation of things.⁹

Kelsen did not explain the reasons he appealed to the image of the pyramid to give an account of his theory. However, regardless of the interpretation one has recourse to, all converge toward the same conclusions: norms are not all of the same grade, they are structured hierarchically; from grade to grade, they express the power that is concentrated in a summit, and this concentration indicates the Super-State, the one-world State toward which his pure theory leads us.

In any case, nothing prevents us from thinking that by utilizing the pyramid, Kelsen hinted — perhaps even more than hinted — at a known Masonic symbolism.¹⁰ We are told that certain lodges are attached to the mysteries of ancient Egypt; others accept the Pythagorean speculations about numbers. In any case, we know that the figure of the triangle, characteristic of the pyramid, is classical in the symbolism of the lodges.

Regardless of the angle from which we consider the pyramid, the juridical norm is not obligatory by reason of its content, or because it is in conformity with justice, or because it would be referred to the rights of man. It is obligatory because of its logical coherence with the procedure for production of juridical norms. Now the basic rule for this production is that these norms proceed from the State's right, this from international right, and this latter from the supreme fundamental right. This entire formalism of Kelsen is, then, capable of legalizing, and of legalizing *a priori*, no matter the content.

The validity of a norm is not derived from its content, that is, because its content can be deduced by logical operation. It is valid because it was created. . . in a fashion determined by the basic norm. . . . Any content whatsoever might be law. No human behavior would be excluded, as such, from being the content of a legal norm (pp. 197 f.).

The Fundamental Norm

Once Kelsen conceived right as a pyramidal system of norms, he is faced with the question: "What is it that provides the basis for the unity of a plurality of norms? Why is a norm part of a determined order? . . . Why is a certain norm valid?" (p. 193). Kelsen's response,

clearly Kantian in inspiration, is at first glance surprising. But, because of his own premises, he could not break off:

The norm which represents the reason for the validity of another norm is called the higher norm. But the search for the reason of the validity of a norm cannot go on indefinitely. . . . It must end with a norm which as the last and highest is presupposed. It must be *presupposed*, because it cannot be "posited". . . . The supreme norm cannot, then, but be presupposed. . . . The reason for its validity cannot be questioned. . . . All the norms whose validity can be traced back to one and the same basic norm constitute a system of norms, a normative order. The basic norm is the common source for the validity of all the norms that belong to the same order (pp. 194 f; cf. p. 235).

The norm is imposed, then, by reason of the validity that a norm of a superior order confers on it. According to the case, it must be obeyed by individuals or corporations, disobedience entailing sanctions. Only "the law, understood as simple 'ideology'" can consider the *ought* as having no significance. The law has, in effect, the power to demand duties. In this regard Kelsen develops a secularized variation on the Lutheran theme *Beruf*, of duty, of the appeal to serve, justifying blind obedience, after the fashion of the Kantian imperative which bases duty on duty. Kelsen adds, however, that the norm, more precisely the normative order, is based on the State.

As a political organization, the State is a legal order. . . relatively centralized (p. 286). . . If the State is a corporation, that is, a collectivity that is constituted by a normative order. . . . the order constituting this community is the legal order, designated as a national legal order, as distinct from the international juridical order (p. 290).

Finally, by reason of the place of the pyramid in Masonic symbolism, it is not excluded that this architecture had been retained in order to suggest the concentration of power in Freemasonry.¹¹ For the second time in contemporary history, Kelsen's work has taken on a disquieting dimension: it could be interpreted as offering a theoretical basis for taking over world power by Freemasonry.¹²

¹ For more details, see the fundamental work of Jean-Pierre Cot and Alain Pellet (eds.) *La Charte des Nations Unies. Commentaire article par article* (Paris: Economica, 1985). Kelsen's positions are mentioned some dozen times in this important volume. The absence of an index of proper names makes consultation of this remarkable instrument of research a bit tedious. See also Philippe de La Chapelle, *La Déclaration universelle des droits de l'homme et le catholicisme* (Paris: LGD), 1967).

- ² See for example article 12,1: "Since the Security Council fills, regarding a disagreement or any kind of situation, the function assigned to it by the present Charter, the General Assembly must not make any recommendation about this disagreement or situation, unless the Security Council asks for it."
- ³ The most famous work of Kelsen is *The Pure Theory of Law* (Berkeley, CA. 1967). We will cite this as *Pure Theory*, and the page references will be to this book. Two French translations are available: *Théorie pure du droit* (Paris: LGDJ, and Brussels: Bruylants, 1999) and one based on an earlier edition of the original German, done by Henri Thévenaz (Neuchâtel: La Baconnière, 1988). Kelsen devoted an important study to the foundation documents of the UN. See *The Law of the United Nations. A Critical Analysis of its Fundamental Problems* (London: Steven & Sons, 1951). He has returned several times to this work.
- ⁴ All these preliminaries are explained in the two prefaces as well as in the course of the first chapter.
- ⁵ On this subject see Binding-Hoch, *Die Freigabe der Vernichtung lebensunwerten Lebens* (Leipzig: Meinert, 1922).
- ⁶ Cf., re this subject, pp.175 f.
- ⁷ For more details see P. Foulgué under the word "system."
- ⁸ For these reasons, in France the "Pure Theory of Kelsen" is often called "normativisme."
- ⁹ Cf. Gianni Maria Pozzo, "Pitagora e Pitagorismo," *Enciclopedia filosofica*, III, col. 1397-1403.
- ¹⁰ It is well known that Mexico is a country where Masonry has been very influential. That explains why quite a few studies are published there, interest in which goes beyond the limits of that nation. See, for example, Manuel Antonio Diaz Cid, *Genesis y Doctrina de la Franmasonería* (Puebla: Universidad Popular Autónoma, 1990).
- ¹¹ Here is what Pierre Mariel writes in *Les Franc-Maçons en France* (Paris: Marabout, 1969): "The society of nations was, essentially, a Masonic creation, and its first president was a French Mason, Léon Bourgeois. In our day, moreover, the UN (as UNESCO) is almost entirely composed of Masons from all countries (a fact known perfectly well by Pope Paul VI when he came to speak before it at that memorable session" (p. 204).
- ¹² Giving an account of the French translation done by H. Thévenaz of Kelsen's famous book, Jean-François Perrin writes, in hardly disguised language, that nothing was lacking for the success of this thought, "not even its symbol of grandeur, the famous 'pyramid.' This figure will stand up for a long time, whether on its base, or on its point."

CHAPTER XII

NATIONAL LAW AND INTERNATIONAL LAW

The question of the fundamental norm, touched upon in the preceding chapter, arises first of all on the level of the national law, but it arises equally and above all in the area of the relationship between the national law and international law.

Toward a World State

Two schools of thought are present here. First there is the one that gives primacy to the State juridical order. According to this theory, "the validity of law is found in the assumed fundamental norm which is related to an effective State constitution." The international law is in this case "only a part of the national legal order, regarded as sovereign" (p. 217).

According to the other theory, which Kelsen favors, "international law is a juridical order superior to the juridical orders of all States, which limits their respective domains of validity and which alone is sovereign: that is the theory of the primacy of the international order. Effectively, this international law contains a norm that constitutes the validity of the juridical orders of States" (p. 214).

However, Kelsen pushes the analysis of this distinction further:

International law consists of norms which originally were created by acts of national states. . . to regulate inter-State relations, and that by way of custom. These are norms of general international law because they create obligations and rights for all States. Among these norms one is of particular importance. . . *pacta sunt servanda* (pacts must be respected). . . . International law created by treaties, as valid today, does not have general but only particular character; its norms are valid. . . only either for two States or a group of States.

It is to be noted that particular international law created by treaties and general international customary law must not be regarded as norms on the same level. Since the basis of the first group of norms is a norm of the second group, the two have a relation of a higher and lower level in a hierarchy. And if we consider also the legal norms created by international courts and other international organs established by treaties, then a third level appears in the structure of international law. For the function of such an organ is based on an international treaty, that is, on a norm of the second level of the pyramid of international law. Since this second level of international law created by international treaties rests upon a norm of general customary, international law (highest level), the presupposed basic norm of international law must be a norm which establishes custom set up by the mutual conduct of states as law creating fact (pp 323 f.).

One will note here that the role attributed to custom in the formation of the State's law is extended to the creation of the international law. Said in another way, if consensus is the origin of the State's law, it is also that of international law. The international tribunals and international functionaries are themselves also an origin of law. The effectiveness of this international law will be expressed in the obligations it will require and in the sanctions it will impose and apply.

International law, as a coercive order, shows the same character as national law but differs from it, and has a certain similarity with the law of primitive, i.e., stateless societies in that international law (as a general law obligating all states) does not establish special organs for the creation and application of its norms. It is still in a state of far-reaching decentralization. It is only at the beginning of a development which national law has already completed. General norms are created by custom and treaty (pp. 323).

Inversion of the Principle of Subsidiarity

This conception of international law involves the subordination of State law to international right. It includes, then, a strict limitation of the sovereignty of States, for example, within the framework of a world federation, or again the dissolution of this sovereignty in the framework of a world Super-State to which alone sovereignty is attached:

International law will truly be law if it is a coercive order, that is, a set of norms regulating human conduct by attaching certain

coercive acts (sanctions) as consequences to certain facts, as delicts, determined by this order as conditions and if consequently, it can be described in sentences which may be called "rules of law" (p. 320).

Kelsen's conception of fundamental norm designs, then, this world State as a horizon toward which we must necessarily tend. It is a logical necessity postulated by the identity of the State and of law. This latter appears consequently as the instrument of unification and of centralization of a global society characterized less by its internationalism than by its supranationalism. Kelsen expresses himself on this subject with total clarity:

The entire legally technical movement, as outlined here, has in the final analysis the tendency to blur the border line between international and national law so that the organizational unity of a universal legal community or, in other words, the emergence of a world State appears as the ultimate goal of the legal development directed toward increasing centralization (p. 328).

We find ourselves here not only in the presence of a Super-States' monopolizing of sovereignty, but further, of a *perverse inversion of the principle of subsidiarity*. It is not the Super-State that plays a subsidiary role vis-à-vis particular States; it is the latter which play that role vis-à-vis the first. Apart from the UN, such was already one of the major problems posed by the Treaty of Maastricht (1992); this problem became more disturbing still after the Treaty of Amsterdam¹ (1997). If one starts with the validity of international law as Kelsen wishes, then the foundation of the validity of a State's juridical order must necessarily be found in the international juridical order. And Kelsen, whom we have just paraphrased, concludes:

The legal orders of States must be conceived as partial legal orders, delegated by international law and therefore even subordinated to it (p. 336).

It follows, then, that *international tribunals* will necessarily have power superior to that of State tribunals. See how, according to Kelsen, *judges* must collaborate with functionaries in affirming the Super-State:

Opposition to a norm does not signify a conflict between the inferior norm and the superior one, but only that the inferior norm can be annulled or that an organ responsible for the edict can be punished (p. 330).

The case of Poland, which has been mentioned elsewhere, furnishes a good example of what the Kelsenian Super-State requires. A

State society that refuses to liberalize abortion weakens the international consensus indispensable to the formation of the customary Supra-State right. Then it is not sufficient to threaten the particular State — in our example Poland — with being under the ban of the Super-State (the latter being simply in formation). It is already necessary to affirm the sovereignty of this Super-State and manifest its effectiveness by brandishing the threat of sanction against the “dissident” State and by interfering in its internal affairs.

Instruments aimed at exerting these sanctions and telling particular states — persons also — what their right is already exist. They are recognizable in the International Penal Court and in the Declaration in favor of the defenders of the rights of man.

If one starts with the validity of international law which requires no acknowledgement by the State, such an arrangement does not signify enforcing the international law for the State concerned, but it signifies its transformation into State’s law by a general stipulation. . . . Such a transformation is needed if the State organs, especially the tribunals, are only authorized according to the constitution to apply the national law and consequently can apply international law only if its content has assumed the form of national law. . . , that is, transformed into national law (p. 336 f.).

The Dissolution of the State

As we have already seen, his pure theory ends, in Kelsen’s own admission, in the dissolution of the *person*. We can now state that, by reason of his conception of international law, this same theory results in the dissolution of the *State*. First of all, the state has no existence except by reason of its belonging to the international juridical order:

The national State in its legal existence appears as determined in all directions by international law, that is, as a legal order delegated by the international law. Only the international legal order is sovereign; no national order is. . . The validity of the order of the single member State is based upon the constitution of the federal State (p. 338 f.).

The State does not survive except in an existence which, so to speak, is procured or delegated to it by the international juridical order. It is reserved to this order to delegate or not the prerogatives characteristic of the State and of the sovereignty habitually attached to it.

International law regulates the conduct of States. . . . It also stipulates that the State’s territory extends as far as this order

(the State's juridical order) is permanently effective. . . . It also regulates the succession of States in time. . . . International law is of equal importance as regards the material sphere of validity of the national legal order (pp. 337 f)

Moreover, the international juridical order is not limited to restricting the sovereignty of the State. As it delegates this sovereignty the international juridical order finishes by alienating the States from all sovereignty:

The States. . . do not retain the competence (to make any norm whatsoever) except to the extent that international law does not reserve the matter, thus removing it from free regulation by national law. . . . If one admits that international law is a supranational legal order, the State order no longer has an illimitable competence (p. 338).

We are thus brought back to the question of the fundamental norm. This, Kelsen tells us, has a hypothetical character. Paraphrasing Kant, one might say that it is a postulate of juridical reason, of which Kelsen has need in order to cement the cohesion of the pyramid. This *hypothetical norm must be assumed* in order to assure, not only the validity of the norms of lesser degree, but above all the validity of the international juridical order itself.

Thus arises the question of the fundamental norm of the international law and its validity:

This fundamental norm becomes. . . the immediate foundation of the validity of the state order. As a true fundamental norm, it is in no way, we know, a positive norm but one that is presupposed. It represents the presupposition under which the general international law — that is, the effective norms. . . that regulate the mutual conduct of States — can be regarded as obligatory juridical norms binding the States (p. 215).

¹ See art. 5 of the Amsterdam Treaty and Protocol 7 on the application of the principles of subsidiarity and proportionality. Cf. G. Berthu, *Le Traité d'Amsterdam*, pp. 58-66.

CHAPTER XIII

A SYSTEM OF WORLD CONTROL

In the purely logical system of Kelsen, there is no place for the "rights of man" anterior to the State. The acknowledgement of such rights would lead, in this theory's logic, to making the State subsidiary. But more basically still, this acknowledgement would lead to contesting the world State and the juridical order corresponding to it. In this system, perhaps each one is free to think, to himself, what he wishes; but everyone must bring his actions into accord with the obligations and sanctions according to the norms. The individual must obey right because it is right, because it is identified with the State, and not because it will be *reasonable* to obey a just law resulting, for example, from reason, nature or God.

A THEORY OF POWER

No Place for the Rights of Man

Kelsen's theory, since it is at once a theory of the State and of law, is, then, also a theory of power. The role given by Kelsen to *effectiveness* reveals a real kinship between him and Machiavelli. Just as particular States must tend toward the unique world State, just as the world juridical order must become the supreme juridical order, so power must be concentrated on a world level. Strictly speaking, the role of the world State must not consist in coordinating the conduct of States; if it did so, it would rest on a merely transitory and precarious basis. The world State *must*, in effect, *subordinate*, in the literal sense, particular States and even, in the end, dissolve them.

The *Pure Theory* of law postulates, then, a unique juridical system in which the validation of States' rights will depend on a unique State, whose sovereignty and authority will be unlimited. This unique State, called the world State, will bring about the juridical and political unity of the world, the essence of the political being finally denied in favor of the State's absorption by law. The world

State will receive its validation from the pyramidal juridical order, demanded, besides, for the validity of the rights of States themselves. This pyramidal conception of law postulates, then, an extreme concentration of power. Power here is absolute, in the literal sense of this word: it is removed from any reference to the body politic, to intermediary organs and finally to persons of flesh and bone composing this body.

Furthermore, radically contesting the sovereignty of individual States, the Kelsenian system ruins the rights of man of which, according to the 1948 Declaration, the State must be the primary promoter and protector.

And so, in virtue of its subordination to the norm of a superior degree, the State's law has been already rendered incapable of taking care of the rights of persons with any priority. By virtue of the supreme norm, it must be forbidden for international law to protect the sovereignty of States. This twofold immobilization of persons and States, as well as the final deactivation of their respective rights, excludes all moderating power; it excludes the distinction of powers; it leaves the field totally open to imperial and hegemonic projects. In brief, Kelsen's pyramidal system is *holistic*: the Super-State and the juridical order that validates it constitute the unique reality outside of which nothing, not even any person, has value.

Kelsen's theory, then, rests on a form of radical juridico-political monism. Every organization of society obeys an architecture that first of all places individuals under obligation to obey juridical norms of a particular state's laws and then particular states under *obligation to obey the fundamental norm decided, in the final analysis, by international law*.

A Totalitarianism Without a Face

Regardless of the level of the pyramid that one considers, the juridical norm draws its effectiveness from its *logical coherence* with the *procedure* for producing norms. The procedure doesn't differ substantially from that which, according to John Rawls, ends in "just" decisions. Here the fundamental rule of producing norms is that all of them are derived, in the final analysis, from the superior, hypothetical norm.

Kelsen needs this basis — or summit, if you will — on which to found his theory, which is underpinned by a plan of totally immanent *juridical monism*. The subordination of individuals to States and the States to a world command center, characterized by an indisputable sovereignty, ordered by international law, is a *logical necessity* re-

quired by his theory of law. This conception of law *necessarily* legitimizes a world State and, in the end, a world power, exclusive subject of sovereignty and unlimited authority. Universality *must* come from the summit of the pyramid and not from the assent to founding truths given by the free and converging wills of the members of the human community, the intermediary bodies, the political bodies, the Nations or States.¹

Now, precisely because this ultimate fundamental norm is hypothetical, it is the world State that, in fact, gathers and exercises the functions. This extreme concentration of power is already taking place under our eyes. The Super-State in the process of emerging will be an anonymous directorate, whose cogs will be *legion*.² The classical totalitarian regimes of the twentieth century had perfectly visible dictators, and they were furnished with institutions which could be described. The new totalitarianism which is being put in place in the name of the international juridical order is a *collective, anonymous* totalitarianism without a face. It is a totalitarianism whose unlimited power is diffracted in tribunals, as we have already pointed out, but also in the Declaration on the Defenders of the Rights of Man, in the MAI, in nongovernmental organizations, in the networks of the worldwide media, and finally in regional organizations such as the European Union. All bring pressure to bear for accelerating the process of world *centralization*.

A POLICE SYSTEM

Jurisprudence and Bureaucracy

The original structure of the UN already bore the mark of Kelsen's theory; at present, this influence is increasingly clear in the heart of the organization. The preponderance of the Security Council, the power of the Economic and Social Council (art. 62-71 of the Charter) the nomination of the Secretary General by the Assembly upon recommendation of the Security Council (art. 97) and the areas of competence of the Secretariat illustrate remarkably well the pyramidal and Kelsenian structure of this international organization. States' laws seeking to maintain order are taken into account (art. 2, 7), but are subsumed by international law, that is, overshadowed by the international organization that has the force to maintain international order (art. 12). The articles devoted to autonomous territories (art. 73 f.) or to the international regime for guardianship (art. 75-85) confirm this "vocation" of the UN to decide international law without any precise mention being made of the content to which it should refer, or to the competence of the States in the codification of

this law. In this context which considerably increases the *juridical* role of this organization, considering the rights of man themselves cannot but send us back to a voluntarist conception of these rights.

According to this logic, it is, then, neither necessary nor desirable that the General Assembly be a true deliberative assembly and still less a legislative one, since, in an organization that has the unique apparatus and law of an international State, law has its origin in custom and consensus and is expressed in the jurisprudence validated by the pyramidal system of norms. We must nonetheless remark that this jurisprudence is not an authorized interpretation, according to the general principles of law, of custom or even of a law emanating from a distinct legislative assembly with executive power — an interpretation which is, besides, valid in principle only for a particular case under consideration. In the case of this organization, jurisprudence receives its validity, in the final instance, from the will of the one unique State.

This explains the role devolving upon the International Penal Court. Since there is no longer a way of identifying the general principles of law, it will pertain to the tribunal to reveal the meaning of the juridical texts and consensual decisions, and to say which interpretation is valid. Divergencies of interpretation are henceforth *intolerable*, for they ruin the juridical order and *consequently* the supranational State. At the conclusion of this procedure, it hardly rests with the General Assembly to consent to the decisions already taken by the center of supreme power, founded for the very reason of saying what the law is.

The *conventions* and *pacts* no longer appear here as accords passed freely by individual and sovereign States, but as a juridical link emanating from the will of the international organization requiring, via the ratifications, obedience from States. Whence — one always comes back to it — the obsession with consensus. As for *national legislation*, it cannot remain except as inserted, as subordinated, into the edifice, which has been called “grandiose,” of Kelsenian international law, understood here as the expression of the decisions taken by the international organization or by the satellites that act vicariously for it. The laws of the States are thus transformed into a network whose international law is not lacking to extend its own branches on a planetary scale.

These satellites are UN agencies in which a hive of functionaries incarnate the *Weber bureaucracy*. The rationalist organization of the world State demands, in effect, an administration whose functionaries share in power and can be the source of law. The administration

is no longer, here, a means for executing a plan it does not decide; rather it acts by way of delegation and under control. Anti-subsidiarity reappears here: the bureaucracy becomes the source of law, expresses the norm, obligates and restrains: not in a single domain, but in all domains where it is useful to indicate the law. Of this observed trend Kelsen himself suggests that it finds its precedent in the bureaucracy of Stalin.

Distortion of Meaning

And so one can understand that "normativism" is the theory of law that perfectly fits in with the New Age and its networks. This same normativism is equally well accommodated to the erosion, frequently observed, of *sovereignty*. This is an erosion that is manifested in two ways: first of all, in the centrifugal and separatist tendencies observed in many regions or in Nation-States. These tendencies are obviously of a nature to weaken the capacity of States to oppose the plan of pyramidal concentration of power. Then the power of the States is short-circuited by a plethora of nongovernmental organizations *supportive* of the UN's normativism.

With an astonishing theory of law we are in the presence of a process of pyramidal concentration of power absolutely without precedent in history. "Justified" by this theory of law, this concentration of power postulates the existence of a State of Supranational law, that is, of a political entity deciding laws, exclusively entitled to sovereignty and supreme authority, founded to obligate all individual states, founded also to interpret authentically the laws that it itself produces.

In sum, all the present juridical instruments, whether national or international, are the object of a corruption of meaning: instead of being at the service of the rights of the real man, the one at the "base," they serve as relays of the logical edifice constructed for the benefit of an international law, itself the expression of a hegemonic will, absolute and totalitarian, since, according to the logic of the system, no reality, no value can be opposed to it.

Such a conception of law is obviously the kind that fascinates the most radical of liberals, and that for two reasons. First of all, because the law remains excluded from all the domains in which international or individual States do not wish to exercise their law. It is even in the strict logic of this conception of law that, as in Hobbes, the individual may do absolutely whatever he wishes, whatever gives him pleasure, *provided that* the State does not impose either obedience, obligation or prohibition concerning such and such an act that he

would like to perform. And secondly, because the law thus conceived can raid extra-judicial domains of the most diverse sort. For the profit of the international State, it can then define the obligations or prohibitions in any domain whatsoever, for example, scientific, technical, monetary, economic, biomedical, etc.

Control of Life

If one will pay just a little attention to the action plans, recommendations, consensual decisions and other conventions emanating from UNFP, from the WHO, from UNICEF, from the World Bank, from UNDP, etc., one will soon observe that the "new rights of man" are simply the new norms, produced, at their level on the pyramid, by the agencies involved. One will also observe that these norms receive their validity from the world juridical order of the world State being built up in stages.

One observes, then, that the world juridical order that is being constructed is not at the service of a classical imperial or hegemonic type. *It is to serve for controlling life.* The supreme norm here is the mastery over life in order to arrive, thereby, at the domination of men³ and of all things. "Life, which with the Declarations on the rights of man, has become the foundation of sovereignty, becomes henceforth the subject-object of State politics (which is thus increasingly presented as "police").⁴ An entire bioethical casuistry has presently for its object to nourish custom, to rally a larger consensus, to achieve conventions, regulations and other action plans. All of that emanates, in the final analysis, from the hypothetical norm supporting the entire system: normative, restraining, repressive — and, why not, policing.

¹ A recent study suggests a really surprising parallelism between the Super-State of Kelsen and the *Leviathan* of Hobbes. Giving an account of a work of Horst Bredekamp in *Le Monde* (Sept. 8, 2000) regarding the frontispiece of the first (1651) edition of *Leviathan*, Olivier Christin especially notes that: "The body of the giant is composed of a multitude of bodies turned toward his face [that of Leviathan]." He adds: "These images obviously share in the exaltation of the sovereign, one who gathers together, a unifier, one who puts order in things, a guarantor of the world equilibrium. . . . Anamorphoses, binoculars and kaleidoscopes, in effect, allow us to think afresh of the king's appearance and its dissimulation sometimes made necessary by the circumstances." This multitude of stacked bodies is to be compared with Kelsen's pyramidal system. The work analyzed, known thanks to O. Christin, has Horst Bredekamp for author and for title *Thomas Hobbes visuelle Strategien. Der Leviathan: Das Urbild des modernen Staates* (Berlin: Akademie Verlag, n.d.) The frontispiece in question is reproduced in the French version of *Léviathan* published by François Tricaud (Paris: Sirey, 1971).

² Mk 5:9. See also our work *L'enjeu politique de l'avortement*, 206-208.

- ³ Cf. our work *Power over Life Leads to Domination of Mankind* (St. Louis: Central Bureau, 1996); see also *L'enjeu politique de l'avortement*, esp. 189-213. At the time of the trial of the doctors at Nuremberg (Oct. 25, 1946-July 19, 1947), the basic problems which we are examining here already flourished. See on this subject Gérard Memeteau, "Nuremberg: mythe ou réalité," *Revue de Recherche juridique. Droit prospectif*, Aix-Marseille: Presses Universitaires, 3 (1999) 605-629.
- ⁴ Giorgio Agamben, *Homo sacer. Le pouvoir souverain et la vie nue* (Paris: Seuil, 1997) 161.

CHAPTER XIV

REALITY'S REVENGE

States Made Satellites

At the end of this analysis we are forced to recognize that the word *system* has acquired a meaning different from the one we observed at the beginning. *The word system, which was applied to the norms, is now applied to the organizations.* Henceforth the word designates, as in mechanics, a machine or apparatus, or even an ensemble of apparatuses producing a determined effect. One speaks of an ingenious telephone system, an economical heating system, a system of effective brakes. The pyramidal system of norms, which the UN has already adopted, has transformed this organization into a formidable machine whose function is to control life, then individuals, families and States.

The UN has even become a system in another sense: in the sense which this word is given in expressions like "solar system" or "planetary system." Just as the planets revolve around the sun, so individual states must accept — before being swallowed up — being satellites of the world state.

The UN thus tends to become an immense machine making an ideological use of law, perhaps in the vain hope of legitimizing the power of the invisible triangle.

A Sophistical Dirty Trick

In the final analysis, right absorbs the essence of politics to the extent that, methodically ignoring the *political fact*, it cannot but ignore as well the metajudicial references that effectively mark out this dimension of human existence. For Kelsen, law is not limited to *legalizing* what the State decides; it *legitimizes* it. The regime that Kelsen had to flee from was thus supported by one of its victims. Moreover, Kelsen produced in advance a theory endorsing future juridical systems which would invoke the right to legitimize injustice.

In sum, Kelsen's theory extrapolates, for the benefit of a sovereign center of world power, the totalitarian logic that Hobbes developed for the benefit of an individual State. However it may be defended, Kelsen's theory has all the characteristics of an ideological construct removed in every way from reality. Kelsen does not even allow himself to advance, in Spinoza's manner, the proposition that "the order of idea is the same as the order of things." It is the *real* — assuming there is any — that should have to coil around this radically rationalist construction that claims to rebuild the *real* itself, molding it into rights, themselves fitted into each other within a network of links.

Now this series of links, these rights fitted together like a nest of Russian dolls, cannot even claim the status of a purely formal construction, of a strictly logical piece of architecture, which would be, for these reasons, shielded from particular interests and passions. Kant already came up against an analogous problem: no matter how much one suspends all assent to the real, in the end the latter takes its revenge. It always ends by bouncing back, for example, under the shameful form of the postulate whose reality sooner or later must be conceded. Kelsen is hardly happier than his master and he does not avoid a sophisticated dirty trick, since the validity of all of his pyramidal construction hangs, paradoxically, on the reality of the ultimate fundamental norm, which, without batting an eyelash, he assures us is *hypothetical!*

Little attentive to the *reality* of totalitarianism to which his theory had offered involuntary juridical support, Kelsen — to the extent of his considerable influence — has made it impossible for law to be what it had, nevertheless, traditionally been in the main: a rampart against the *arbitrary*, an instrument without equal in the service of man's rights and of justice. With Kelsen, law became the object of power, and power the object of law. With the relentlessness of all ideologues who endeavor to make the real conform to their utopias, and invoking even their blunders to strengthen their positions, Kelsen still wrote, ten years before his death (1973):

From the viewpoint of juridical science, the law established by the Nazi regime is from the law. We can regret it, but we cannot deny that it concerned law. The law of the Soviet Union is from the law. We can abhor it like the horror we have of a venomous snake, but we cannot deny that it exists, which means it is valid.¹

This juridical monstrosity is in the process of extending its tentacles on an international scale. In a certain way, the seizure of world

power has already taken place. To the extent that the UN radically changes the source of law, that is, that it abandons the traditional realism to enthrone the normativist rationalism of Kelsen, it is imposing on human society a pyramidal structure of power and manipulating international law to this end. After all, even some authors of a stature comparable to Hegel can serve several times in history.

An Anti-nation Manifesto

On the practical and institutional level, the internationalist ideas of Kelsen, already present, as we have seen, in most of the UN's institutional structures, inspire different projects whose stakes we must measure. It is not enough to defeat the inalienable rights of man by weakening the 1948 Declaration. This goal could not be attained if the Nation States were not pressured to erase themselves in favor of the summit of the "pyramid." That is what commends the centralizing project of world government.

The plan to transform the UN into a system of world government goes back to a working group brought together in 1990 by ex-Chancellor Willy Brandt.² It concerned reconstructing international relations on the morrow of the cold war's ending in order to reconcile the two antagonistic blocs of West and East. This approach, however, excluded any hypothesis of the implosion of the Soviet system, and was adapted to the continuation of its totalitarianism.

Thence were born different ambiguous initiatives concerning world security. Thence was also born a nongovernmental organization called the *Commission on Global Governance*. This commission was the subject of a discourse by James Gustave Speth on March 18, 1997, during the Rio Conference.³ In his intervention, Speth closely linked "Global Governance" and "Sustainable Development."⁴ This project was already explained in the Report of the Commission on Global Governance, entitled *Our Global Neighbourhood*.⁵

It is a matter of a gigantic project that strives to realize Kelsen's utopia by aiming at "legitimizing" and setting up a unique world government. All the usual themes meet the appeal. The environment, however, is especially highlighted out of the necessity to create a new order and the urgency of finding the funds to realize the project.

This global government had already been put in boxed print in the report of UNDP in 1994. This boxed text, drawn up at the request of UNDP by Jan Tinbergen, Nobel prize winner for economics (1969), has all the style of a manifesto sponsored by and for the UN. Here is an extract:⁶

The problems of humanity can no longer be resolved by national governments. What they need is a world government.

The best way of achieving that is to reinforce the UN's system. In certain cases, that would mean that it is necessary to change the role of the UN's agencies and for the consultative ones to become executive. Thus the FAO would become the world ministry of Agriculture, UNIDO would become the world ministry of industry, and ILO the world ministry for social affairs.

In other cases, some completely new institutions would be needed. These could include, for example, a permanent world police which would be able to summon nations to appear before the International Court of Justice, or before other courts especially created. If they would not respect the judgments of the Court, it would be possible to apply some sanctions, military as well as non-military.

Without doubt, as long as they exist and accomplish their role, nations protect their citizens; they make the rights of man respected and use appropriate means toward this end. In the milieu of the UN, *the destruction of Nations appears, then, as an objective to be sought, if one wishes definitively to smother the anthropocentric conception of man's rights.* By putting an end to the intermediary body which is the national State, one would have done with subsidiarity, since a centralized world State would have replaced it. The way would then be cleared for the arrival of the technocrats and other aspirants to totalitarian world governance.

¹ H. Kelsen, *Das Naturrecht in der politischen Theorie* (Vienna, 1963) 148; this was an explanation given to the Congress of the International Center for Research concerning the fundamental problems of science. We take this text as quoted by Julien Freund, *L'essence du politique* (Paris: Sirey, 1965) 723 f. Certain passages of the *Pure Theory* prepare, so to speak, for this assertion. See, for example, the text on pp. 197 f. of *Theory*.

² In reality, this project goes back to Woodrow Wilson (1856-1924) and to the Council for Foreign Relations. See *The Totalitarian Trend of Liberalism* (St. Louis: Central Bureau, 1997) 94.

³ This conference celebrated the one of 1992.

⁴ Speth's discourse covered eleven mimeographed pages.

⁵ Oxford University Press, 1995.

⁶ This text figures in the *Human Development Report 1994*, published by UNDP (New York and Oxford, 1994); the quotation appears on p. 88.

PART THREE

THE CHRISTIAN DISAGREEMENT

CHAPTER XV

WHAT ESTEEM DOES THE UN HAVE FOR TRUTH?

In the discussions that took place in the Assembly of Beijing + 5 (New York, June 5-9, 2000), as well as those that preceded it, one noticed the presence of an obsessive fear of difference of opinion and dissent.¹ It is always the domination of consensus that tends to be imposed. The Assembly of the Millennium further confirmed this tendency.

THE CONTAGION OF MIMICRY

Imitating Violence

The theme of “new rights” has been, we know only too well, one of the central points of these meetings and, as foreseen, great efforts were made — without much success, it is true — to include abortion among these “new rights.” On occasion, one noticed that the promoters of the “new rights” made use of what the philosopher René Girard called the “mechanism of mimetic contagion,” that is, the tendency to imitate the violence to which the other would yield.²

The “new rights” must mold mores and inculcate the “values” that inspire conduct. The result of consensual procedures, the “new values” induce mimetic conduct. All men should come to the point of imitating the behavior elevated to the dignity of “new rights” and subscribe to the new “values” that these “new rights” are regarded as concretizing. The media is charged with propagating this imitative tendency within all of society.

When one examines more closely the question of the “new rights,” one observes that the desire to imitate others is displayed in the sudden *contagion* with which the lack of respect for human life is spread. Provocative transgression by some unleashes an acceleration of imitative conduct. The pioneers of illegal abortion are imitated,

feted, congratulated for their "courage." Abortion is depenalized; it is quickly legalized; finally, it becomes a "new right" of man, allowed universally. The same is true of the other "new rights."

This imitative of mimetic contagion is today one of the most important signs of the times that raises questions for Christians and all men of good will. It is not enough to say that the basic right of the human being to life becomes more and more fragile; we must add that this right is increasingly difficult to defend. This right is cut to pieces by a galloping imitative consensus.

The Innocent are Guilty

The dramatic case of abortion (more than 50 million are reported each year) is much more than *one* illustrative example among many others. In reality, abortion is the *principal* case that expresses the imitative tendency that is tending toward erecting violence into a right, toward the gift of death as an expression of the sovereign will.

In fact, in the case of abortion, the absolutely innocent one is declared guilty. It is the evil resulting from a failed contraception; the obstacle to a career and to comfort; the inadmissible hindrance to one's own liberty; it is the brake on enrichment and development. Absolute violence must correspond to total innocence. The innocent must be lynched. Consequently, the innocent one must be designated as the victim, as the scapegoat, and even as a *guilty victim*, and he must be treated as such with a violence that will silence him and make him disappear.

One can, besides, speak analogously about the poor of the Third-World, whom they want to sterilize; the mentally deficient or terminally sick, whom they want to euthanize; the beggars, the street kids, whom they want to shoot like rabbits. Our century is revising the category *homo sacer*. In the name of the "new rights of man," entire categories of human beings can be put to death without the killers' committing homicide. These beings are deprived of all rights; all juridical protection is withdrawn from them.³

Finally, popular language reflects well the tendency to imitate, the mimetic contagion: they say that abortion, sterilization of the poor, euthanasia, etc. "have become part of our mores."

The most noble and most fundamental task that is imposed on all today is the unanimous and unconditional defense of life in all its stages, at all the steps of its unfolding. This requires individual and political commitment. We must denounce the rejection of the basic right to life and to physical integrity; it cries to heaven for ven-

geance. If we do not do it, we will soon be commandeered as artisans of death.

Democracy began the day the Innocent pleaded his innocence and when this cry was heard. That happened on Good Friday and was repeated often throughout the course of history. It was repeated especially on May 13, 1981: "Why did they do that to me?" asked John Paul II a few moments after the attack upon him. Such is the cry of the innocent victim that the mimetic contagion would like to pass off as guilty.

"Whenever you have done this to one of the little ones, who are my brothers, you have done it to me" (Mt 25:40). Such is the *Magna Carta* of the Christian committed to the service of life. Today, we must reject the tendency to imitate the violence that looks for legitimation in the "new rights." We must reject the mimetic violence, the lynching of innocent victims. All the resources that we can use in our activity have no sense except to the extent that they are applied to the defense of life in all its phases. This is what many saints did through the ages. They did it very simply by following the example of Christ, who returned to innocent victims their dignity. Just as the Good Samaritan did, so we must give priority to these victims. It is for them and with them that we must build a society of communion in solidarity.

THE UN AGAINST THE CHURCH

Negotiated Rights?

As a consequence of an evolution which is not generally emphasized enough, the UN today regards the rights of man as products of a perpetual negotiation, since it is no longer possible — they say — to agree all at once on the truth about man and his value. Henceforth, for example, the traditional moral norm "Thou shall not kill!" must be changed. The right to life must be relativized according to particular situations and the will of those who participate in the decision process. From now on, the rights of man are imposed because they proceed from the will of those who adhere to the consensus, that is, in the final analysis, because the majority wants them.

Toward Intolerant Agnosticism

This situation explains the present campaign of attacks on the presence of the Holy See's Permanent Observer at the UN. Let us add right away that this campaign, called "See Change," has en-

countered opposition and reservations on the part of numerous politicians and Protestant and Muslim groups.

The Holy See does not ask for money from the UN; it owes it no favor. Hence, to put pressure on it, other means must be sought and used on those representatives whom it is desired to neutralize, rally or buy. That is why, giving proof of their unprecedented connivance, the authorities of the UN leave elbow room for nongovernmental organizations such as Catholics for Free Choice. This violently anti-Christian organization is in reality a dishonest enterprise with various ramifications. It usurps the label Catholic to deceive simple souls or those who give that impression.

By this means it attempts to intimidate the nations that support the permanent observer in the UN's assemblies.⁴ More radically, it is necessary to try to reduce the Holy See to silence, since its position is not based on any form of consensus, and still less on the votes of the majority. The position of the Holy See is founded on truth — a truth acknowledged and proclaimed by the UN in 1948, but which the UN of the twenty-first century is beginning to abandon in order to leave the field free for the will of the strongest.

Another sign of hostility toward the Church is furnished by the United Religious Initiative, whose founding act was signed on June 26, 2000, at Pittsburgh, fifty-five years after the signing of the Charter of the United Nations. This Initiative is opposed to evangelization and dogmas; it campaigns for the veneration of the Earth and fights for the "new rights of man."⁵

The Christian presence disturbs the present UN, because, in the domain of anthropology, this UN has rejected all reference to truth. Today, supported by courageous countries, the Holy See questions the *exorbitant* role attributed to consensus in the UN. The latter wants to lead the world community to take note of its consensus and ratify the "new right", as we know. However, it is plain for all to see that the Church cannot admit that all reference to truth be driven out, as if man were incapable of declaring something true about himself, or even as if he were forbidden to do so.

Like the pre-Christian political and juridical tradition, the Church regards man himself as *the* value par excellence that is imposed on man. Whence the manipulated pressures financed by secularism to ban the Church and Christians from the world community. These milieux desire that, thanks to the mechanism of mimetic contagion, intolerant agnosticism and violence triumph.

THE NUMBERED DAYS OF SECULAR TOTALITARIANISM

Built on Sand: the UN

But to this UN, we must solemnly say: Attention! You are in the process of installing a new religion totally secularized and paganized. You are trying to put in place a *magisterium* that claims to produce and impose a Unique Thought. You are busy organizing inquisitorial *tribunals* to prosecute those who are regarded as "politically incorrect." You are in the process of smothering and destroying the *foyers of resistance* that raise obstacles to your claims and plans: the person, the family, the Nation and the State, religions. You install a new *totalitarianism* by *deprogramming* men and alienating them from the truth about their own dignity, and by reprogramming them beginning with untruthful principles which you dangle under the label of the "new rights of man." You are busy installing a new *International*, at once socialist and liberal: to serve the perverse conception of globalization, which, by means of a relentless competition, eliminates the weakest.

However, as with every system that tends toward totalitarianism, the UN's system suffers from an incurable vice: *it lacks the truth*. This UN refuses to acknowledge fully the dignity of man, the family, civil society, the nations and state. This UN desires to model all humanity in conformity with its ideological utopia.

But to this UN the same thing is going to happen as did to all the fatal regimes of the last century. Its days are numbered, because its edifice is built on sand. Its days are numbered, because this UN is already divided, as already is the reign of Satan. Its days are numbered, because it allowed itself to be blighted by the unscrupulous nongovernmental organizations, which impose their dictates on it instead of helping it realize its mission of peace, justice and development.⁶ Its days are numbered, because this UN does not respect the most vulnerable human beings. Its days are numbered, because this UN is founded on a structure of sin.

The UN, which counts so many men of good will among its functionaries and has done and continues to do so many good things, urgently needs to make an *examination of conscience*, and to submit to an audit.

This evaluation is urgent, because the evil and lies spread by certain of its principal agencies, supported by the IPPF and other non-

governmental organizations, are ruining the credibility of the whole and threatening the legitimacy of the institution.

A Shield for Failures?

So prompt to ask for an accounting from its members, the UN itself has accounts to render for some fifty years of limited success, to say the least, in a good number of domains.

On July 5, 2000, as he presented in Rome the project for reorganizing the FAO, Jacques Diouf, the latter's director, acknowledged that this agency had not succeeded in relieving the challenge of hunger. He stated that, with a budget of 157 million dollars, the FAO had available a budget very inferior to that of other agencies of the UN. According to his analysis of the world foodstuff situation at the beginning of the third Millennium, the aforesaid FAO raises the growth of foodstuff production in developing countries, but Diouf stated that, due to the carelessness of many governments, 800 million people are always undernourished.⁷

The same statement had been made on June 29 regarding UNDP by Mark Malloch Brown, its administrator.⁸ PUND's report, distributed in June 2000 on the occasion of the extraordinary session of the General Assembly, held at Geneva, certainly was a step in the right direction. The UN itself acknowledged that its struggle against poverty has been a failure. In short: poverty strikes more than one billion, three hundred million human beings. Nevertheless, as Pope John Paul II emphasized as he commented on this report, "Food, health assistance, education and work are not only objectives of development; these are some fundamental rights which unfortunately are still refused to millions of human beings."⁹

Such is the error of perspective that often falsifies the UN's diagnosis which, consequently, ends with a prescription of unsuitable remedies: development cannot be reduced to a bundle of economic objectives. It is essentially linked to the effective recognition of the equal dignity of all men. The conception of the rights of man presently promoted by the UN does not satisfy this requirement. It becomes, then, a brake on development. With its present conception of man's rights and the budgetary allocations that ensue, today the UN cannot but be a machine to make people poor.

One doesn't remedy the diagnostic error which is at the origin of this situation by constructing plans of economic growth of known ineffectiveness, because these latter show more importance to physical capital than to human capital.

Besides, the bible of the "new rights of man" cannot serve to throw a veil over the chronic and legendary bureaucratic waste, which, for the rest, spreads shamelessly through dozens of costly meetings and whose financing too often remains obscure. Furthermore, the "new rights" cannot serve as a screen to conceal other shameful failures: for example, in the areas of education, elementary health care, and research on the ailments of the poor.

The UN must also render an account regarding its failures to protect or reestablish peace. For people have a memory: failures, just to limit ourselves to recent examples, include Bosnia, Somalia, Angola, Cambodia, Tibet, Sierra Leone, Kabul, Rwanda, Zimbabwe, Kosovo, Timor, Molucca, and Chechnya.¹⁰

And so, with what authority can one speak of the "new rights of man," if one understands by that the right to destroy the family and cause death?

Conversion to the Truth

To this UN we must say that it is discredited by the contempt that it shows for the human person, for families, for minorities, for nations. It is urgently necessary that *this UN be converted to the truth*: to the truth about *man*, and his dignity, his physical and spiritual integrity; to the truth about the worth of women who, by their nature, make tenderness prevail over force; to the truth about the family, which is monogamous and heterosexual, in which lives the fullness of human love, in which life is welcome, in which is primarily formed the personality of the new human being; to the truth of civil society, which is also founded, to be sure, on the sociability of the human being as well as on the values recognized freely by all and not imposed from on high; to the truth of political society, freely chosen by the citizens and autonomous both in its organization and in its laws; to the truth of the subsidiarity which limits the state's power of intervention, and *a fortiori* of the international organizations to stimulate intermediate and private organizations.

Insofar as the UN has not brought about this conversion, it will not be able to count on the support of Christians except to the extent that its decisions are in full harmony with the dignity of the human being. In the contrary case, it can count on their resistance.

Because it has abandoned its founding credentials, the UN's edifice today is cracked, and the danger of its implosion does not escape the attentive observer. The UN which stealthily rejects the values proclaimed in 1948 has no future. To save itself, to survive, the UN

needs the truth, the truth that was unveiled in 1948, the truth that the Church offers man about his divine origin, his destiny — definitive happiness. The *UN needs Christians*, who are disposed to mobilize their immense worldwide potential to support institutions that respect and favor the integral dignity of man.

And more: the *UN needs the Church and her Christians* because it needs to free itself from lying and violence. It must cease smothering truth! It must stop disparaging the family! It must stop interfering with the intimacy of couples in order to “administer” their inalienable power of transmitting life! It must stop crushing the weakest human beings! It must stop limiting the sovereignty of Nations! It must stop arranging for globalization, controlling the global economy that will control men! It must stop the insidious building of a world government circumventing men and Nations! It must stop desiring to impose on humanity a system of ideological domestication through control by the media! It must stop wanting to dominate the world by dishing out to it a perverse conception of law!

¹ Regarding these meetings, one can consult the web-site: <<http://www.un.org/french/millenaire/>>

² The entire work of René Girard brings a very satisfying clarification to the question of violence and respect for life. In his last works this endeavor leads in grand fashion to the mystery of the Cross. See especially *Je vois Satan tomber comme l'éclair* (Paris: Grasset, 1999); *Quand ces choses commenceront. . . Entretiens avec Michael Treguer* (Paris: Arléa, 1994). Let us also recall Giorgio Agamben, *Homo sacer*.

³ This idea is brilliantly developed by Giorgio Agamben. It is also explained by Eva Cantarella, *Les Peines de mort en Grèce et à Rome* (Paris: Michael, 2000), esp 274-277.

⁴ The Holy See's position was reaffirmed by Archbishop Renato Martino at Grenada on April 8, 2000, during the Congress of Movements for Life. The text of this intervention is available on vinculum@vinculum-news.com.

⁵ See <<http://pagina.de/noticiasdelaonu>> Aug. 13, 2000.

⁶ On the role of nongovernmental organizations, see art. 71 of the UN's Charter.

⁷ Visit the web-site: <<http://www.fao.org>> and the dispatch from the Zenit agency of July 5, 2000.

⁸ Published by the UN's Program for Development (UNDP), the *Rapport mondial sur le développement humain 2000* was published in Paris and Brussels by De Boeck University, 2000. Visit the site: <<http://www.undp.org/dpa/statements/administ.2000/june/29/00/html>>

⁹ For this question recall “Geneva 2000,” and on the report of UNDP, see the article of Lucas Delattre, “La pauvreté dans le monde ou les leçons d'un échec,” *Le Monde* June 21, 2000. See also the bulletins of the Zenit agency ZS000625 of June 25, 2000, and ZS000629 of June 29, 2000.

¹⁰ See on this subject the brilliant editorial of André Glucksmann, “Impardonable ONU,” *L'Express*, n. 2516 (Sept. 23, 1999) 70.

CHAPTER XVI

THE UN AGAINST THE FAMILY

Today the family is the object of much questioning. To believe what the greater part of the media is saying, the family is outdated and even, according to some, due to disappear.¹ We shall try to win the point in this debate. For that, we shall begin by recalling briefly the reality of the family as it appears in history. We shall then see how the family is cast into doubt today. However, it is the third part that will call for greater attention. In effect, at the very moment when it is radically contested, the family has a natural importance emphasized by all contemporary learned people of the highest order. Their scientific research is a sign of hope, and that is why it deserves to be brought without delay to the attention of the public at large as well as to those who make decisions. At the end of our presentation it will appear that the family is the best means of approach for meeting head-on the enlightened totalitarianism concocted by the UN and its nongovernmental organizations.

THE WAY THE FAMILY IS PRESENTED

A New Social Reality

History and anthropology inform us that the family founded on monogamous marriage is a very ancient "natural" institution, whose reality as early as prehistoric times is attested to by historians. The family is the group issuing, by way of filiation, from the spouses joined in marriage.² It is, then, an institution based on the conjugal union, on marriage. Like marriage, the family is a public reality; it is distinct from the reality of each of the members composing it; it is the interface between the private and the public; it is recognized in and by society; it plays a role in society. That is why the family is the subject of rights and why specific policies are devoted to it.

When one says that the family is a natural institution, one means that it is not political society that creates the family, nor is it a cre-

ation of jurists. The family is anterior to political society. Aristotle wrote that it is the basic cell of political society: "Love between husband and wife seems to be well conformed to nature, for man is a being naturally inclined to form a couple, more than to form a political society, to the extent that the family is something anterior to the city and more necessary than the latter, and the procreation of children a thing common to all living beings."³

From the beginning of states of law, this natural reality was regulated by jurists: the family became the object of legislation varying according to the society. The family's right, as well as the patrimonial right so intimately bound to it, is one of the pillars of civil law. Positive law, then, organizes the natural reality of the family, but it does not bring it into existence.

La Pira, who, before being a politician, was a brilliant jurist and specialist in Roman law, even shows, according to a widely noted study by Pierangelo Catalano⁴ (himself a brilliant Romanist), the "structural diversity existing between the contract by consent of private right and the bilateral matrimonial act." The latter "comes out of the area of private right and situates itself in the area of public right." And La Pira explains: "It is a bilateral consensual act (of husband and wife). . . , that creates. . . an organism, a new being, a new social (ontological) unity."

Each marriage, is, then, the origin of a *new social reality*, the family. It founds a new society where the Romans saw already the *principium urbis* (the origin of the city), the *seminarium rei publicae* (the seed-sowing place of the Republic), the *pusilla res publica* (the condensed Republic), the basic stone of the *civitas* and of all human society.

Love and Fecundity

Traditionally, two functions are recognized as belonging to the family. The first is *procreative*: it is within this framework of the family founded on marriage that life is transmitted, that generations are renewed. By its procreative function, the family enables society to endure, that is, to continue to exist, to act, to assert itself. Procreation, then, presents two facets. It proceeds from the natural tendency of the spouses to the communication of life and its preservation, but it equally corresponds to the need to survive, characteristic of every dynamic society. The present questioning of the procreative finality of the family entails, then, not only the repercussions we see on the level of the family properly speaking, but it also places in danger the survival of society.

Human procreation includes the education of children — the formation, on all levels, of the new human being. The education received within the family is not simply the basis of all further education. Within the family, education is offered by the father, the mother, and the couple together. The education received within the family is the point of departure for all education and socialization. From its birth, the child is welcomed in its difference and it progressively recognizes and accepts the others in their differences. The education received within the family, then, prepares the child for its insertion into a democratic society where it will be acknowledged and where it will acknowledge others.⁵

The second function of the family is often called *unitive*: the spouses unite themselves to each other over the long term; they show their lasting love. Here is seen the specificity of human sexuality, which cannot be reduced to a physiological process. When the spouses unite they manifest tenderness, affection, profoundly human sentiments. The spouses form, so to speak, “one sole being, one sole life.” This matrimonial union that blossoms in the family was saluted in Rome with lyrical expressions, which surprise us in the austere vocabulary of law: *conjunctio maris et feminae* (union of male and female), *consortium omnis vitae* (a commitment to share all of life), etc.⁶ Between the spouses there is an interdependence — and more, solidarity. And this solidarity extends to the entire family.

Some famous contemporary studies have shown that two rules, universally observed, aim at protecting the family. One concerns *exogamy*: one must seek his spouse in a group other than the one he springs from. The other concerns *incest*: this prohibits sexual relations between close relatives.⁷

The family can embrace different kinds of organization. Roman antiquity, for example, abandoned little by little the *agnatic* family, based on relationship through the male, and adopted the *cognate* type based on blood bonds and especially relationship through the female. Presently, one still considers the family patriarchal when the head of the family exercises authority and when it preserves a patrimony. It is *nuclear* when it revolves around father, mother and their children as around a nucleus.

The issue of marriage and the family, then, is a natural reality which lives on for a long time. It is a union at once fecund and stable. An expression that has become current sums up the essential characteristics of this union: love and fecundity.

The Church welcomes the natural reality of the family; moreover, she teaches its proper dimension in God's plan. The family is the place par excellence where the spouses share actively in the creative and sanctifying love of God. The family is not only the basic cell of society; it is a Church in miniature, an *ecclesiola*. John Paul II's felicitous expression is: the family is "the base Church community."⁸

For these various reasons, the Church recommends that the principle of subsidiarity in favor of the family be taken into account. Political authority must protect it and help it to realize its twofold mission: on the one hand, insuring the renewal of generations, which includes the education of children; on the other hand, respecting the intimacy of the spouses and helping them find their happiness.

Dissociating Procreation from Union?

History and anthropology also reveal that the family has been questioned. The habitual fashion of opposing the family consists in dissociating what we traditionally called the *two ends* of marriage: *procreative and unitive*, a breaking of what is called today the "conjugal link" and the "filiation link." While we are at it, what is threatened are the bonds between generations and the bonds of relationship — hence the solidarity of families.

Plato, for example, wanted the city strictly to control the number of its inhabitants as well as the education given to children. For their part, the Epicureans developed a hedonist morality, that is, one that exalts individual pleasure. From one and the other, we see a separation of the two traditional ends of marriage and the family. For Plato, only the production of children was important, for the Epicureans only pleasure.

Closer to our time, the family has been opposed, for example, by Leon Blum in his work treating of marriage (*Du mariage*, 1907), a broad apology for free love. The totalitarian regimes of the twentieth century also wanted to defeat the family. From the beginning of the Soviet Revolution, legislation was issued aiming at the destruction of the family. Then, failing to install total collectivism, the Soviet regime undertook to subordinate the family to the interests of the state as the party defined them, and it arranged that spouses would be able to be separated if the state required it.⁹ Naziism did not stop there. What interested the latter was that the family should produce children of irreproachable racial quality and in sufficient number for the needs of the state's production and conquests.

In the two cases, the family was totally subordinated to the state. As we shall see further on, the totalitarian ideas of our time have, *in*

their logic, reasons to suspect the family, to oppose it and destroy it if that should become necessary for the cause.

On this point, enlightened totalitarianism, the object of our attention, doesn't differ at all from its predecessors. In its logic, before *fabricating* men, one must destroy the family.

THE FAMILY ASSAULTED BY THE STATE

Everyone is in accord in recognizing that today the family is in difficulty, even if it retains an essential place in the world.¹⁰ It is enough to look around to observe the number of homes destroyed. No milieu is spared. Even the family institution as such is radically questioned. We shall examine some of the causes of this crisis; then we shall examine the consequences.

Some Causes

We need to mention, first of all, what is most evident: the *anti-family* measures. Here one thinks first of the reduction of public aid to the family, in particular family allotments; the housing policies that discriminate against families with children; fiscal systems that sometimes provide for rates imposed increasingly according to the number of children; new taxes which do not take into account the ability of the family to pay. Remarkable exceptions aside (we shall return to them), economists are scarcely interested in the reality of the family;¹¹ their interest is in *households*, generally considered as uniting housing and consumption.¹²

One is equally struck by the general climate unfavorable to the family. The *decline in marriages* is one of the determinants of the *fall in fecundity*. Not only do couples marry less often, but if they do marry, they marry later,¹³ and, further, they tend to have fewer children. The family is directly affected since it is now smaller. This tendency is reflected in the rapid decrease in the number of families with three or more children. Families with five children or more represented 3.66% of the families in France in 1968; they represented no more than .88% in 1990.¹⁴

Conversely, married couples divorce and, if and when they do so, they "remarry" with disconcerting facility. Laws about the matter are less and less dissuasive. Whence come the term the "recomposed" family.

Abortion and contraception also are precipitating the crisis of the family by separating the two ends of the conjugal union. Abortion suppresses straight away the procreated infant, while chemical contraception blocks the procreation inscribed in the very union of the

spouses. Contraception, then, predisposes people, not only to cohabitation and to the decline of marriage, but also to multiple premarital and extramarital sexual affairs.

To this first category we must add the *devaluing of maternity*. Women scarcely have true freedom of choice.¹⁵ Social pressure tends to make them feel guilty if they do not work in a paid profession and if they do not contribute, by their work, to fiscal revenue, to subsidizing pensions, to mutual and other funds for unemployment. Echoing this rampant pressure, public powers honor neither maternity nor paternity. This double omission is prejudicial to the family, within which the mother is called to play a central and irreplaceable role, which obviously does not exclude the equally essential role of the father.

From the State's Disengagement to Exclusion of the Family

Excessively interventionist in so many areas, the state tends to be distant from, even disinterested in, the family institution. Claude Martin analyzed the juridical "disengagement" of the state vis-à-vis the matrimonial and family institution.¹⁶ In this domain, the state tends to know or recognize only the individuals. As a consequence, it weakens the juridical arrangements that traditionally protected the family institution. At the same time, it gives a bigger place to individual desires. Among these individual desires, consensus is established within which the state must limit itself in acting, since they are not constitutive of the family institution. One can observe here that the evolution from right and jurisprudence contributes to the weakening of the family institution.

Recent projects which have paraded under the banners of CUCS, PICS and other PACS, etc. are especially indicative of this disengagement vis-à-vis the matrimonial institution. Such projects show that the state regards these contracts of civil and social union (CUCS) and other agreements of common interest (PIC) as private contracts, leaving the parties the widest freedom to negotiate the conditions of said contracts, to reach or undo consensus. Alas, such contracts weaken the institution it mimics by reducing marriage to a *private contract* between individuals, always disposed to renegotiate the conditions of their cohabitation, always ready to break their consensus — briefly, to a contract which in no way creates a new social reality, the family. Such is one of the major problems posed by the civil pact of solidarity (PACS) adopted by France in 1999.

Paradoxically, the state's disengagement vis-à-vis the family institution had led this same state to intervene more in family ques-

tions caused by the disaffection vis-à-vis this institution. In effect, as Claude Martin has shown, the precarious condition of the family increases the risk of exclusion. Separations and divorces are a cause of impoverishment, but all the one-parent homes resulting from these separations are not equally vulnerable. The ones most threatened by exclusion are those which are the least well-prepared, which cannot count on the help of their neighbors or on the network of their relatives.¹⁷

Here the state is caught in its own trap. At first, wishing to allow free run to individual liberty, it retreats from support of the family institution; on the juridical level, this retreat translates into "lack of protection" of the institution. Nevertheless, doing this, the state creates new risks of dropping out, of marginalization — and that encourages the development of state aid. The state must, in effect, intervene to remedy the misfortunes which it itself brought about by creating the risks of exclusion that result from its own disaffection regarding the family. Here we are in a *perpetuum mobile*, which has nothing musical about it.

It goes without saying that to the already long list of risks tied to the precarious situation of the family will be added a litany of risks much more distressing still, linked to the frailty of "social unions," and to the etiological fallout from these.

Furthermore, quite differently from most public investments, from which one expects a good return for the citizens and society, the investments in favor of "newly acquired individual liberties" yield an evil return known in advance and even desired, since it is scientifically established that these investments of the second type resolve no problems but, on the contrary, create them.

Quick Note on the "New Weaknesses"

In his discourse of June 15, 2000, in which he announced the desire to give new impetus to family policy, Lionel Jospin had explicitly in view *those* families for whom it is a question of "espousing the evolutions." Among the approved measures appear the reform of child-care and hours of child-care: After giving birth, mothers will be able to receive a bonus for going back to work — so many measures that obviously favor distancing the child from its mother. Certain allocations will be modulated according to the revenue of the household, which reveals a slight confusion between family policy and social policy. Credits in favor of housing will vary according to similar criteria.¹⁸

From the moment the traditional family is regarded as *one* type of household among others, programs of family policy tend inevitably to be annexed to programs of social policy. And in this respect, all the budgetary provisions are going to have to be increased. In effect. Mr. Jospin congratulated himself on the "acquired liberties," but one may wonder if he takes enough into account the *causal* link, even indisputable, between these "acquired liberties" and what he euphemistically calls the "new weaknesses" brought about by the same liberties.

Finally, these budgetary arrangements that cannot be ignored will quickly cause perverse effects going contrary to what one expects of an authentic family policy. These budgetary measures will accentuate the causes, already numerous, that led France into a demographic decline without precedent.¹⁹

THE FAMILY ASSAULTED BY THE UN

The Trap of the So-called "New Rights"

The anti-family tendencies are found not only on the level of the state. The recent conferences of the UN have questioned the traditional meaning of the family. This meaning appears in article 16 of the 1948 Universal Declaration of the Rights of Man. This article states: "The family is the natural and basic element of society and has the right to the protection of society and the State." The genesis of this article leaves no doubt about the meaning which the drafters and signers of the Declaration intended to give this word "family."²⁰ In this article, it is very clearly a matter of the traditional monogamous and heterosexual family. This is confirmed by an exegesis of the other articles of the Declaration in which there is also question of the family.²¹

But above all since the Beijing Conference (1995), the UN has tried hard to use the word *family* to designate all sorts of consensual unions: homosexual unions, lesbian unions, "recomposed families," one-parent "families" (male or female), while expecting incestuous or pedophile unions. Many meetings organized since 1995 by the UN and its agencies (UNFPA, WHO, the World Bank, UNDP, etc.) reveal the harmful role which this organization and its nongovernmental organizations play regarding the family.²²

This role has been played beginning with the distortion of the meaning of the word "family." Henceforth the word is equivocal; its significance fluctuates at the pleasure of the interests at work. According to the received jargon, the word "family" is a "polysemous" concept, which goes back to "polymorphous" realities.

These various meanings which they have decided to attribute to the word "family" are the direct consequence of the new conception of man's rights which we have examined early on. By means of the individualism embodied in the so-called "new rights of man," the UN booby-traps the traditional family institution. This latter is, in effect, the place where persons commit themselves to build together a new community open to life. That family is the place of solidarity, of agreed-upon interdependence, of fidelity. It goes without saying that when the UN, under cover of "sexual orientation," pleads, for example, for a couple of homosexual persons to benefit from the title "family," it takes note of the individual desires of the members of the couple. But these members in no way call into existence a new social reality; they do not establish a family; they don't have the capacity for transmitting life. They agree on a pact resulting from a consensus by definition always conditional. Repudiation of the agreement is always offered as a possibility.

Thus the UN lends its support to the States that have already undertaken to weaken the familial institution by encouraging the unbridled freedom of individuals. As it makes the family bond more fragile, the UN contributes to reinforcing the risks of exclusion already multiplied by the state.

An Anti-family Culture

Disseminated equally by the UN and its agencies, the *ideology of gender* aims also at destroying the family.²³ This ideology has two principal sources: Marxism and structuralism. As one will become aware, this ideology has undergone many influences besides. We limit ourselves to mentioning here that of Wilhelm Reich: rejection of all sexual discipline; and that of Herbert Marcuse: the rejection of all powers.

The ideology of "gender" reprises the interpretation which Friedrich Engels gives to class struggle. We know that, according to Marx, the class struggle was, par excellence, the struggle opposing capitalism and the proletariat. For Engels, this struggle is first of all the opposition of man and woman. The monogamous and heterosexual family is the place par excellence where woman is exploited and oppressed by man. The liberation of woman, then, proceeds by way of the destruction of the family. Once "liberated," the woman will be able to take her place in the society of production.

Nevertheless, inspired also by structuralism, the ideology of "gender" regards each culture as producing its rule of conduct. The traditional behavior must be superseded — we are assured — "for it

oppresses the woman." Women must take the lead in a new cultural revolution, and this latter will furnish new rules of conduct. This new culture regards the different roles of the sexes as having no *natural* foundation; they appeared at a certain epoch of history and the time has come for them to disappear, for this episode of the human odyssey is over.

In reality, the ideologues of "gender" assure us, the different roles of man and woman are purely *cultural*: they are even the product of a culture in the process of extinction. The new culture will have to abolish all distinctions, anachronistic residue of the age of "the oppression of woman by man" and of their inequalities. Hence, this new culture which the ideology of "gender" ardently desires, demands the destruction of the family, to which they attach the adjective "traditional"; it would have to be based, in effect, on a "declassified" culture. According to this supposedly declassified culture, man and woman have *naturally* different roles in the transmission of life. The family is the *natural* consequence of heterosexual conduct of man and woman.

The new culture denies all importance to the genital differentiation of man and woman. Since this differentiation is declared emptied of all importance, the roles of man and woman are strictly interchangeable. It follows that heterosexuality, as it has been traditionally expressed in the family, is deprived of the privileged status it enjoyed in the traditional culture now declared obsolete. Since the roles bound up with different genitals are condemned, words like marriage, maternity or paternity no longer have any importance. As a remarkable sign of the influence of this ideology, the word *maternity* has practically been swept from the final document of the Beijing Conference (1995).

Heterosexuality is thus reduced to *one* method of sexual practice alongside many others and on the same footing with them: homosexuality, lesbianism, diverse consensual unions which can be renounced on request, etc. The rules of conduct of the culture called ancient *must* be abolished. The right to individual sexual pleasure must be announced. It must not be coupled with any restraint, any limitation, any duty. It cannot come with any responsibility toward the other person. It must be shielded from all "repression": the latter could not but be something that survives from the expired codes of conduct.

The influence of the ideology of "gender" cannot be overestimated, and we have already pointed that out in connection with the "new rights of man." With it, the family is not only the object of a radical opposition, but of an announced will to destroy it. In it are

joined the perverse ferments of violent fatalism that one finds in Marxism and in the absolute individualism of neoliberalism. This ideology has been adopted by most of the UN agencies and by innumerable nongovernmental organizations. Thanks to these accomplices, it extends its branches everywhere.

Two examples will place in evidence the perverse character of this ideology. The first concerns abortion. Within the framework of the culture which the ideologues of "gender" consider superseded, discussions were about the depenalization and/or liberalization of abortion.²⁴ These two labels suggest the idea of "legal permission" but not of a right.²⁵ Within the framework of the new culture — inspired by the ideology of "gender" — abortion appears explicitly as a "new right of man"; the same goes for homosexuality.

To sum up and to conclude, we observe that the ideology of "gender" is disastrous for the family because it intends to push the "new rights of man." The latter would be reduced, in the final analysis, to nothing but the expression of the most aberrant individual demands. By that we can see that the ideology is not limited to placing the traditional family in peril; if it must pursue its devastation, it will destroy every social tissue. The natural sociability of man would be taken in relays to a regression toward a culture of violence and barbarism.

¹ Literature on the question is abundant. Let us simply cite Emmanuel Todd, *La diversité du monde. Famille et modernité* (Paris: Seuil, 1999); Louis Roussel, *La famille incertaine* (Paris: Odile Jacob, 1989). Let us recall also the survey of Henri Tincq, "Portraits de famille," *Le Monde*, Sept. 20-24, 1994. In this context, some speak of *coparents, quasi-sister, in-family, rejected, unmarriage*, etc. This latter neologism is the title of a work by Irène Théry (Paris: Odile Jacob, 1993). Prepared by the Dekeuwer-Defossez report, a law project on the rights of the family is presently being discussed in France. See *Le Monde*, Sept. 16, 1999.

² See the study of Lise Vincent Doucet-Bon, *Le mariage dans les civilisations anciennes* (Paris: Albin Michael, 1975).

³ Cf. *Nicomachean Ethics*, VIII, 14.

⁴ We are here following the thorough study of Pierangelo Catalano, "La familia 'fuente de la historia' según el pensamiento de Giorgio La Pira," a well-documented manuscript of an article published first in Italian without notes in the *Osservatore Romano*, Jan. 9, 1994.

⁵ The limits of education given on the fringe of the family emerge from the experience in the kibbutzim which Bruno Bettelheim analyzed in *Les enfants du rêve* (Paris: Laffont, 1969).

⁶ Cf. P. Catalano, *op. cit.*

⁷ Cf. Claude Lévi-Strauss, *Les structures élémentaires de la parenté* (The Hague: Mouton, 1967).

⁸ Pope John Paul II has devoted a great number of documents to the family. Among them figure *Letter to Families* (1994) and *Familiaris Consortio: The Role of the Christian*

- Family in the Modern World* (1981). The Pontifical Council for the Family has published a precious collection entitled *Enchiridion della Famiglia. Documenti magisteriali e pastorali su Famiglia e Vita* (Bologna: Dehoniane, 2000).
- ⁹ See Joseph M. Bochenski (ed.) *Handbuch des Weltkommunismus* (Fribourg: Alber, 1958), esp. pp. 194 f. and 316-318. One should also refer to Igor Chafarévitch, *Le phénomène socialiste* (Paris: Seuil, 1977), est. 224 f. and 248-283.
- ¹⁰ Cf. Gérard-François Dumont, "Les aspects socio-démographiques de la famille dans le monde," *Anthropotes*, 12 (June 1996) 121-132.
- ¹¹ On this subject, cf. Alfred Sauvy, Gérard-François Dumont et alii, *Démographie politique* (Paris: Economica, 1982).
- ¹² Jean-Didier Lecaillon, "L'importance sociale et économique de la famille," *Familia et Vita* I, 2 (1996) 26-34. The term "household" can eventually apply to one sole person or a community. Cf. Gérard-François Dumont, *Démographie* (Paris: Dunod, 1992).
- ¹³ In France, the median age of women at the time of their first marriage is approximately 28.
- ¹⁴ Cf. J-D. Lecaillon, *op. cit.*
- ¹⁵ This was shown by Gérard-François Dumont in *La France ridée* (Paris: Hachette-Pluriel, 1986) and in *Pour la liberté familiale* (Paris: PUF, 1986)
- ¹⁶ What we are summarizing here gives only a partial account of the penetrating analyses of Claude Martin in *L'après-divorce. Lien familiale et vulnérabilité* (Rennes: Presses Universitaires, 1997). See especially pp. 287 f.; 21, 286-288, 296 f. et passim. We point out a certain convergence between Martin's work and that of Jacques Commaille, *Misères de la famille. Question d'Etat* (Paris: Presses de la Fondation des Sciences Politiques, 1996). The family is studied here under the aspect of a "new social question."
- ¹⁷ In this regard, Claude Martin judiciously remarked that these variations in the level of social protection can reinforce the inequalities (cf. *op. cit.* 290-292). Whence the need for corrective measures, difficult to define, it is true.
- ¹⁸ On this subject see the article of Isabelle Mandraud, *Le Monde* June 12, 2000.
- ¹⁹ On this subject cf. our work *The Demographic Crash* (St. Louis: Central Bureau, 2001) 9 and 11. According to the INED, the fertility index in 1999 was only as high as 1.77 children per woman of fertile age. This number is certainly revealing of a very light tendency toward demographic recovery, but it does not justify the crowing of *Le Monde*, Sept. 10-11, 2000: "France is the European champion in births after Ireland" (p. 10).
- ²⁰ The reference work on this subject is by Albert Verdoodt, *Naissance et signification de la Déclaration universelle des Droits de l'Homme* (Louvain: Nauwelaerts, 1963) 161-170. One should also consult Philippe de La Chapelle, *La Déclaration universelle des Droits de l'homme et le Catholicisme* (Paris: LGDJ, 1967) 136-142.
- ²¹ See articles 12, 23, 25, 26.
- ²² The WHO, for example, gives its support to the "new rights" by publishing works like that of Rebecca J. Cook, *La santé des femmes et les droits de l'individu* (Geneva: WHO, 1995). Cook has also edited a collection, *Derechos humanos de la mujer. Perspectivas nacionales e internacionales* (Bogota: Profamilia, 1997). The radical feminist theses of Cook are also welcomed by other agencies. See, for example, the *État de la Population mondiale* (New York: UNFPA, 1997).
- ²³ We have examined this "gender" ideology in *The Gospel Confronting World Disorder* (St. Louis: Central Bureau, 1999) 17-27.
- ²⁴ On the difference between the two notions, see our work *Bioethics and Population* (St. Louis: Central Bureau, 1996), qu. 50.
- ²⁵ In English we distinguish dispensation, permit, from right.

CHAPTER XVII

THE FAMILY: A MINE OF VALUES

When one studies the family, there is often a tendency to think that it concerns a private reality, involving father, mother and children. How can anyone doubt that for each member of this cell the family is a good? However, if the family is a good for its members, it is in addition a good, even a great good, for society. *The quality of the family has a direct impact on the quality of society.* And this assertion results from three types of study from which the technocrats of the UN and the gurus of the nongovernmental organizations would gain, were they to take them into account.

THE SMALLEST DEMOCRACY

The family's contribution to *political society* deserves to be mentioned first. This contribution comes out particularly clearly in recent studies on totalitarianism. From them it is clear that the essence of totalitarianism consists in the will to destroy the *me* in its two dimensions: physical, and above all, psychological.¹ These same studies show that it is in the family that strong, free, autonomous personalities are formed, ones capable of personal judgment. Such persons are able to *resist* alienating techniques and ideological colonization.

Controlling Emotional Life

This is confirmed by direct observation. A little after the implosion of the Soviet regime, the Academy of Social Sciences in Moscow organized a seminar on Christian social teaching. This academy was, in fact, a university in which were formed the superior cadres of the Soviet management apparatus. Since contact with the participants was excellent and marked with great confidence, the discussions quickly turned to essential questions. It was striking, for example, that after sixty-six years of totalitarianism, many of the old

apparatchiks had preserved in the fine point of their souls the glow of faith. They had also preserved a real interior liberty before the machine of which they were at once victims and servants. How are we to explain this resistance? The unanimous response to that question was given immediately: "If we have preserved a minimum of dignity, of faith and of freedom, we owe that to our grandmothers."

The role played by the family in political society is confirmed on the contrary by the persistence in trying to destroy the family displayed by all the totalitarian regimes. The latter wanted, above all, to dry the sources of affectivity; they wanted to erode the relationship between parents and their children. The children were entrusted to the state and its delegates. The loving relationship between parents and children is, in effect, essential in the building of personality. Projects for depriving parents of their responsibility toward their children are increasingly openly displayed in the international meetings. That is the case, especially, in those things concerning sex education. At the root of these projects is the totalitarian desire to deprogram/reprogram the *me* of children. While establishing itself, a totalitarian regime has to break the resistance of those who could be an obstacle to it.

This control of affectivity is extended to the relationships between spouses. Husband and wife must, above all, be at the service of the totalitarian Cause. They are simply cogs in the machine. They must be disposed, in the classical totalitarian regimes, to remain separated for weeks and months if the interests of the Cause demand it. With the enlightened totalitarianism of the UN, control goes even further, since it concerns sexuality, or more precisely an essential aspect of sexuality, namely, reproduction. Like all the totalitarian regimes, the UN embraces a demographic utopia: it dreams of controlling the number and "quality" of men and women. It is anticipated war: they don't wait until men are grown up to kill them; they kill them in the wombs of their mothers or prevent them from being conceived.

When one realizes the place of affectivity and sexuality in the genesis and structure of personality, one will not be surprised to see the totalitarian machines always endeavoring to destroy the constitutive factors of *me*. UNFPA and the falsely named IPPF hold the first place among the present machines; they dream of erecting a worldwide demographic police force — and sometimes achieve it.

From Fraternity to Solidarity²

And so it follows that the family deserves to be protected and sustained because it is the place where the tissue of political society

is formed. It is not simply the basic cell of political society in general; it is the indispensable cell of all *democratic* political society. Within the family man and woman learn to welcome their differences, to recognize that they are equal in dignity, to open themselves to others. Beginning with the family, fraternity blossoms into solidarity. The interdependence that the spouses accept, beginning with their union, blossoms, in effect, into solidarity between parents and children, between different generations, and makes way for diverse degrees of kinship. It also blossoms in concentric circles outside the family milieu to create intermediate bodies.

The profound reason why the family is essential to the quality of political society is found in subsidiarity. The family institution, the original social reality constituted by the family, is the first place of subsidiarity. It is the family institution, not the school or even less the State, which primarily helps its members to attain to the fullness of their personality. That is already true of the spouses, the first beneficiaries of this growth in being which is accorded them by the institution that they themselves founded. Subsidiarity plays still more fully in favor of the children, since all of the education they receive in the family is the fruit of the interaction that takes place in the *sui generis* reality which is precisely the family.³

All these benefits afforded by the family have their repercussions in civil society. The latter is the beneficiary of family activity in two ways. The family, through transmission of life, insures the durability of civil society. But the life thus transmitted is not limited at all to physical life, since the family is the soil in which is rooted the education of the human being.

A NATURAL REALITY THAT PERSISTS IN ASSERTING ITSELF

If political science brings to light the importance of the family, sociology doesn't stop there. Curiously, it is by beginning with the study of the family's difficulties that sociology confirms its natural reality. This comes out especially in the recent analyses of two authoritative specialists.

Gerard-François Dumont definitively asserts that it is astonishing still to record so many marriages and births in European societies where the juridical, media, educational, fiscal, etc. environment is so unfavorable to the family. That is indeed the proof of the existence and vitality of a natural reality that succeeds in asserting itself despite a very broadly unfavorable context.⁴

Another analysis comes from Claude Martin, to whom we have already had recourse. Paradoxically, this author puts in relief the natural reality of the family by beginning with an analysis of divorce. We are going to look into this approach briefly.

The social cost of divorce is difficult to calculate. On the other hand, it is not difficult to point out some evident characteristics of it. *Divorce is very expensive*, for example, in displacement of people, in housing, alimony, etc. These expenses are avoided or do not have the same magnitude in united families, a partly comforting observation in a study by Lucile Olier.⁵ Families that stay together have at their disposal more resources that can be applied to savings as well as to household management, in culture and in education of the children.

Moreover, the family is a rampart against marginalization and exclusion. We've already given an account of that by observing the societies in which social policies, understood in the broad sense, function badly or are nonexistent. Where there are deficient funds for unemployment, health insurance, pensions for the elderly, etc., the family is a natural place for solidarity. Young or old, handicapped or ill, the weakest and the most vulnerable are protected by the family environment. This situation can be observed today in the most unfavorable milieux of rich countries where certain benefits of state welfare are placed in question due to the twofold pressure of the decline in fecundity and/or relentless neoliberalism. But it can be observed still better in Third-World countries where family solidarity protects those whom society ignores, allowing them to live with a dignity acknowledged at least by all the members of the household. Frequently, for example, members of a family regroup themselves in one household. Elderly parents are taken in and well-cared for: they are the object of solicitude on the part of the younger generations.

Claude Martin does not limit his analyses to the situation after divorce.⁶ He draws from his inquiry some precious lessons that are worth being presented. Martin observes that the family is perceived as riches, as "social capital" (p. 22), as close protection (p. 23), as a place of solidarity, even "a place of survival" (p. 289), when state welfare is faltering. For, by means of a boomerang effect, the state fails to control a marginalization whose risk it increases by decimating the family institution. Now the family is capable of resolving the social problems which the state controls less and less: marginalization, "disaffiliation," "social dropouts," exclusion, etc.

The conclusions of the studies we have just mentioned are curiously corroborated by those of the French Committee for Health Education. On November 23, 1998, this Committee made public a

Baromètre santé-jeunes (Youth Health Barometer). Two assertions of this Barometer confirm the essential role of the family. The report, first of all, sets in relief the weakening of children of one-parent families or recomposed families. It also shows the impact, favorable or unfavorable, of the family situation on the health of the young.⁷ This last assertion is even confirmed by endocrinology. Dr. David Benchetrit recently pointed out that "the children concerned (with obesity problems) are often sole issue (without brothers or sisters) of broken family cells. They find the house empty when they return from school and eat alone in the evening. . . In order to excuse themselves for returning late, [the parents] leave sweets in the refrigerator and thus urge their child to eat."⁸

Finally, psychiatrists, educators and jurists are unanimous in acknowledging that a crumbling or nonexistent family environment favors violence, the use of drugs and alcoholism. The social costs of delinquency and criminal behavior have as one of their principal sources the difficulties experienced by families. It goes without saying, then, that the prevention of delinquency and criminal conduct goes in accordance with the state's protection and promotion of family life.

The lesson that follows from these assertions precludes debate. As the French creators of the civil marriage had very well perceived, the state must promote and protect the family institution. It is in its own interest, since it shows itself totally incapable of rivaling the *providential* role that the family institution can exercise; the state especially cannot substitute itself at every instant for the essential role of parents. It is also its duty, since by dint of asking for the right to celebrate the individual "new rights" to the detriment of the family institution, one cannot but end up with an anti-solidarity society in which anarchy, individualism and exclusion triumph. It is, then, relevant that Claude Martin asks the question: "Are we at the dawn of a new kind of family?" (p. 289).

THE FAMILY AND HUMAN CAPITAL

If it is true that too many economists know only the notion of the household, some, among the most brilliant, have devoted to the family studies that corroborate the conclusion to which we have been led by the contribution of political science and sociology.

In the United States, Gary Becker has brought about a renewal of economic studies on the family. He is presently the leader of the Chicago School and Nobel Prize winner for economics in 1992. In France, two names, among others, stand out: Gérard-François

Dumont, a pioneer in the matter, and Jean-Didier LeCaillon.⁹ By means of independent research and different methods, these three economists, who are also demographers, arrived at some astonishingly convergent conclusions.

First we must say that Gary Becker showed — as Claude Martin confirmed in other ways — that the crisis of the family is one of the principal causes of the inequalities in our society. But, much more positively, we need to emphasize that the famous economist received the Nobel Prize because he demonstrated, with all the resources of the most “narrowly specialized” scientific discipline, the correlation between the role of the family and the formation of human capital.¹⁰ As many others have done, Gary Becker asserted that parental activity was not taken into account in the national auditing. He began, then, to *measure*, to calculate in a precise fashion. He computed the cost of divorce (pp. 324-241), analyzed the role of the state (pp. 362-379), figured the cost of a child, etc. Above all, he arrived at a major conclusion: *The family is the principal place in which human capital is formed*. Further, he demonstrated that the human capital today represents more than 80% of a modern nation’s riches — the physical capital (industrial installations, natural resources) representing hardly 20%.

Without doubt, the prosperity of peoples depends also on other determinants. One cannot forget the role of the system of government, its competence, its honesty, etc., nor the role of the economic system, whether liberal, open to the market, or well-planned and state controlled, etc.

Nevertheless, of all determinants, the most important is the family. It is there that the child is first awakened to human qualities which later will be highly appreciated in society in general, in particular economic and political society: a sense of initiative, of punctuality, of order, of solidarity, etc.

This conclusion finds further confirmation in the enquiry conducted by Michael Duyme. He stated that “children adopted when they are between 4 and 6 by families of a socioeconomic level higher than that of the children’s origin have a clearly increased intellectual quotient.”¹¹ And this confirms the influence — good or less good according to the case — of the family milieu on the education of the child and the formation of personality.

Gary Becker has furthermore had the curiosity to measure the contribution of the mother of the family to the formation of human capital. It is often she who contributes the most in nourishing, caring

for, educating, instructing the children; she cooks, washes, sews, cleans; she reconciles, teaches how to save and economize, helps with lessons, initiates the child to the beautiful, sensitizes it to the good, orients spare time activities. Becker has thus calculated that at least 30% of a nation's internal raw product comes from the mother's work — a contribution totally neglected and ignored in the national accounting.¹²

What follows from these studies is that the good that the family is, in and for society today, always has a fundamental importance, and that despite the existence of social security systems.

THE RESPONSIBILITY AND INTEREST OF THE STATE

At the close of this review, one cannot but be struck by the fact that the political, sociological and economic studies which we have examined converge toward an ensemble of conclusions.

Protecting the Family

Among them the principal one is that the state must protect the family against programs of a totalitarian character that the UN desires to impose and whose objective is the destruction of the family institution. Furthermore, the public powers must revise national legislation that enfeebles the family institution. It is urgent that laws be revised which, being inspired by the "new rights of man" conceived in a hyperindividualist fashion, risk ruining the family.

This revision must, first of all, include the elimination of flagrant injustices. Among the first of these there figure the fiscal injustices that penalize the family institution. There is also "the organized diversion of a great part of the riches created by families to the profit of those who do not support their burden."¹³ And the Parisian economist adds: "The essential burden of the formation of human capital... is borne by families (60% on the average) while the parents will obtain, in the form of rights to a pension, but a very feeble part of the resources which their children will contribute to the creation of by using the formation they will have received."¹⁴

Producing remedies for such injustices, however, does not suffice. As Gérard-François Dumont frequently insists, public powers must acknowledge parental activity and its contribution to society. This acknowledgment must especially lead to the elaboration of a parental status, for, rendering service to children, the parents render service to society. Moreover, studies about the United States, to which Gary Becker refers,¹⁵ show that the Catholic schools often perform better than the others. The reason for this better performance is

twofold: in Catholic families parents put pressure on their children as well as on the schools their children attend.

The least the state can do is to offer women a truly free choice between full time engagement in the service of their families and full or partial professional engagement. Likewise, it should be elementary that the state offer parents the possibility of freely choosing the school they want their children to attend — that this concerns not only respecting a “private” opinion of parents; it is also a matter of meeting the interests of society.

A Value for the Future

If it is necessary to examine all the questioning to which the family is being subjected, it is above all indispensable to learn about the studies that demonstrate its universal importance. These studies place great value on the family institution; they are in no way based on a *nostalgic outlook* on the family as one imagines it to have been in rural societies. This value comes, on the contrary, from the fact that the family is the key to well-being and happiness, of which the common good of future society has need. Now with the fall of fecundity, what society risks lacking the most is the human capital that is formed in the family. Whence a simple conclusion that cannot be ignored: the public powers must promote the family, not only because it is a good for all the members who compose it, but also because it is a good for the political and economic community.¹⁶

¹ See, for example, Jean-Jacques Walter, *Les machines totalitaires* (Paris: Denoël, 1982); Claude Polin, *Le totalitarisme* (Paris: PUF, 1982); Igor Chafarévitch, *Le phénomène socialiste* (Paris: Seuil, 1977).

² This is analyzed by François de Singly in *Le soi, le couple et la famille* (Paris: Nathan, 1996).

³ Jean-Loup Dherse and Hugues Minguet devote a few substantial pages to the family in their work on relationships between the common good and the persons within the framework of the present world disorder. See *L’Ethique ou le Chaos?* (Paris: Presses de la Renaissance, 1998), 318-327.

⁴ Cf. Gérard-François Dumont, “La sociologie de la famille dans l’Union européenne,” in *Ethique* 21 (1996) 59-75.

⁵ In a study conducted for INSEE and published in 1998, Lucile Olier shows “the material advantages of two living together.” See *Le Monde* Jan. 27, 1998.

⁶ *L’après-divorce. Lien familial et vulnérabilité.*

⁷ Cf. *Baromètre santé-jeunes. 1997-1998* (Vanves, CFES, 1998); see *Le Monde* of Nov. 25, 1998. The same daily, dated Nov. 30, 1998, published “Une vaste action de ‘reparentalisation’ entreprise à Dieppe.”

⁸ David Benchetrit, interview in *Le Monde*, June 21, 2000.

⁹ See the basic work of Gary S. Becker, *A Treatise on the Family* (Cambridge, MA: Harvard Univ. Press, 1994); see also the same author’s “Human Capital and Pov-

erty," *Familia et Vita* I, 2 (1996) 19-25. Becker's conclusions are strengthened by that of Julian L. Simon, *L'homme, notre dernière chance* (Paris: PUF, 1985). With different methods analogous conclusions were arrived at in France by researchers like Gérard-François Dumont, especially in *Le monde et les hommes* (Paris: Litec, 1995); see also the same specialist's article, "L'economia, il bene commune e la famiglia," *La Società* 7, 1 (1997) 221-230. Cf. also Jean-Didier LeCaillon, *La Famille, la source de prospérité* (Paris: Regnier, 1995).

¹⁰ The role of the "educational family" had been studied already by authors like Y. Stoetzel and A. Girard. This educational role of the family was already emphasized in ancient Rome.

¹¹ See *Le Monde* Aug. 1 and 2, 1999: the interview of Michael Duyme by Jean-Yves Nau.

¹² It would be useful — and just! — to complete this type of inquiry with a study devoted to the contribution of the father in the formation of his children and thus of human capital. One will find suggestions about this in the work of Philippe Julien, *Le Manteau de Noé. Essai sur la paternité* (Paris: Desclée de Brouwer, 1991).

¹³ Cf. J-D. LeCaillon, "Le rôle économique de la famille," p. 30.

¹⁴ *Ibid.* 31.

¹⁵ Cf. "Human Capital and Poverty," p. 23.

¹⁶ The famous demographer, Gérard-François Dumont, developed a program for a family policy adapted to today's society in his plea, *Pour la liberté familiale* (Paris: PUF, 1986).

CHAPTER XVIII

THE CHURCH, A SIGN OF DIVISION

Faced with the new interpretation of the rights of man propagated by the UN, what can the Church do?

It is above all urgent that she become aware of the unprecedented situation with which she is confronted and of the rich treasure which she holds in deposit. *This awareness has been, until now, dramatically insufficient.* Man's rights, as they have been proclaimed in the classical humanist tradition, owe to the Church a decisive impetus. This impetus springs from the treasure the Church has received and must share and make bear fruit. Like leaven, this unique treasure has been incorporated over the centuries into the common patrimony of humanity. This is the principal reason why some would wish for the triumph of the so-called "new rights of man" of holistic-individualist inspiration. But the Church cannot let herself be impressed by the haughtiness of some of the UN's agencies, whose activity is magnified by some nongovernmental organizations. She cannot be stunned by the arrogance of anti-life lobbies or let herself be intimidated by the open hostility of certain Masonic allegiances that want to destabilize her. The Church cannot remain indifferent before the clear intention of those who would fight with her and destroy the treasure of which she is the guardian.

Liberty Creative of Love

The impetus given by the Church to the cause of man's rights is summarized in two words: *person and subsidiarity*. Prepared by Roman law, developed in a theological context, the notion of *person* rapidly became the object of a deep philosophical and juridical reflection, which is pursued today primarily, but not exclusively, in personalist circles. This conception of *person*, capable of discerning the true from the false, the good from the bad, reminds the human being

that he is responsible when confronted with the values which are necessary for him and others. It is because they are able to share the same truth, recognize the same good and freely subscribe to the same fundamental moral references that men are able to dialogue and collaborate and avoid war. They are equal in the difference as well as the uniqueness of their personhood.

Whence the centrality of the principal of *subsidiarity*: higher bodies should not substitute themselves for intermediate bodies, or families, or persons. On the contrary, it is necessary to offer to each person the best conditions under which his personality can flourish, for, being unique, each person has something unique to offer society. That is what justifies, in the final analysis, the "preferential option of the Church for the poor."

Such is the central core of the Church's teaching on man's rights and democracy.

From it follow some corollaries: *authority is service*. It is a necessity flowing from the social and reasoning nature of man; it is service to those who have freely given it power, those who have *constituted* it. No man is justified in commanding except by virtue of a delegation from those who are freely disposed to obey reasonable orders. Political power always implies, then, an interpersonal relationship of recognition and reciprocity, a relationship that passes, in most cases, through institutional mediation. It pertains to a special body to remain neutral in order to be able to *judge*, that is, to watch over the *quality* of this relationship between those who delegate power and those who receive the right to its exercise.

The Church's teaching on man's rights and democracy includes, then, a twofold principle for *moderating* power. First, power cannot be either immoral or amoral: it is in the service of the dignity of men. Power's reference to morality is concretized in the respect and furtherance of man's rights. Then, in fidelity to the principle of subsidiarity, the Church suggests that power be *divided* in order to avoid its being seized in its totality by one individual or a particular group.

The Church also strengthens democracy with its conception of *general justice* and *the common good*. It is not a question of demanding that men submit to the City, Society or the Cosmos. On the contrary, it is rather for those who govern to endeavor to create conditions favorable to the personal blossoming of all citizens. Human laws must be just, not with a justice defined by decree, but with a justice coming from a heart open to freedom, creative of love. To the extent that

they are just, laws contribute directly to the building up of the common good and thereby to the happiness of each and every person.

The theology of history goes still further since it shows that political society is called to be a sign of hope. We certainly do not have here a permanent city, and the happiness here below cannot totally appease our hearts.¹ And yet actual political involvement has an eschatological dimension; it is a way by which we seek out the City of the future, where happiness blossoms into beatitude.

The Effective Witness against Fraud

The conception of man's rights that is expressed in the 1948 Declaration is presently the object of an opposition that is increasingly flaunted and radical. Along with its multiple agencies and the support of certain nongovernmental organizations, the UN is in the process of trying to impose a "new ethic," some "new rights" which *seem* to broaden the individual's liberties — by this let us understand the freedom to do whatever one wishes. This "new ethic" is presented as tolerant, each individual choosing his own truth and momentary ethical norms at the convenience of his pleasure. By means of this doctrinal tolerance, peace — they say — will be assured among men.

But this tolerance is irreconcilable with the respect due every man. This tolerance deprives men of all protection against the violence of individuals who have chosen a morality of violence. And then, in order to restrain this escalation of violence, a still more violent public power is needed, which has at its discretionary disposal, not only bodies, but also minds.

The Church cannot but rise up against this neototalitarianism. Confronted with the impossible "coherence" that the UN is striving to impose by proceeding from an always precarious "consensus," the Church must appear, following the example of Christ, as *a sign of division*.² She cannot approve either a "unity" or a "universality" which would depend on the subjective wills of individuals or imposed by some public or private body. Before the emergence of a new Leviathan, the duty of Christians is to proclaim, as did the Apostles, "Non possumus":³ we cannot remain either indifferent, or silent, or inactive when faced with what is about to transpire.

The "new ethic" and the inverted conception of man's rights are signs heralding a *violence without precedent* in history, aimed at the physical and psychological *me* of each person and at the family in which this *me* is formed. With such a conception of man, of the fam-

ily, of morality, of society and man's rights, democracy becomes totally impossible.

It is not certain that all Christian milieux give proof of a clear vision when confronted with the invasion by this inverted conception of man's rights. The Church must, therefore, be vigilant; she must also prepare herself for the persecution which, in fact, has already started.

The Church, nevertheless, can in no way take refuge in a defensive posture. The time has come to answer the call to the New Evangelization: the salt cannot lose its savor (Mt 5:13). Drawing attention to the UN's errors is an urgent service which the Church owes to the human community. Her courage will not fail to awaken courage in others. In the wake of the metamorphosis of the UN, the Church today definitively appears as the sole institution bearing a conception of man's calling for democratic regimes and making their establishment a moral obligation. Just as it appears in the Apocalypse, from her very origins the Church rose up, in the name of God and man, against the fraud of usurped power. Today she must announce that a new war has begun: *a total war against man*, a war that aims first of all to mutilate man in order to destroy him, a war that aims at alienating man from his reason and his will (which express his astounding resemblance to God), a senseless war in which the death of God would cost the death of man.

It is the privilege and mission of Christians to be the watchmen called to warn all men of the blind alleys and traps, to point out the beacons and above all to give account of the hope of which they are at once the bearers and witnesses (cf. 1 Pt 3:15).

¹ Cf. Heb 13:14; St. Augustine, *Confessions*, 1:1.

² Cf. Lk 2:23 f.; 21:12-19, 51-53; Mt 10:34-36, 23, 31 f.; see above all Jn 1; 6; 9; 1 Jn 3:22-24; 4:1-6.

³ Acts 4:20.

APPENDICES

APPENDIX I

UNIVERSAL DECLARATION ON THE RIGHTS OF MAN OF 1948

PREAMBLE

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, Therefore **THE GENERAL ASSEMBLY** proclaims **THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS** as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1.

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2.

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3.

Everyone has the right to life, liberty and security of person.

Article 4.

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5.

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6.

Everyone has the right to recognition everywhere as a person before the law.

Article 7.

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to

equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8.

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9.

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10.

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11.

(1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

(2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12.

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13.

(1) Everyone has the right to freedom of movement and residence within the borders of each state.

(2) Everyone has the right to leave any country, including his own, and to return to his country.

Article 14.

(1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.

(2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15.

- (1) Everyone has the right to a nationality.
- (2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16.

- (1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
- (2) Marriage shall be entered into only with the free and full consent of the intending spouses.
- (3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17.

- (1) Everyone has the right to own property alone as well as in association with others.
- (2) No one shall be arbitrarily deprived of his property.

Article 18.

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19.

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20.

- (1) Everyone has the right to freedom of peaceful assembly and association.
- (2) No one may be compelled to belong to an association.

Article 21.

- (1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
- (2) Everyone has the right of equal access to public service in his country.
- (3) The will of the people shall be the basis of the authority of government, this will shall be expressed in periodic and genu-

ine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22.

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23.

(1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

(2) Everyone, without any discrimination, has the right to equal pay for equal work.

(3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

(4) Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24.

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25.

(1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

(2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26.

(1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

(3) Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27.

(1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

(2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28.

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can fully realized.

Article 29.

(1) Everyone has duties to the community in which alone the free and full development of his personality is possible.

(2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

(3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30.

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

APPENDIX II

A text of René Cassin¹

THE UNIVERSAL DECLARATION ON HUMAN RIGHTS

The General Assembly of the United Nations did not want to close its session in Paris without adopting the document in thirty articles, which at France's suggestion, is called "Universal Declaration on Human Rights." Forty-eight delegations voted for it, none against it, eight abstained: the USSR, the five republics of Eastern Europe, South Arabia and South Africa.

The content of the Declaration is, for one thing, inspired by the ancient individualistic declarations, but it is more comprehensive and modern. If one can imagine a portico of four columns, one observes that the first pillar supports the right to life, physical freedom and the juridical security of the person; the second forms the foundation of the bonds of the individual with groups (families, nations), places (domicile, traffic) and goods (property); the third pillar relates to the spiritual faculties, public freedom and political rights; the fourth, symmetrical to the first, is that of economic, social and cultural rights, especially those which concern work, social security, education, cultural life.

The crown of the portico is furnished by the final articles indicating the interdependence of human rights and the social or international order, or laying down, in concise terms, the general duties of the individual towards society and the limitations that his rights and liberties must undergo to satisfy the just requirements of the general interests of a democratic society.

¹ This text was published in *Le Monde*, Dec. 17, 1948. It was reprinted in the same journal on Dec. 13, 1998.

APPENDIX III

TRIANGULAR FIGURES

The better to understand the “norms pyramid” of Kelsen, it is useful to refer to the figures below. They represent the equilateral triangles, which were explained in Chapter XI of our text.

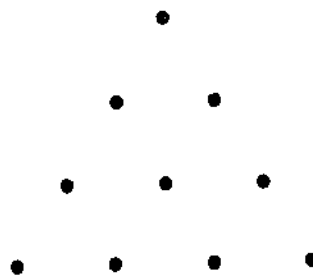


Figure 1: Pythagorean equilateral triangle

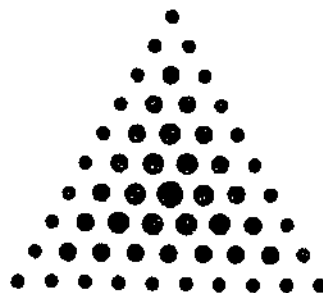


Figure 2. The Logo of the review Telex of the Free University of Brussels

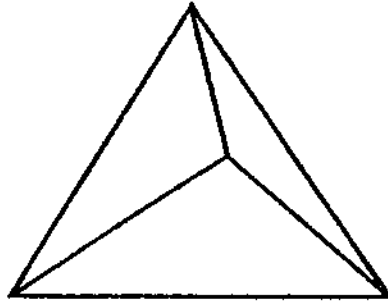


Figure 3. The tetrahedron

APPENDIX IV

CHARTER OF THE FUNDAMENTAL RIGHTS OF THE EUROPEAN UNION

(State of the project on September 28, 2000)

Charter 4487/00

Con. 50

PREAMBLE

The peoples of Europe, in creating an ever closer union among them, are resolved to share a peaceful future based on common values.

Conscious of its spiritual and moral heritage, the Union is founded on the indivisible, universal values of human dignity, freedom, equality and solidarity; it is based on the principles of democracy and the rule of law. It places the individual at the heart of its activities, by establishing the citizenship of the Union and by creating an area of freedom, security and justice.

The Union contributes to the preservation and to the development of these common values while respecting the diversity of the cultures and traditions of the peoples of Europe as well as the national identities of the Member States and the organisation of their public authorities at national, regional and local levels; it seeks to promote balanced and sustainable development and ensures free movement of persons, goods, services and capital, and the freedom of establishment.

To this end, it is necessary to strengthen the protection of fundamental rights in the light of changes in society, social progress and scientific and technological developments by making those rights more visible in a Charter.

This Charter reaffirms, with due regard for the powers and tasks of the Community and the Union and the principle of subsidiarity, the rights as they result, in particular, from the constitutional traditions and international obligations common to the Member States, the Treaty on European Union, the Community Treaties, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the Social Charters adopted by the Community and by the Council of Europe and the case-law of the Court of Justice of the European Communities and of the European Court of Human Rights.

Enjoyment of these rights entails responsibilities and duties with regard to other persons, to the human community and to future generations.

The Union therefore recognises the rights, freedoms and principles set out hereafter.

CHAPTER I

DIGNITY

Article 1

Human dignity

Human dignity is inviolable. It must be respected and protected.

Article 2

Right to life

1. Everyone has the right to life.
2. No one shall be condemned to the death penalty, or executed.

Article 3

Right to the integrity of the person

1. Everyone has the right to respect for his or her physical and mental integrity.
2. In the fields of medicine and biology, the following must be respected in particular:
 - the free and informed consent of the person concerned, according to the procedures laid down by law,
 - the prohibition of eugenic practices, in particular those aiming at the selection of persons,

- the prohibition on making the human body and its parts as such a source of financial gain,
- the prohibition of the reproductive cloning of human beings.

Article 4

Prohibition of torture and inhuman or degrading treatment or punishment

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

Article 5

Prohibition of slavery and forced labour

1. No one shall be held in slavery or servitude.
2. No one shall be required to perform forced or compulsory labour.
3. Trafficking in human beings is prohibited.

CHAPTER II FREEDOMS

Article 6

Right to liberty and security

Everyone has the right to liberty and security of person.

Article 7

Respect for private and family life

Everyone has the right to respect for his or her private and family life, home and communications.

Article 8

Protection of personal data

1. Everyone has the right to the protection of personal data concerning him or her.
2. Such data must be processed fairly for specified purposes and on the basis of the consent of the person concerned or some other legitimate basis laid down by law. Everyone has the right of access to data which has been collected concerning him or her, and the right to have it rectified.
3. Compliance with these rules shall be subject to control by an independent authority.

*Article 9***Right to marry and right to found a family**

The right to marry and the right to found a family shall be guaranteed in accordance with the national laws governing the exercise of these rights.

*Article 10***Freedom of thought, conscience and religion**

1. Everyone has the right to freedom of thought, conscience and religion. This right includes freedom to change religion or belief and freedom, either alone or in community with others and in public or in private, to manifest religion or belief, in worship, teaching, practice and observance.
2. The right to conscientious objection is recognised, in accordance with the national laws governing the exercise of this right.

*Article 11***Freedom of expression and information**

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.
2. The freedom and pluralism of the media shall be respected.

*Article 12***Freedom of assembly and of association**

1. Everyone has the right to freedom of peaceful assembly and to freedom of association at all levels, in particular in political, trade union and civic matters, which implies the right of everyone to form and to join trade unions for the protection of his or her interests.
2. Political parties at Union level contribute to expressing the political will of the citizens of the Union.

*Article 13***Freedom of the arts and sciences**

The arts and scientific research shall be free of constraint. Academic freedom shall be respected.

*Article 14***Right to education**

1. Everyone has the right to education and to have access to vocational and continuing training.
2. This right includes the possibility to receive free compulsory education.
3. The freedom to found educational establishments with due respect for democratic principles and the right of parents to ensure the education and teaching of their children in conformity with their religious, philosophical and pedagogical convictions shall be respected, in accordance with the national laws governing the exercise of such freedom and right.

*Article 15***Freedom to choose an occupation and right to engage in work**

1. Everyone has the right to engage in work and to pursue a freely chosen or accepted occupation.
2. Every citizen of the Union has the freedom to seek employment, to work, to exercise the right of establishment and to provide services in any Member State.
3. Nationals of third countries who are authorised to work in the territories of the Member States are entitled to working conditions equivalent to those of citizens of the Union.

*Article 16***Freedom to conduct a business**

The freedom to conduct a business in accordance with Community law and national laws and practices is recognised.

*Article 17***Right to property**

1. Everyone has the right to own, use, dispose of and bequeath his or her lawfully acquired possessions. No one may be deprived of his or her possessions, except in the public interest and in the cases and under the conditions provided for by law, subject to fair compensation being paid in good time for their loss. The use of property may be regulated by law in so far as is necessary for the general interest.

2. Intellectual property shall be protected.

Article 18

Right to asylum

The right to asylum shall be guaranteed with due respect for the rules of the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees and in accordance with the Treaty establishing the European Community.

Article 19

Protection in the event of removal, expulsion or extradition

1. Collective expulsions are prohibited.
2. No one may be removed, expelled or extradited to a State where there is a serious risk that he or she would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment.

CHAPTER III

EQUALITY

Article 20

Equality before the law

Everyone is equal before the law.

Article 21

Non-discrimination

1. Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited.
2. Within the scope of application of the Treaty establishing the European Community and of the Treaty on European Union, and without prejudice to the special provisions of those Treaties, any discrimination on grounds of nationality shall be prohibited.

Article 22

Cultural, religious and linguistic diversity

The Union shall respect cultural, religious and linguistic diversity.

*Article 23***Equality between men and women**

Equality between men and women must be ensured in all areas, including employment, work and pay.

The principle of equality shall not prevent the maintenance or adoption of measures providing for specific advantages in favour of the under-represented sex.

*Article 24***The rights of the child**

1. Children shall have the right to such protection and care as is necessary for their well-being. They may express their views freely. Such views shall be taken into consideration on matters which concern them in accordance with their age and maturity.
2. In all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration.
3. Every child shall have the right to maintain on a regular basis a personal relationship and direct contact with both of his or her parents, unless that is contrary to his or her interests.

*Article 25***The rights of the elderly**

The Union recognises and respects the rights of the elderly to lead a life of dignity and independence and to participate in social and cultural life.

*Article 26***Integration of persons with disabilities**

The Union recognises and respects the right of persons with disabilities to benefit from measures designed to ensure their independence, social and occupational integration and participation in the life of the community.

**CHAPTER IV
SOLIDARITY***Article 27***Workers' right to information and
consultation within the undertaking**

Workers or their representatives must, at the appropriate levels, be

guaranteed information and consultation in good time in the cases and under the conditions provided for by Community law and national laws and practices.

Article 28

Right of collective bargaining and action

Workers and employers or their respective organisations, have, in accordance with Community law and national laws and practices, the right to negotiate and conclude collective agreements at the appropriate levels and, in cases of conflicts of interest, to take collective action to defend their interests, including strike action.

Article 29

Right of access to placement services

Everyone has the right of access to a free placement service.

Article 30

Protection in the event of unjustified dismissal

Every worker has the right to protection against unjustified dismissal, in accordance with Community law and national laws and practices.

Article 31

Fair and just working conditions

1. Every worker has the right to working conditions which respect his or her health, safety and dignity.
2. Every worker has the right to limitation of maximum working hours, to daily and weekly rest periods and to an annual period of paid leave.

Article 32

Prohibition of child labour and protection of young people at work

The employment of children is prohibited. The minimum age of admission to employment may not be lower than the minimum school-leaving age, without prejudice to such rules as may be more favourable to young people and except for limited derogations.

Young people admitted to work must have working conditions appropriate to their age and be protected against economic exploitation

and any work likely to harm their safety, health or physical, mental, moral or social development or to interfere with their education.

Article 33

Family and professional life

1. The family shall enjoy legal, economic and social protection.
2. To reconcile family and professional life, everyone shall have the right to protection from dismissal for a reason connected with maternity and the right to paid maternity leave and to parental leave following the birth or adoption of a child.

Article 34

Social security and social assistance

1. The Union recognises and respects the entitlement to social security benefits and social services providing protection in cases such as maternity, illness, industrial accidents, dependency or old age, and in the case of loss of employment, in accordance with the rules laid down by Community law and national laws and practices.
2. Everyone residing and moving legally within the European Union is entitled to social security benefits and social advantages in accordance with Community law and national laws and practices.
3. In order to combat social exclusion and poverty, the Union recognises and respects the right to social and housing assistance so as to ensure a decent existence for all those who lack sufficient resources, in accordance with the rules laid down by Community law and national laws and practices.

Article 35

Health care

Everyone has the right of access to preventive health care and the right to benefit from medical treatment under the conditions established by national laws and practices. A high level of human health protection shall be ensured in the definition and implementation of all Union policies and activities.

Article 36

Access to services of general economic interest

The Union recognises and respects access to services of general economic interest as provided for in national laws and practices, in ac-

cordance with the Treaty establishing the European Community, in order to promote the social and territorial cohesion of the Union.

Article 37

Environmental protection

A high level of environmental protection and the improvement of the quality of the environment must be integrated into the policies of the Union and ensured in accordance with the principle of sustainable development.

Article 38

Consumer protection

Union policies shall ensure a high level of consumer protection.

CHAPTER V

CITIZENS' RIGHTS

Article 39

Right to vote and to stand as a candidate at elections to the European Parliament

1. Every citizen of the Union has the right to vote and to stand as a candidate at elections to the European Parliament in the Member State in which he or she resides, under the same conditions as nationals of that State.
2. Members of the European Parliament shall be elected by direct universal suffrage in a free and secret ballot.

Article 40

Right to vote and to stand as a candidate at municipal elections

Every citizen of the Union has the right to vote and to stand as a candidate at municipal elections in the Member State in which he or she resides under the same conditions as nationals of that State.

Article 41

Right to good administration

1. Every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions and bodies of the Union.

2. This right includes:
 - the right of every person to be heard, before any individual measure which would affect him or her adversely is taken;
 - the right of every person to have access to his or her file, while respecting the legitimate interests of confidentiality and of professional and business secrecy;
 - the obligation of the administration to give reasons for its decisions.
3. Every person has the right to have the Community make good any damage caused by its institutions or by its servants in the performance of their duties, in accordance with the general principles common to the laws of the Member States.
4. Every person may write to the institutions of the Union in one of the languages of the Treaties and must have an answer in the same language.

Article 42

Right of access to documents

Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, has a right of access to European Parliament, Council and Commission documents.

Article 43

Ombudsman

Any citizen of the Union and any natural or legal person residing or having its registered office in a Member State has the right to refer to the Ombudsman of the Union cases of maladministration in the activities of the Community institutions or bodies, with the exception of the Court of Justice and the Court of First Instance acting in their judicial role.

Article 44

Right to petition

Any citizen of the Union and any natural or legal person residing or having its registered office in a Member State has the right to petition the European Parliament.

Article 45

Freedom of movement and of residence

1. Every citizen of the Union has the right to move and reside freely within the territory of the Member States.

2. Freedom of movement and residence may be granted, in accordance with the Treaty establishing the European Community, to nationals of third countries legally resident in the territory of a Member State.

Article 46

Diplomatic and consular protection

Every citizen of the Union shall, in the territory of a third country in which the Member State of which he or she is a national is not represented, be entitled to protection by the diplomatic or consular authorities of any Member State, on the same conditions as the nations of that Member State.

CHAPTER VI
JUSTICE

Article 47

Right to an effective remedy and to a fair trial

Everyone whose rights and freedoms guaranteed by the law of the Union are violated has the right to an effective remedy before a tribunal in compliance with the conditions laid down in this Article.

Everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal previously established by law. Everyone shall have the possibility of being advised, defended and represented.

Legal aid shall be made available to those who lack sufficient resources in so far as such aid is necessary to ensure effective access to justice.

Article 48

Presumption of innocence and right of defence

1. Everyone who has been charged shall be presumed innocent until proved guilty according to law.
2. Respect for the rights of the defence of anyone who has been charged shall be guaranteed.

Article 49

Principles of legality and proportionality of criminal offences and penalties

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence

under national law or international law at the time when it was committed. Nor shall a heavier penalty be imposed than that which was applicable at the time the criminal offence was committed. If, subsequent to the commission of a criminal offence, the law provides for a lighter penalty, that penalty shall be applicable.

2. This Article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles recognised by the community of nations.
3. The severity of penalties must not be disproportionate to the criminal offence.

Article 50

Right not to be tried or punished twice in criminal proceedings for the same criminal offence

No one shall be liable to be tried or punished again in criminal proceedings for an offence for which he or she has already been finally acquitted or convicted within the Union in accordance with the law.

CHAPTER VII

GENERAL PROVISIONS

Article 51

Scope

1. The provisions of this Charter are addressed to the institutions and bodies of the Union with due regard for the principle of subsidiarity and to the Member States only when they are implementing Union law. They shall therefore respect the rights, observe the principles and promote the application thereof in accordance with their respective powers.
2. This Charter does not establish any new power or task for the Community or the Union, or modify powers and tasks defined by the Treaties.

Article 52

Scope of guaranteed rights

1. Any limitation on the exercise of the rights and freedoms recognised by this Charter must be provided for by law and re-

spect the essence of those rights and freedoms. Subject to the principle of proportionality, limitations may be made only if they are necessary and genuinely meet objectives of general interest recognised by the Union or the need to protect the rights and freedoms of others.

2. Rights recognised by this Charter which are based on the Community Treaties or the Treaty on European Union shall be exercised under the conditions and within the limits defined by those Treaties.
3. In so far as this Charter contains rights which correspond to rights guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms, the meaning and scope of those rights shall be the same as those laid down by the said Convention. This provision shall not prevent Union Law providing more extensive protection.

Article 53

Level of protection

Nothing in this Charter shall be interpreted as restricting or adversely affecting human rights and fundamental freedoms as recognised, in their respective fields of application, by Union law and international law and by international agreements to which the Union, the Community or all the Member States are party, including the European Convention for the Protection of Human Rights and Fundamental Freedoms, and by the Member States' constitutions.

Article 54

Prohibition of abuse of rights

Nothing in this Charter shall be interpreted as implying any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms recognised in this Charter or at their limitation to a greater extent than is provided for herein.

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