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EVOLUTION OF MORAL PRINCIPLES AND HUMAN RIGHTS IN A MULTICULTURAL SOCIETY
by Hegumen Philaret Bulekov

Hegumen Philaret Bulekov was a Russian Orthodox Church Representative making this statement at a Seminar of the Council of Europe, Strasbourg, 30 October 2006.

It is an axiom in the European cultural space today that human rights should be respected and protected. The basic rights are sealed not only in international documents but also in national constitutions. Basic courses on human rights are taught in schools and universities. Human rights are discussed by politicians, human rights activists, public and religious leaders. The notion of human rights is known to the public at large through the mass media.

At the same time, those who are not versed in legal theory or initiated in the academic discussion on the human rights concept normally have a very vague idea of its basis and origin in general. This concept is viewed rather as an axiom, an unsubstantiated fundamental truth about how human relations in society and social life in general should be built.

Accordingly, whenever the modern human rights principles are misunderstood or rejected as decisive for a society that does not believe them to be self-evident, it is their axiomatic nature prevailing in the world community today that is challenged. I mean by challengers here not experts but 'an average person', a citizen who happens to think over the contents and practical effectiveness of human rights as a universal norm.

In this situation, it is not only important but also necessary to address the sources of the modern notion of human rights and its evolution in history.

There is however another serious reason for an attempt to reflect not only on the past but also the present development of human rights notion, for its development continues to this day. I mean the contradictory and conflict-prone situation that has arisen in the modern world.

Today we can see two one-way processes, namely, the economic, political and cultural globalization and the universal propagation of legal norms including fundamental human rights as they have developed in Western European culture. Concurrently, there are also counter movements - opposition to the globalization and partial or full rejection of the
European principle of human rights as a universal and immutable norm of international law in non-European societies and cultures.

(Among the examples of such rejection is the 1990 Cairo Declaration of Human Rights in Islam, which, while reaffirming some rights, has rejected others, such as women's rights and equality of religions).

Certainly, it is a problem situation.

Addressing the theme of the human rights evolution, I will of course dwell on the history of this notion for the shortage of time. Instead, I would like only to draw your attention to some points important, to my mind, in a search of solutions to existing problems.

The concept of individual human rights arose under certain conditions. Territorially, it arose in Western Europe with the disintegration of estate society and in North American colonies associated with it. Historically, it arose in the period when Christianity dominated religious and public life. Lying in the basis of the human rights and freedom concept is the idea of natural law grounded in religious faith. Characteristic here is the US Declaration of Independence (1776), stating in particular, 'We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness'. Axiomatic here is the Christian understanding of the nature of man who, while endowed with unalienable rights, has a natural moral law.

It is noteworthy that in the case of the United States the concept not only postulated individual freedoms, including religious freedom, but also reflected the clear awareness of citizens that they make up a single community. Here we may recall the famous words of the Preamble to the 1787 Constitution: 'We, the people...'

In other words, the notion of human rights was asserted in a situation of public consensus, including moral consensus. For instance, when family was dealt with, the Christian understanding of marriage was adopted as obvious to everyone.

I would like to underline the peculiarities of the cultural and religious context. In various countries with or without a dominating Church, religious pluralism boiled down to the co-existence of various Christian confessions and denominations, with Jewish communities as the only exception. The assertion of individual human rights was linked initially with recognition of the right to religious freedom within Christianity. At the same time, this right also helped to assert the right to freedom of conscience and belief in general,
which ensured the rights of those who were committed to the non-religious worldview and who represented an emerging secular culture. The concept of human rights therefore helped to overcome the opposition both between members of different Christian confessions and between proponents and opponents of religion.

With time however, serious changes took place both in Europe and in the world as a whole. Moreover, a completely different situation developed when an entirely secular attitude to human rights prevailed in European (in the cultural sense) societies. Article 1 of the Universal Declaration of Human Rights (1948) reads: ‘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’. There is no longer any reference to the Creator. The natural law is now built on a biological rather than religious understanding of human nature. There are also other secular justifications for equal human rights though - pragmatic ones, such as the interests theory. Accordingly, religion becomes fully or partially alienated from the meaning of human rights and freedoms.

Another line in the evolution of the notion under discussion is linked with the development and clarification of specific rights and their spreading to new areas. I mean the so-called ‘three generations' of rights. The first-generation rights are civil and political; the second-generation ones are economic, social and cultural and the third-generation are the so-called collective or group rights associated with the notion of solidarity, such as rights of nations including the right to self-determination, the right to sustainable development, peace, healthy environment, the right to participation in the common human cultural heritage, to information and humanitarian aid.

One can disagree with this classification and insist on interdependence of all human rights. One can, together with specialists and theoreticians, take a directly opposite point of view on ‘collective rights' or insist on the need to recognize them along individual rights or reject them as inconsistent with the very notion of the rights of precisely a human being. One thing is clear: during the second part of the 20th century and today the notion of human rights has developed and sometimes this development has been very contradictory.

For instance, the right of nations to self-determination, which is essentially a collective right, is recognized internationally along with fundamental human rights. At the same time, it is clear that collective rights, whose subject is not an individual but a
community, comes into conflict with the classical, predominantly secular, idea of individual rights and their essential priority.

It is important to recall again the historical and cultural context in which this development happened. The assertion of human right on international level was a reaction to bloody global and local wars, totalitarian regimes, genocides and, concurrently, to the liberation of enslaved peoples (decolonization) who were to join the world community on equal terms. At the same time, the modern human rights concept, set against various ideologies of national or cultural exclusiveness, was itself built on the ideology of liberal individualism, Western European in origin but claiming universality. Moreover, I would reiterate, it was dissociated from Christian religious tradition and, therefore, its inherent system of ethical values.

Now what do we see today, faced with the new realities and threats of the early 21st century?

We can see that in the context of reviving religious consciousness in today's world, aggravated problems of cultural identity in face of the globalization, search for new forms of social solidarity, challenges from biotechnology, threats to the environment, the world community to be governed by international law has failed to achieve not only a moral consensus but also any agreement on human nature and human natural rights. Therefore, a question arises: What lies at the basis of human rights today?

Whatever opponents to the so-called 'cultural relativism' may say, the traditional understanding of human rights should be correlated today with the fact of cultural diversity and impossibility to reduce various cultures to a single legal denominator. I mean culture as a system of norms and ideas having their own history and building on religious or, on the contrary, non-religious values and presupposing therefore a certain individual and social morality.

It is very indicative that in its development the human rights notion should have collided with such problems as bioethics. Let us recall that the Council of Europe responded to this challenge with a Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine (Oviedo Convention, 1997), which was signed by only 18 out of 46 member states.

It is an example of how, in discussing human rights, we inevitably come to realize the need to reflect on and reconsider the philosophical and ideological foundations of this notion.
Therefore, when we come back to the question about human beings, their nature and their calling in the world, we cannot ignore ethical issues, such as gender, family and marriage.

Among difficult issues requiring an in-depth reflection is the multicultural nature of modern societies.

Cultural rights are individual and collective at the same time. It is clear however that there is a great difference between two problematic situations: first, when the point at issue is protection of the right to cultural development for minor or indigenous people who live as a compact group in their historical territories; and second, when we encounter the problem of preserving the cultural identity of particular groups or communities as part of the social fabric of a modern megapolis or dispersed in the space of a particular European country. In the former case, we deal with the classical idea of a cultural minority in need of protection, while in the latter case the cultural identity of a particular group or its members becomes a challenge to the majority culture. In this case, the so-called positive discrimination - that is, privileges granted to a minority regarded as underprivileged - in the attitude to this group can provoke, and has most often provoked, an opposition of the majority.

However, the situation where the cultural peculiarities of a particular group of citizens, who are either a minority or a majority, are bound up with religion and religiously grounded morality and expressed in a special way of life and interaction between its members can give rise to a special kind of problems; for from the perspective of the dominating secular understanding of human rights, religious belief as a private affair should not dictate to a person the ways of life and behaviour contrary to the commonly accepted rights and freedoms. But religion often demands from a person more than just private religiosity which has almost nothing to do with public expression.

This situation is a product of the historical development of the world which becomes increasingly relevant for European countries. It should be admitted that it appears little consistent with the absolute priority of individual human rights. For the principle of human rights is effective only if there is a basic consensus on how this principle is understood and linked, in its turn, with at least a minimal moral consensus. Otherwise, human rights cannot govern social life and help overcome potential and already existing conflicts between adherents to different value systems.

This is really a serious challenge to the concept of human rights understood as universal and axiomatic in the context of multiculturalism and religious diversity. It can be
even said that the development of the human right concept today is lagging behind the rapid changes taking place on global, regional and national levels.

Certainly, the notion of human rights and freedoms called to protect every individual against superior impersonal forces, institutions and processes is one of the historic achievements of the European culture. Any arbitrary limitation, especially denial of unalienable basic human rights on any grounds is fraught with negative, destructive social consequences.

At the same time, in order to defend the fundamental human rights it is necessary to take into account the latest tendencies in the social and cultural development. The mass migration, revival of religious consciousness, experiences of community including cultural sharing in the context of intertwining cultures, absence of a moral consensus on major problems - all this demands a comprehensive and serious discussion on the foundations of the human rights. The pragmatic understanding of these rights in a spirit of rational egoism is apparently no longer sufficient. Today we are witnessing and participating in the glaring contradictions developing precisely in Europe with regard to family ethics, freedom of expression, role of religion in public life and politics.

A new consensus has to be found in dialogue between all forces represented in Europe. It is impossible to reach a real consensus only through pressure, political or economic, or calls to abandon beliefs based on cultural and religious traditions with a long history. It is all the more impossible to do in the area of moral foundations, without which, as we can see, the implementation of human rights becomes ineffective. While in some cases sanctions of various kinds can be beneficial, they still appear to produce only a short-term result. But our concern is a sustainable long-term development.

That is why it is so important, to my mind, that we should heed the calls to dialogue that come to the European and world community from religious leaders and in particular from the Russian Orthodox Church. But this dialogue should not be viewed only as a means of pacifying conflicting parties. It should become a meaningful discussion on urgent problems and include therefore representatives of both secular and religious worldviews, adherents to different religions, ethnic backgrounds and cultures. Such dialogue should be based on mutual respect and sincere desire to hear and understand one's interlocutors and opponents. For a new consensus is impossible to reach without taking into account the points of view of all the parties concerned.