

HUMAN RIGHTS, HISTORY AND ANTHROPOLOGY: REORIENTING THE DEBATE

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INTRODUCTION

As part of the 1941–1943 “Barbarossa” campaign, the German military effort to overrun the Soviet Union, General Gustav von Bechtolsheim, commander of the *Wehrmacht* troops responsible for securing the area around the Belarusian capital of Minsk, was an outspoken advocate of the mass killing of Jews as a “preventive measure” and he openly justified this policy by claiming that, had the Soviets invaded Europe, the Jews would have for sure exterminated the Germans. Thus, went his reasoning, the Jews were “no longer humans in the European sense of the word”, and therefore “must be destroyed”.¹

Such were the convictions of a German infantry officer from a respected noble family, having enjoyed an elite military education in a country known for Goethe, Beethoven and Bach. How could a civilised nation and too many of its people fall so deeply is the question we still ask ourselves today as we look at the history of human rights abuse in Europe and beyond, of which the German General von Bechtolsheim is only one of innumerable examples involving all nations, all cultures and all peoples. Not inhuman “monsters” – as is generally comfortably believed – are responsible for the bulk of human rights abuse, but it is rather human beings of every stripe and colour that continue to be the main culprits for the massive violations of human life occurring every day.

Today however, when we speak about human rights and the “inalienability” of these rights, we tend not so much to talk about the daily personal realities of human rights abuse but rather we speak about this topic primarily in grandly proclaimed and mostly abstract terms of “human dignity”, “equality”, “justice”

and “freedom” – proudly referring to international treaties, national constitutions and the enforcement of human rights through supra-national courts and UN bodies. But what does it all really mean? Where do these rights actually reside? Who is the giver of these rights? How are these rights protected and by whom? Who violates these rights and how? Are these so-called “inalienable rights” indeed applied indiscriminately to every human being: unborn or born, black or white, healthy or handicapped, poor or rich, Muslim or Christian? The Jewish political philosopher Hannah Arendt answers some of these pertinent questions with a dose of realism and historical awareness that is mostly lacking in the contemporary oversimplified and ideologically saturated debate on human rights:

No paradox of contemporary politics is filled with a more poignant irony than the discrepancy between the efforts of well-meaning idealists who stubbornly insist on regarding as “inalienable” those human rights, which are enjoyed only by citizens of the most prosperous and civilised countries, and the situation of the rightless themselves.²

Indeed, the rightless, the victims of daily human rights abuse, are still as numerous today as they were during the Second World War when Hannah Arendt wrote these lines. During the war it was the Jews, the Slavs, the Gypsies, the handicapped and other ordinary citizens persecuted and killed by the millions simply because the Nazis and the Communists so decided on the basis of their distorted ideologies. In post-War Europe it was the millions of refugees and survivors of the concentration camps, many of whom found their homeland to have disappeared as a result of the redrawing of maps by the war’s victors, or the tens of millions of victims of the murder campaigns by despots such as Stalin, Mao Zedong and Pol Pot. Today it is the millions of Christians in Iraq and Syria being driven from their homes at gunpoint and by bombs, many of them tortured and killed in gruesome ways because they refuse to betray their faith in Jesus Christ. Or what about the millions of Palestinians still languishing in refugee camps in Jordan with no prospect of returning home, and more millions in East Congo and South Sudan forced out of their homes by violence of the worst kind – rape, torture and mass murder used as a weapon of war? And what is said about the at least 40 million – according to official WHO figures – victims annually of abortion around the world? Are human rights indeed inalienable, because if so, why do they continue to be trampled upon so massively?

Ultimately human rights are not and cannot be protected by treaties and constitutions, as Hannah Arendt’s “idealists” would claim – but rather by the attitudes and actions of individual human beings. Because as the historian Martin Gilbert quotes a Holocaust survivor, this atrocity “depended most of all [...] upon the indifference of bystanders in every land”³ and of course the countless willing

executioners that could be found in every land as well. We can only begin to understand what human rights, their abuse and protection, truly mean when we consistently focus on the concrete realities of the individual human life involved in such situations, and how this person then in words and deeds responds to the perennial question “What does it mean to be human?”

We therefore must begin with discussing a true story, a story that tells us something about the personal realities surrounding human rights abuse. This is not a story primarily about victims, but the story of a perpetrator with a name and a face. He is still alive today. By getting to know the individual perpetrator, we are confronted in a very concrete way with the human condition and its ever-present ability to do great evil. In the history of mankind, by far the most human rights abuses were and are in fact perpetrated by ordinary people in extraordinary circumstances – not by monsters, and *despite* international treaties. It is easy to point to Milošević and Mladić as the evil perpetrators, responsible for the ethnic cleansing during the Balkan wars. But the fact of the matter is that they could not have achieved their deadly plans were it not for the vital help of the indifferent bystanders and willing executioners and other helpers throughout the former Yugoslavia and beyond. The story of Dražen Erdemović is about a law-abiding citizen of a European country that was at the time of the atrocities described already a signatory to most major human rights treaties. The International Criminal Tribunal for the former Yugoslavia (ICTY), that would eventually hear Dražen’s case in 1996–1998, had already been established by the United Nations in 1993 as a response to the outbreak of the Balkan conflict in 1991. The tragedy in which Dražen was involved unfolded live before the eyes of UN peacekeepers and in front of the rolling international news cameras.

Dražen Erdemović was a young man in 1992 – only 21 years old –, and just married when war broke out in Bosnia-Herzegovina, formerly part of Yugoslavia. Dražen was full of exciting plans for the future in 1992. He wanted to start a family with his wife, and find a good job. He was then unexpectedly drafted into the Yugoslav National Army (JNA) in order to fight the Croats in Slavonia, something he had actually wanted to avoid. In 1993 Dražen was able to leave the JNA and he then tried to obtain passage to Switzerland to avoid further military duty and start a new life with his wife and new-born child. But the intermediary who was supposed to get them their documents and who had already been paid never showed up at the agreed location. Dražen and his family were now stuck in warzone Bosnia-Herzegovina with nowhere to go: they had no money, no house, and no job. A friend of Dražen had however told him some time earlier that joining the newly created Bosnian Serb Army (VRS) was a good deal; it earned well and you even got free housing. So Dražen, stuck in what he considered a hopeless situation, joined yet another army, the VRS, and even got his own house

– once belonging to a Bosnian Muslim family whom that same army had recently forcefully evicted as part of an “ethnic cleansing” campaign. By joining the 10th Sabotage Unit of the VRS, Dražen thought he could avoid the actual fighting, – he kept telling himself it was only temporary – although he did not really feel at home in his army uniform. But he stayed put. What else could he do? He needed the money to feed his family.

Then one clear and sunny day, it was by now 16 July 1995, he found himself with his unit at the Branjevo Collective Farm not far from the city of Srebrenica, where they had been sent on an unspecified mission – no explanations given. Without warning or prior briefing by his superiors buses started arriving that were unloading men and boys in great numbers – many of them blindfolded and with hands tied behind their backs – who were being told to kneel or stand on a field in front of Dražen and his unit. The order to shoot and kill with one bullet in the head was given by the commanding officer, Branco Gojković. Dražen was shocked by this order, even appalled, and he protested to his commander, but was subsequently rebuffed in no uncertain terms: if Dražen persisted in his refusal, he would soon have a bullet in his own head. Dražen still hesitated, but then, thinking of what might happen to his wife and child if he were shot himself, and seeing his commanding officer was fast losing patience, he positioned himself with his unit, aimed his Kalashnikov automatic rifle and started firing along with his comrades. He would tell himself not to look at the faces of the men and boys he killed, to make it more bearable. During a pause he even offered a cigarette and an orange juice to an old man coming out of one of the buses who asked him “why are you doing this?” and who pleaded for his life. But upon the renewed threatening order of his commander he continued anyway, scared that he himself might suffer the same fate. That day Dražen, according to his own estimate, killed 70 men and boys, and then returned home to his family in the evening. He later handed himself in to the authorities and was soon transferred to the International Criminal Tribunal for the former Yugoslavia in The Hague. Here Dražen was eventually tried and convicted as a war criminal for crimes against humanity, showing genuine remorse for his actions.

What does this chilling story tell us about the reality of human rights? As the Croatian journalist and writer Slavenka Drakulić relates this story – as one of many similar cases – in her book *They Would Never Hurt a Fly*⁴, she convincingly argues that the bulk of human rights abuses are not perpetrated by the inhuman monsters we generally like to imagine, but by ordinary people under extraordinary circumstances. These people once lived ordinary lives and then fell into great evil without much prior warning – or so we think. Throughout history, we see this pattern emerge again and again: once decent and law-abiding civilians – not only some madmen – allowed for Nazism, Communism, ethnic Nationalism

and all the current-day mass killing and violence to happen. We have to see and understand this harsh and unpleasant human reality first if we want to be able to effectively protect human rights. As Aleksandr Solzhenitsyn describes it so well in his personal account of the Soviet prison camps, *The Gulag Archipelago*⁵:

Gradually it was disclosed to me that the line separating good and evil passes not through states, nor between classes, nor between political parties either – but right through every human heart – and through all human hearts. This line shifts, inside us, it oscillates with the years.

The protection of human rights depends on how the individual person deals with evil at any given time of life, how each human being responds to injustice of whatever kind, whether such injustice is propagated and perpetrated by individuals, interest groups or state organs. When we speak about international or universal human rights, it is not the treaties, international organisations and NGOs as such that are the most important to help us understand and implement human rights, but rather the individual human being at the centre of this drama. We shall now discuss three core issues pertaining to this in more detail: the ideological background of human rights abuse, the actual abuses in their historical context and consequences, and the anthropological understanding of the human being underpinning our human rights discourse today.

THE IDEOLOGICAL BACKGROUND OF HUMAN RIGHTS ABUSE

Why did Dražen, a young husband and father full of hopes and dreams for the future, commit these crimes against humanity? This is the burning question on our minds. Apart from duress – a situation the ICTY explicitly acknowledged as a mitigating factor in its verdict – there is of course a series of additional explanations which can be given. But there appears most of all to be a powerful political and ideological tool at work here that gradually conditioned Dražen, his fellow soldiers and above all their commanding officers for perpetrating these atrocities and actually thinking it all made sense. It is a very effective tool used by dictatorial regimes and violent ideologies throughout history and it has always worked – we may call it “dehumanisation in 5 steps”:

The first step of dehumanisation is the *creation of fear*, fear for one’s own life and fear for a specific group in society: fear for one’s own life was clearly a motivation for Dražen, and which he repeatedly brought forward during his trial. Fear for a specific group of people in society and what they might do to your own group was an outspoken motivation of General von Bechtolsheim quoted above. The creation of fear for a specific group then easily turns them into scapegoats. An ideology is

born. This happened in all of the regimes described above, Communism, Nazism and ethnic Nationalism. Through the new ideology, the scapegoats are suddenly held responsible for all or most of the problems in society.

The second step of dehumanisation is *soft exclusion*: the group turned into scapegoats is excluded from certain – through not all – parts of society. Again, this is what happened consistently under Stalin, Hitler and Milošević. It usually started with the exclusion from certain professions and positions of influence, as well as a gradual segregation from the rest of the populace. The Nazis would always start first with excluding the Jews from civil professions, from universities and from hospitals.

The third step of dehumanisation is executed through *documented justification*: “academic research” and vast media coverage are used to underpin the fear and exclusion of the specific group and “explain” or “provide evidence” why the exclusion is necessary for the “good of society”. The ideology is now formally enshrined. Doctoral dissertations were published in Nazi Germany providing “scientific evidence” for Hitler’s race theories.

The fourth step of dehumanisation is *hard exclusion*: the group that is now “proven” to be the cause of society’s problems is entirely excluded from civil society as a whole and becomes rightless. They now have no voice in society, because they are deemed not to be part of it anymore. They are no longer considered to be humans at all. We saw this already with the German army general Bechtolsheim who claimed the Jews were “no longer humans in the European sense of the word”, and therefore “must be destroyed”.⁶

This then leads to the fifth and final step of dehumanisation: *extermination*. The group is forcefully ejected from society – into camps, ghettos, prisons and medical facilities – and then exterminated or at least treated as those that are “no longer human”. This becomes easily possible because nobody speaks for them anymore. They have lost their voice in political society and with it any chance to claim their rights as human beings.

Dražen did not only commit his war crimes under duress, but he, and above all his superiors, were moreover conditioned and led astray by this five-step system of dehumanisation which seems not to have been opposed in a serious and sufficiently effective manner in the former Yugoslavia at any of its previous stages before the actual mass killing started. It was a gradual acceptance and acquiescence by a changing society, whether voluntary or involuntary, of the emerging status quo. It is all too familiar to us in daily life: we compromise with evil in repeated small doses and tell ourselves “it is not so bad” or “I had no choice” or “I am only avoiding a greater evil”. The Canadian novelist Michael D. O’Brien describes this situation very well:

When events become more and more extreme, the temptation grows to bury ourselves in escapist dreams or in the distractions of comfort. The critical faculty is lulled to sleep. To stay awake and watch demands energy and the willingness to persist in a state of chronic tension. It is so much easier to be “positive”, to trust in what our leaders tell us. Optimism eliminates many problems, though much that is human dies slowly within us, with hardly a protest.⁷

So to return to the initial question: “why did Dražen commit these crimes?”, this is answered by O’Brien: conditioned directly and indirectly by the ideology of the day, what was human died within him at the Branjevo Collective Farm, first slowly, then as quickly under duress as it also returned when he was confronted with the hideousness of his deeds. This tragic contradiction and familiar tendency in human nature is a core aspect of human rights abuse that is much neglected in current discourse – and we all risk succumbing to letting our critical faculty be lulled to sleep if we are not vigilant: do we really want to see *all* human rights abuses of today and openly address them? Or is it all “not that bad” and only happening “to avoid a greater evil”? Because for most perpetrators of human rights abuse, and equally for those remaining silent in the face of it, ordinary people in extraordinary circumstances, their actions or inaction actually make sense and seem to be perfectly justified. Examples in contemporary society abound.

THE HISTORICAL CONTEXT OF HUMAN RIGHTS ABUSE

The next aspect we need to look at is the historical dimension of human rights abuse. Human rights have usually been propagated most strongly in the face of their abuse. By looking at this more closely, we come to understand better what it was protection was sought for. It was the shock of the atrocities by the Nazis and Communists that showed how fragile human rights are when power is absolute and the majority remains silent, is accommodating or has been subjected to a forced silence – this finally led to a revolt of conscience throughout the West when all the horrific details of the actions of these regimes became fully visible in 1945 and beyond. The Universal Declaration of Human Rights and Fundamental Freedoms of 1948 was a direct response to the massive slaughter and abuse of Hitler and Stalin. It was directly influenced by an understanding of natural law still accepted at the time by many in the West – the German constitution of 1949 for example is deeply rooted in natural law – and it holds human dignity and the rights springing from it as indeed inalienable because they are a given of every human being and not granted by the State.

Great minds like the Jewish scholar René Cassin and Catholic scholars Jacques Maritain and Charles Malik played a decisive role in the drafting of the Universal

Declaration. But what really led to the unprecedented drafting and world-wide promotion of this document was certainly not an agreement on the philosophical and theological principles underpinning it – here Jacques Maritain famously declared: “we agree about the rights but on condition no one asks us why” – but something much more concrete and real: the gas chambers, the firing squads and above all the individual stories of the survivors and the personal accounts of too many victims of what the historian Timothy Snyder calls “The Bloodlands”, which is the Eastern part of Europe where under a fatal combination of Nazi and Communist oppression between 1933 and 1945 over 14 million civilians alone were brutally and deliberately killed. Also Snyder stresses how important it is we do not focus too much on abstract – because incomprehensibly large – numbers. Rather we need to look at each individual life that has been affected: a father, a son, a mother, a daughter, a husband and a wife. Every single human life counts because of its uniqueness and its incomparable worth for mankind. No human being is repeatable. Human rights are only truly comprehensible when they are humanised – specified in order to see the living face of those concerned. This is only possible when applied to the reality of individual human suffering and our reaction to it. As the historian Lynn Hunt puts it well in her acclaimed book *Inventing Human Rights*, “you know the meaning of human rights because you feel distressed when they are violated”.⁸ Indeed as introduced above, the term “revolt of conscience” is most fitting here.

The impact of the American and French revolutions of 1776 and 1789 should also be briefly discussed here, their long-term impact however being far greater than the influence these events had on the lives of those concerned at the time. They marked a turning point in the development of human rights in that they ushered in an increased awareness of individual rights and their relation to the State. They also led to the first codification of such individual and universal human rights. In this sense the American Declaration of Independence and the French Declaration of the Rights of Man and Citizen went much further than the 1689 English Bill of Rights, which mostly addressed the relationship between Parliament and the Sovereign, the latter seeing limits put to his absolute powers. But the impact of the American and French proclamations of rights on the daily lives of citizens on both sides of the Atlantic in the 18th and 19th centuries was in fact very limited. In the new United States of America brutal slavery and racial segregation continued until the 20th century, and this in spite of the first paragraph of the Declaration of Independence so well known: “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” – or in the French Republic from 1789 onwards, its proclamation declared that “man are born and remain free and equal in rights”. The Reign of Terror some years later would do away with these “free and equal” rights whilst

claiming to be merely protecting them against the “anti-revolutionaries”, with the result of 17,000 killed by the guillotine and an additional 25,000 summarily executed. The grandly proclaimed Rights of Man were quickly shelved and forgotten. The declarations were simply bypassed by reality, a new regime of violence, or a new ideology limiting the rights of certain human beings. History is full of such examples, even today, which points to the need for a realistic assessment of the true effectiveness of grandly proclaimed human rights treaties.

The point is this: history has shown us countless bloody and ever cruel examples that no matter how lofty the declarations and treaties, no matter how sophisticated and well-funded the UN committees, NGOs and lobby groups, human rights protection lasts only as long as the period until the next human conflict or injustice, whether domestic or international. The Universal Declaration of Human Rights could neither prevent nor stop the atrocities in Rwanda in 1994 and in Srebrenica in 1995, in spite of the fact that both Yugoslavia and Rwanda had long been signatories to the ICCPR (the International Covenant on Civil and Political Rights), the human rights treaty that implements the Universal Declaration of Human Rights. There are of course many reasons for this distressing reality of human rights law versus human rights abuse, some we have already discussed. This problem brings us to the fundamental issue of the nature and purpose of the human being and its relationship to human rights.

WHAT DOES IT MEAN TO BE HUMAN?

A fundamental issue we are faced with today is the limited and often erroneous understanding of what it means to be human; this constitutes the current practice of international human rights as promoted by the West in general. And here it stands in stark contrast with the traditional Judeo-Christian understanding of human dignity and rights, which lay at the foundation of the 1948 Universal Declaration of Human Rights. This contrast consists of a substantive disagreement on the essence of authentic human rights. The practice of human rights as promoted worldwide today by Western countries has removed human rights from their objective natural law basis⁹ and has disconnected them from the one and only source that can guarantee their three constitutive elements, being: natural, equal and universal.¹⁰ Instead, as Benedict XVI remarked in his address to the United Nations General Assembly on 18 April 2008, we are

[...] yielding to a relativistic conception, according to which the meaning and interpretation of rights could vary and their universality would be denied in the name of different cultural, political, social and even religious outlooks.

This false premise for example contributes to the scandalous silence of the international community in the face of the current worldwide war on Christians, especially in the Middle East. Despite the unspeakable persecution Christians suffer today – 80 per cent of all religious persecution in the world is directed against Christians – very few political leaders are willing to speak up for their religious freedom because they have other “priorities” and because they question the need for religious freedom for Christians in Muslim majority countries. Their attitude shows how relative “fundamental” human rights turn out to be, in spite of the high rank religious freedom has in international human rights treaties.

A conception of law that does not acknowledge that human rights are bestowed not by Man itself but endowed in each human being by their Creator – as both the American and French declarations still stated as obvious – will ultimately always become hostage to continuously shifting power politics, to pressure groups and finally to the dictatorship of changing opinions and the democratic majority. This danger was already predicted by the 19th century political philosophers John Stuart Mill in *On Liberty* and Alexis de Tocqueville in *Democracy in America*. Pope Francis in his first Encyclical *Lumen Fidei* (2013) shows us clearly where the difference with Christian thought lies here:

The beginning of salvation is openness to something prior to ourselves, to a primordial gift that affirms life and sustains it in being. (19)

To paraphrase these words for the practice of human rights today: the beginning, the very foundation of human rights is openness to something prior to ourselves, prior to human life itself, and which therefore does not depend on any given human outlook at any given time, but remains a beacon, a rock that will not move. As the 1965 Declaration *Dignitatis Humanae* of Pope Paul VI put it so well, “the highest norm of human life is the divine law – eternal, objective and universal – whereby God orders, directs and governs the entire universe and all the ways of the human community by a plan conceived in wisdom and love”. In Catholic tradition human rights do not depend on man, but on God, and are therefore considered inherent: natural, equal and universal. In the secular – and currently universally promoted – practice of human rights, the rejection of any role for God in society apart from the private expression of “belief”, leads to human rights being considered man-made and thus relative. This then leads as we see clearly today to a system more guided by opinion and feeling than by objective reason and the reality of the created order. As a result human rights are no longer considered natural, and are protected unequally and not universally, despite grand proclamations to the contrary by international bodies and committees. A concrete example to highlight this point: our society rightly pays much attention to the care and protection of handicapped and disabled people against abuse and discrimination. Yet not all

disabled are treated equally for the protection of their rights: official statistics show that over 92 per cent of children in the womb diagnosed with Down's syndrome are being aborted across Europe and the United States – regardless of the stage of the pregnancy, exclusively because of their specific handicap. Is this the equality and non-discrimination so much spoken about?

As long as the practice of international human rights is not rooted in an understanding of what it means to be human that fully accepts this primordial gift of life, rooted in and thus open to that which is prior to human life itself and that surpasses it, we will not be able to effectively protect human rights around the globe – no matter how many treaties and monitoring committees we create. Simply look at the daily realities of organised violence facing us today and every day, examples of which were discussed above.

Hannah Arendt pinpointed this problem very accurately almost 70 years ago. She also explains how the real problem of human rights today is the – already at that time – prevalent belief that dignity and rights come exclusively from man itself. This leads inevitably to “a conception of law which identifies what is right with the notion of what is good for – for the individual, or the family, or the people, or the largest number”¹¹. This problem is not solved, she goes on to explain, when the “good for” applies to the whole of mankind. And here then follows one of her most brilliant observations which even today is so terrifyingly accurate:

For it is quite conceivable [...] that one fine day a highly organised and mechanised humanity will conclude quite democratically – namely by majority decision – that for humanity as a whole it would be better to liquidate certain parts thereof.¹²

Hannah Arendt then, astonishingly as a Jewish agnostic, points out that this “perplexity of political philosophy”, this harsh and unpleasant reality of human capability, could only remain undetected as long as there was a Christian theology serving as a measure for all political and philosophical problems because it followed Plato in saying in *The Laws*: “Not man, but a god, must be the measure of all things.”

It is exactly this concept of the “measure of all things” that distinguishes and lies at the root of the conflict between the secular and Judeo-Christian understanding of human rights. Jews and Christians know that the “measure of all things” is God himself. And this is most beautifully and clearly expressed on the first pages of the Bible where in Genesis 1, 26 we read: “God created man in His image; in the Divine image He created him; male and female he created them”. When Man is created in God's image, then we always have to revert to our Creator

himself when we want to understand what it means to be human. In *Him* lies the true basis of human rights. Anything else leads ultimately to arbitrary Man-made and Man-dependent rights that necessarily lead to the formula right equals might of the strongest – one of many examples that prove this point is the earlier mentioned 92 per cent of unborn children with Down’s syndrome being aborted.

CONCLUSION: THE PROBLEM OF ABSOLUTE RIGHTS

Where to go from here? Is there a way to reconcile these two fundamentally different approaches to human rights? We have to be aware that the problem, or better, the disagreement is not between Christian teaching and existing human rights documents as such – the Catholic tradition for example has no issue with the Universal Declaration of Human Rights or other international human rights treaties and documents, but rather with those that currently control the promotion, implementation and above all the interpretation of international human rights mechanisms and treaties – mostly unelected committees and NGOs that are not democratically accountable and that are generally ideologically biased whilst generally unwilling to conduct an open and fair debate about the issues at hand. There is indeed a *substantive disagreement on the essence of authentic human rights*¹³ with them and their supporting governments. This disagreement does not only concern the Christian versus the secular understanding of human rights, but also something else that is symptomatic for modern human rights discourse and its resolution is therefore fundamental to finding common ground.

In her book *Rights Talk*¹⁴, the Harvard law professor and former diplomat Mary Ann Glendon discusses the problem of absolute rights. Our political discourse, she says, is saturated with ever growing catalogues of rights that are all claimed to be absolute and inherent. These so-called “rights” have in common that they are generally exaggerated in absoluteness; they are hyper-individualistic and completely insular. There seems to be no room for personal, civic and collective responsibilities and duties – service to the common good. They also severely restrict the ongoing dialogue that is necessary to maintain a system of ordered liberty, Glendon says, their unimpeded and often aggressive promotion risks trivialising core democratic principles such as the protection of life, the family and religious liberty. This “romance of rights”, as she fittingly calls it, can however not cover up the human reality that this extravagant belief – that freedom has no limits (which is the popular belief today) – cannot function if we are truly interested in a society of peace and justice. However in its simple form in modern day human rights discourse “the language of rights is the language of no compromise. The winner takes all and the loser has to get out of town. The conversation is over”. Glendon wrote this in 1991, but it could not be more appropriate today: whoever

dares propose that an unborn child also has a right to life is labelled anti-women's rights and whoever dares say that marriage should be between one man and one woman only is called a bigot. This attitude is exactly what Glendon calls the rights-language of no compromise. Whoever is strongest and loudest wins and the loser has to get out of town. This "unapologetic insularity" of the proponents of modern-day human rights interpretations and catalogues means that

our rights talk, in its absoluteness, promotes unrealistic expectations, heightens social conflict, and inhibits dialogue that might lead toward consensus, accommodation, or at least the discovery of common ground.

Reason, objective reason, and the visible reality of the natural created order should again take the place of mere assertion and of shrill name-calling. If we are truly interested in finding common ground and bridge the gap between the Christian and the secular human rights understanding, then we need to accept one thing: absolute rights do not exist (the exception could be the right not to be tortured). This is the simple reality of human life because of our brokenness and our imperfection. No right – not even the right to life because of the right to self-defence in the situation of a direct intentioned attack upon one's life – can be absolute because we human beings do not live insulated, but live in community and in relationships. Therefore, every right comes with a duty, a responsibility – that which is the duty to the Common Good. And in order to see this tandem of right and responsibility in different situations of life we need two things: discernment and debate. Discernment is mostly private and should be rooted in a well-formed conscience; debate is public and needs a forum of mutual respect. If this tandem is conducted with a real listening heart and an open mind by all, then we will be able to gradually inch closer to a common understanding of the one *objective and unchangeable truth* of what it means to be human – which constitutes the foundation of human rights. Here lies humanity's common ground, regardless of creed or lack thereof.

And so we return to where we began – to Dražen. The question we are left with is this: would Dražen have acted differently, would the grave injustices that happen under our own eyes today every day be finally diminished, had Dražen's life or had our "enlightened" society known more discernment and debate on the fundamental question facing every human life: what does it mean to be human? Answering this question is a life-long task and a humble work – and it is the only way to come to understand and therefore indiscriminately protect universal human rights. Let us come down from the barricades of ideological warfare and follow Pope Francis' words:

The wisdom of discernment redeems the necessary ambiguity of life and helps us find the most appropriate means, which do not always coincide with what looks great and strong.¹⁵

- ¹ Timothy Snyder, *Bloodlands – Europe between Hitler and Stalin*, Basic Books, 2010, p. 206.
- ² Hannah Arendt, *The Origins of Totalitarianism*, A Harvest Book – New Edition, 1985, p. 279.
- ³ Martin Gilbert, *The Holocaust – The Jewish Tragedy*, Fontana Press, 1987, p. 18.
- ⁴ Slavenka Drakulic, *They Would Never Hurt a Fly*, Abacus, 2010, pp. 94–106.
- ⁵ Aleksandr Solzhenitsyn, *The Gulag Archipelago 1918–56*, The Harvill Press, 2003, p. 312.
- ⁶ Timothy Snyder, *Bloodlands – Europe between Hitler and Stalin*, Basic Books, 2010, p. 206.
- ⁷ Michael D. O'Brien, *The Plague Journal*, Ignatius Press, 1999, p. 161.
- ⁸ Lynn Hunt, *Inventing Human Rights*, W. W. Norton & Company, 2007, p. 214.
- ⁹ See for example: Jakob Cornides, *Natural and Un-Natural Law*, International Law Group Organisations – Legal Studies Series Nr. 2, 2010, p. ii.
- ¹⁰ Lynn Hunt, *Inventing Human Rights*, p. 20.
- ¹¹ Hannah Arendt, *The Origins of Totalitarianism*, A Harvest Book, 1994, p. 299.
- ¹² Ibid.
- ¹³ This formulation is taken from an unpublished (2013) paper by Robert J. Araujo, “Catholic contributions and critiques of human rights law”, p. 1.
- ¹⁴ Mary Ann Glendon, *Rights Talk*, The Free Press, 1991, pp. ix–xi and 5–17.
- ¹⁵ Pope Francis, “A Big Heart Open to God”, interview conducted by Antonio Spadaro, S.J., in: *Thinking Faith*, 19 September 2013, p. 3.