

## HUMAN RIGHTS AND GLOBALIZATION: THE RESPONSIBILITY OF STATES AND PRIVATE ACTORS

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It was a great honour for me to be invited to comment on the paper of such a distinguished person. I decided to prepare my comment on the fact that family is still just a 'dependent variable' (S. Zamagni) from the economic point of view. On the other hand, the family question is at the heart of the interest of the Church, and the family question is one of the very few where Catholic social teaching anticipated a global (universal) perspective of the 'social question', agenda of human rights included. The Church came first with a recognition that the social question, influenced by factors beyond regional boundaries and national frontiers, has taken on a worldwide dimension (PP 1967, SRS 1987). My focus concerns the 'Charter of the Rights of the Family' (Holy See, 22 October 1983), and the ideas of SRS in this context. 'True development...on the internal level of every nation, respect for all rights takes on great importance, especially the right to life at every stage of its existence; the rights of the family, as the basic social community, or "cell of society"; justice in employment relationships...' (SRS, 33).

Only development which respects and promotes human rights is really worthy of man (*ibid.*, o.c.). Nevertheless the question 'Who is the Man?' is answered in a different way in an individualist, utilitarian and consequentialist perspective of economics, and in the Social Doctrine of the Church. The human person as 'imago dei' has expressed human rights as an individual, nevertheless these rights 'have a fundamental social dimension which finds an innate and vital expression in the family' (first – A – proposition of the Preamble of the Charter). Ten years later, in the Letter to Families – written on the occasion of the celebration of the International Year of the Family (1994) – John Paul II stressed the idea that a family is something more than the sum of its members, and that the rights of the family are not just a mathematical sum of the rights of individual family

members! Economics as a science and economy as a way of life ought to discover an ancient concept of 'common good', and the common good of every society starts in the family.

Thus including family and family rights in the agenda of 'pursuing the common good' at the last annual meeting of the PASS was fully justified. Nevertheless, 'the state and family in a subsidiary society' in the keynote address of Professor Donati, is only part of the truth, and only the second one. According to my argumentation in previous studies (Mlčoch, 2008, 2009), a crisis of the family within Western – post-modern society – evolved from two types of strengthening feedbacks which resulted in the institution of the family being increasingly badly defined ('ill structured'), undergoing vertical disintegration and becoming increasingly dependent both on the temptations of the consumer society (the primary loop) and on state aid (the secondary loop). That is why to comment on Professor Donati's paper just such personalities from Germany, i.e. Professors Manfred Spieker and Paul Kirchhof, were invited. The first one writes about the paradox that rich Germany is – with regard to childbirth rates – among the 'poorest countries' in the world (ranking no. 180 out of a total of 191 listed countries). The second one speaks about the 'scandal' of the contemporary social welfare state, as it exists in Germany, because 'childless members of the workforce accrue retirement claims that must be honoured by the children of the next generation...'

At the roots of this scandal – failure of the rights of the family – is not only some flaw in social security laws, but a 'technical civilization' based on utilitarianism and individualistic freedom without responsibility. The Holy Father John Paul II wrote in his Letter to Families about a civilisation of products and hedonism, 'things' but not persons; or even persons used as things: he warned against this civilisation where woman can be degraded as an object for man, children as an obstacle for parents, and the family – an institution – as an obstruction to the freedom of its members.

The problem of our time and our Western civilisation is an inconsistency between the Catholic Charter of the rights of the family on one hand, and the EU's Charter of Fundamental Rights of the European Union (Nice 2000, Lisbon 2007) on the other. Professor Donati's sharp analysis shows clearly that an institutionalized individualism of the EU's Charter leaves little room for family functions, family has no citizenship in this document. Referring to Professor Glendon's paper, Donati's point is that individualistic and contractualistic models of family in the later EU Charter are incompatible with the natural rights of persons in the form of 'relational rights' (in the former Catholic Charter of the rights of the family).

Perhaps the deepest difference is the lost perspective of eternity in contemporary European societies (Manfred Spieker) – and in an ‘imperial economics’ as well. Nevertheless even G. Becker (together with Murphy) gives a touch of *species aeternitatis* in his fertility analysis. Allow me, please, a short but very symptomatic point in this context. Becker and Murphy consider (‘with a heroic amount of additional imagination’) contracts between ‘parents and potential children’. In such a hypothetical case ‘a potential child could commit to compensating his parents eventually if he is born’.

‘...This contract would be Pareto improving...if the child would still prefer to be born’. They conclude: ‘Since such contracts are impossible, some children may not get born even when both parents and children could be better off’. These authors are certainly right, the whole western civilisation is in a Pareto sub-optimal situation as to unborn children. The ‘economic man’ is actually conceptualised as a ‘contractual man’. Contracts between parents and unborn *potential children* are impossible in principle; but they would also be ‘illegal’ because human embryos in late modernity have reached neither a legal nor a moral status (which they had before World War II), and it was the state which authorised abortions, and now a super-state of the EU – which repeatedly confirm this ‘institutional change’. Before that, unborn children had their ‘barristers’ in God’s Law: induced abortion was not allowed.

In the global world, a ‘demographic revolution’ born half a century ago in the capitalist West and communist East, tied by a common ‘spirit of revolt’ (Hannah Arendt) and purely materialistic culture, is slowly expanding on other continents. The book *Living in the Global Society* (Papini, R., Pavan, A., Zamagni, S., eds.) provides a broad spectrum of insights in this sense. Msgr. Henry D’Souza writes about ‘economic invasion’ and its effects on Asian cultures. Orlando B. Quevedo is criticising development in Asia ‘from below’. What is most striking (and dangerous) is the fact that ‘many of the threats to family stability are unintended consequences of goods and freedoms that modern men and women prize’ (Glendon, M.A., 2002, p. 107). And I add to this the quotation from Henry D’Souza ‘It is immaterial to establish whether the economy is determining culture, or cultural invasion is determining the economy’ (o.c., p. 94).

Looking back to the Charter of the rights of the family, and comparing the situation of the rich North (and West) to that of the poor South (and East), we have to say that family is endangered globally, in different ways. Nevertheless, the threats from a *new technological totalitarianism* (Cardinal Martino) are even more serious – as the title of the recent Dembinski-But-

tet-Rossi di Montelera book warns – ‘car c’est de l’homme dont il s’agit’! Certainly the family in poor African, Asian, Latin American and Caribbean countries suffers in many ways. The Federation of Asian Bishops’ Conference (FABC VI) – typically – observes: ‘The Asian family...is bombarded on all sides by anti-family forces of dehumanisation and disintegration, ranging from material and moral poverty to secularistic values and external pressures leading to anti-life types of bioethics and practices of abortion and contraception’. Material poverty is *nihil novi sub sole* in least developed countries, but new threats for the family came from a ‘knowledge society’ of the most developed countries. Just a glance at the ‘Preamble’ of the Charter of the rights of the family shows clearly that, for example, the European family ceases to be ‘based on marriage’ as the ‘natural institution’, ‘suited to teach and transmit cultural, social, spiritual and religious values’, where ‘different generations come together’, and where even society is losing ‘the need to recognise and defend the institution of the family’. According to Article 4, ‘human life must be respected and protected from the moment of conception’ and ‘abortion is a direct violation of the fundamental right to life of the human being’. We could continue looking at the experimental manipulation or exploitation of the human embryo, interventions on the genetic heritage of the human person, and so on... The most developed countries – UK, US – are pioneers on this road to hell, and globalization in this sense is just an export of the culture of death to other continents.

Twenty-five years ago a group of Asian Bishops (Institute for Social Action – BISA I) pointed out this paradox: ‘Our people are not poor as far as cultural tradition, human values, and religious insights are concerned. In these things of spirit, they are immensely rich’. Globalization of a ‘materialistic culture’ leads to a very ambivalent and controversial type of development, and to new attacks on the ancient institution of the family. FABC and BISA do not hesitate to speak about *economic imperialism and neo-colonialism*. On the other hand, in communist China’s model of ‘totalitarian capitalism’, the family suffers in many ways, especially due to a coercive demographic policy, and the Charter of the Rights of the family in China is just a challenge for the future. It seems to me that the stance of FABC, pronounced only three years after the publication of the Charter, is still valid: ‘We have criticised classical capitalism because, while professedly promoting economic growth, it has deprived man of the just fruits of his labour. We now criticise communism because, while professedly promoting liberation, it has deprived man of his just human rights. In their historical realisation, both have hindered true human development, the one creating

poverty in the midst of affluence, the other destroying freedom in the pursuit of equality'.

Our Asian brothers in Christ are calling for and looking at an 'alternative development model', 'an integral, equitable and sustainable development' (Orlando B. Quevedo, Henry D'Souza, o.c.).

Research on alternative visions to the contemporary face of globalization has also attracted the best economic 'brains', Professor Joseph Stiglitz among them. By the way, his book about the discontents of globalization had been translated into the Czech language as 'A Different Way to the Market'. The effort of politician and Professor Derbez Bautista to solve the problems of global financial markets – based on the experience of Latin America – are also well known and topical especially in times of global financial crisis. The Lateran University in its *Nuntium*, on the occasion of the anniversaries of two Pontifical Encyclicals about development, *Populorum Progressio* and *Sollicitudo Rei Socialis*, devoted a double number (31, 32, Anno XI, 2007, 1-2, to this challenge of seeking true development in a Christian perspective. *La dimensione globale e la visione delle Encicliche*).

Allow me, please, to also mention my own modest contribution to this core problem, from the point of view of the family. In *Nuntium* (pp. 147-151), I provided a 'Franciscan sketch' of a 'solidarity-based development', where temptations of 'catching up' richer (but not happier) are substituted by a 'joyful economy' of sharing gifts in contraposition to Tibor Scitovsky's 'joyless economy' (all in the original English version). A spiritual and cultural conversion of this type has – as a 'precondition' – the discovery of the fundamental error of dominant economic thinking, that 'having more things is always better'. That same year – again in a 'Franciscan' perspective – I contributed to the book *Car c'est de l'homme dont il s'agit* (Dembinski-Buttet-Rossi di Montelera, 2007, pp. 157-174). In my 'économie de la frugalité' sometimes 'more is less' (GDP 'per capita') for subjective happiness (bonheur). This is especially valid for the 'size of the family' – children are this very joy and source of happiness!

More than twenty-five years from G. Becker's 'Treatise on the Family' represents a period of newly born 'family economics' with its hyper Meritocracy, a generalized economic calculation – 'production of children' included, consumer manipulation, 'soft family budget constraint' (i.e. growing family indebtedness) and self-fulfilling hypothesis of the market dominance over the family. This way of thinking can be rejected as an essentially defective economic reductionism in family relations; this does not help us much, however, because the market has already long been broken

through the traditional ethical limits of the family. A second way is more promising: to take this logic 'at its word' and to include the argumentation, which arises from this approach, in the results. Economists know the protection of competition in the market, and the concept of countervailing power (John Galbraith). Otakar Hampl, my brother in a Czech family of the Secular Franciscan Order, speaks (especially as far as the status of families with children is concerned) of the unequal standing of the family and of the artificial deformation in the investment market involving individual factors of economic development. In particular this involves 'human capital', the investments in it and the reproduction of the workforce which suffers from an inequality of this type. The child as a 'normal product'? The child as an investment competing with the purchase of an automobile? That may be so. But if so, the correct question is: why does every businessperson (be it a physical or legal entity) have the option of writing off the cost of the purchase of an automobile from his or her tax base over five years? The 'investment in a child' involves a horizon which is four or five times longer, i.e. it is therefore encumbered with a higher time discount and is, to be honest, a much 'higher risk'. It is absolutely logical to require the family, as a 'producer of children', to have the right to deduct the costs of a child from its tax base throughout the entire period of the investment. This is how we can summarise O. Hampl's argumentation and the proposals to 'alleviate the inequalities' which still predominate.

It happened that I had the occasion to present our common 'Franciscan argumentation for the financialized word' ('le monde financialisé' of Paul. H. Dembinski) at the recent Czech EU Presidency conference about the family in Prague (see Mlčoch, 2009). The proposal to alleviate the unequal standing of the family in the current economic system is relatively simple, and resistant to abuse due to its structure. I am convinced that this social and financial innovation is an answer to the speaker's question of Cardinal Ennio Antonelli, President of the Pontifical Council for the Family at the same conference in Prague. The Cardinal – after his characterising of the past decades when 'more and more often the liberal, relativistic, individualistic, utilitarian and consumer culture has been enforced, which is, of course, not beneficial to families, and very often regards the family as something outlived and condemned to extinction' – raised the question: 'Why should a family that decides to have children be poorer?'

The structure of compensation for the costs borne by families with children in the area of tax is remarkable as it understands the family as being a socially cohesive entity from the very beginning – in full consistency with

the Charter of the Rights of the Family. It goes further – in a positive direction – than the ‘joint taxation of married couples’ which we abandoned in the Czech Republic after a short and successful trial (just for ideological reasons). This version of the tax system is family friendly, because it is based in fact on the old Catholic idea of ‘family wage’ (see *Compendium*, article 250, originally *Quadragesimo Anno* from 1931). An example of an uncomplicated system which is simple precisely because its solution goes to the root of the matter. This is a way to correct the existing sub-optimal investment in human capital – because till now ‘work in the family is not a priority in Europe’ (E. Antonelli) – and represents hope for maintaining the family as an ‘economically competitive’ ‘economic agent’ (Stefano Zamagni) – even in the developed world.

Msgr. Orlando B. Quevedo (in Papini-Pavan-Zamagni, Jacques Maritain Institute 1997) – referring to FABC IV (in Tokyo) stressed the idea, that ‘in Asia free enterprise has failed to recognise “the principle of the priority of labour over capital”’ (LE, article 12, now *Compendium*, articles 276-281). But the same is true for the ‘affluent society’ of the West. The problem is even deeper since it also affects the relationship between labor and private property (*Compendium*, articles 282-300, especially 294 – the family and the right to work). And the problem is also broader, because in the contemporary world, it concerns not only human work in an enterprise, but also unpaid work within families. The PASS organized a Forum on ‘The Meaning of the Priority of Labour’ (*Miscellanea* 4, 2003), but this new ‘family dimension’ is mentioned just at the margin. Nevertheless, Msgr. Roland Minnerath said at this Forum six years ago: ‘So we should elaborate not only on the primacy of work over capital, but, deepening the question, on the primacy of humanly meaningful labour in accordance with socially meaningful outputs...The family mother at home...gives little importance to the notion of capital. More important is the social benefit of the work done’ (o.c., p. 72). As we accept that priority of labour over capital ‘applies to all historical epochs and human situations’ as ‘the abiding heritage of the Church’s teaching’ (LE 12), we are obliged to say that this principle is just an ideal more than a reality, and not only in poor Asia, but – in a different form – also in the affluent West. The demographic implosion is one of the most striking features of the prevailing ‘priority of capital over labour’ in the late capitalism. One of the most important causes of the falling fertility was a massive social shift towards pension schemes with the ‘penalization’ of families taking care of children: in economic terms, it is possible to interpret this evolution as a kind of substitution of ‘investment in children’ for

investment in pension funds... Substitution of 'labour for capital'... According to the recent empirical evidence about the volume of pensions, it is possible to explain about 80% of the variations in fertility across countries.

Developments in Europe have shown the apparent priority of 'financial capital' over 'human capital', of which the demographic implosion is merely a consequence. During the ongoing global financial crisis private pension funds are among those worst affected by this crisis of trust. As a consequence, the relative weight of importance has shifted back to family policies. This is a chance for investing again in turning the demographic trends. The European political élite willing to serve the common good of families is, of course, a necessary condition to ensure that the family becomes a real and not just a declared priority, and that the Charter of the Rights of the Family is more respected in this world where politicians are parsimonious as to the family's social expenses, and eager to justify the horrible public costs for averting the financial crisis. 'Should we encourage political decision-makers to recognise the importance of the home economy and the costs of raising children?' (M.A. Glendon, 2002). We should. Thank You.

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