

Translator's Preface

To many Orthodox Christians of Eastern Europe and the Balkans the concept of human rights is problematic. This may seem surprising. The Universal Declaration of Human Rights, adopted by the United Nations in 1948 in the immediate aftermath of the atrocities committed during the Second World War, was carefully drafted to avoid implying either a divine or a secular justification for human rights, precisely in order to make the acceptance of the principle of such rights as uncontroversial as possible.¹ Yet by using the language of the Enlightenment – language reminiscent of the French Declaration of Human and Civic Rights (1789) and the United States Bill of Rights (ratified 1791) – the Universal Declaration of Human Rights set itself within a cultural context that many Orthodox find inimical to their faith.

Why? The answer has to do with the perceived incompatibility of Western atomistic individualism (as expressed in the language of human rights) with the Eastern Christian emphases on personhood-in-relation and on the corporate and sacramental nature of salvation.²

1. Emmanuel Clapsis, 'Human Rights and the Orthodox Church in a Global World.' Posted on the website of the Greek Orthodox Archdiocese of North America on 14 October 2016: <<https://goarch.org/-/human-rights-and-the-orthodox-church-in-a-global-world>>.
2. Paul Valliere, 'Russian Orthodoxy and Human Rights,' in Irene Bloom, J. Paul Martin and Wayne L. Proudfoot, eds., *Religious Diversity and Human Rights*, (New York: Columbia University Press, 1997), pp. 278-312. Paul Ladouceur,

As the Orthodox Archbishop of Tirana, Durrës and All Albania has put it, 'a questionable ideology lies hidden behind the well-known declaration of human rights'.³ The archbishop is not opposed to the declaration as such but sees it simply as a starting point on account of its not safeguarding human dignity from enslavement to egotism or from exploitation as a result of 'the complex factors that operate in our modern technological society's multiform and impersonal structures'.⁴

The Russian Orthodox Church's position is somewhat similar.⁵ Interestingly, during the Communist era the human rights movement was embraced enthusiastically by a number of courageous clergy who based their protests against the oppressive Soviet law on religions precisely on the Universal Declaration of Human Rights, to which the Soviet Union, of course, was one of the signatories.⁶ On the dissolution of the Soviet Union, and the dismantling of its foundational atheist ideology, the Russian Federal Republic became a secular state, whereupon occurred 'the largest revival of historic Christianity in the twentieth century'.⁷ The attitude of the Church to human rights then became much more critical, with the theological dimension of human dignity, based on humanity's creation in the image and likeness of God (Genesis 1.26), coming to the fore. Patriarch Kirill of Moscow is alarmed by the way that ideas conflicting with traditional Christian morality (such as the teaching of homosexuality in schools) have been brought under the umbrella of human rights, 'since behind human rights stands the coercive power of the State, which can compel people to commit sin, tolerate it, or allow it to take place through banal conformism'.⁸ The patriarch acknowledges the need for universal rules of human conduct in the modern world but queries whether the rules as set out in the various declarations of human rights can count as universal. For him, speaking in the name of Russia's

'Can Orthodox Support Human Rights? The Divine Image, the Person, and Human Rights.' Posted on Fordham University's 'Public Orthodoxy' website on 1 November 2017: <<https://publicorthodoxy.org/2017/11/01/can-orthodox-support-human-rights/>>.

3. Archbishop Anastasios (Yannoulatos), *Facing the World: Orthodox Essays on Global Concerns* (Crestwood, NY: St Vladimir's Seminary Press, 2003).
4. Anastasios (Yannoulatos), *Facing the World*, p. 57.
5. See Kristina Stoeckl, *The Russian Orthodox Church and Human Rights* (London and New York: Routledge, 2014).
6. Valliere, 'Russian Orthodoxy and Human Rights,' 287.
7. Valliere, 'Russian Orthodoxy and Human Rights,' 298.
8. Patriarch Kirill of Moscow, *Freedom and Responsibility: A Search for Harmony – Human Rights and Personal Dignity* (London: Darton, Longman and Todd, 2011), p. 59.

Christian culture, the central concept of 'human dignity' finds its most profound expression in the biblical teaching that human beings were created in God's image and likeness, lost that likeness through the Fall, yet through the incarnation of the divine Word were given the opportunity to recover it and by becoming children of God attain to participation in the life of God himself, to deification or 'theosis'. Human beings possess an autonomy of will, but they do not, as Rousseau thought, always choose what is good and beneficial for them. There is a higher law than the moral anthropocentrism that the patriarch sees enshrined in human rights language.⁹

Christos Yannaras's concern is not so much the theological and moral dimensions of human rights as the philosophical notion of right itself. Regarding rights as fundamentally the legal protection of individual or group interests in order to protect individuals or groups from injustice, he argues that by formulating rights what we are actually doing is transforming the communal sharing of needs into an association designed to promote a common interest. In other words, through human rights we change the achievement of *communion* into mere *association*. Yannaras's principal work arguing this thesis, *The Inhumanity of Right*, has become a classic in its field, 'in some ways,' as Kristina Stoeckl has said, 'paradigmatic of the Orthodox criticism of Human Rights.'¹⁰ Many Orthodox thinkers have accepted Yannaras's thesis fully.¹¹ Others, perhaps the majority, while approving some aspects, have also expressed certain reservations.¹² These reservations

9. Kirill of Moscow, *Freedom and Responsibility*, 62-4.

10. Kristina Stoeckl, 'The "We" in Normative Political Philosophical Debates: The Position of Christos Yannaras on Human Rights,' in Alphons Brüning and Evert van der Zweerde, eds., *Orthodox Christianity and Human Rights*, (Leuven: Peeters, 2012), p. 187.

11. E.g. Sergey Trostyanskiy, 'The Russian Orthodox Church on Human Rights,' *Sophia* 2 (2017), pp. 24-59.

12. E.g. Pantelis Kalaitzidis, *Orthodoxia kai neōterikotēta: prolegomena* (Athens: Indiktos, 2007), pp. 23-38; *idem*, 'Individual versus Collective Rights: The Theological Foundation of Human Rights. An Eastern Orthodox View,' in Elizabeth-Alexandra Diamantopoulou and Louis-Léon Christians, eds., *Orthodox Christianity and Human Rights in Europe: A Dialogue Between Theological Paradigms and Socio-Legal Pragmatics* (Oxford: Peter Lang, 2018), pp. 273-96; John McGuckin, 'The Issue of Human Rights in Byzantium and the Orthodox Christian Tradition,' in John Witte, Jr, and Frank S. Alexander, eds., *Christianity and Human Rights: An Introduction* (Cambridge: Cambridge University Press, 2010), pp.173-90; Stoeckl, 'The "We" in Normative Political Philosophical Debates'; Ladouceur, 'Can Orthodox Support Human Rights?'

concern what is perceived to be a 'reductionist and artificially dualistic' personalist theology,¹³ or more forthrightly, the integration of a critique of human rights into an anti-Western narrative.¹⁴

Yannaras's response is that his critique of human rights is a critique not of what is Western *qua* Western but of what is philosophically a characteristic product of modernity – and modernity, although originating in the West with the Enlightenment, is now just as much part of the 'East' as it is of the 'West'. There is no simple East-West dualism because, *pace* Huntington, Orthodox Christians, despite their 'Eastern' label, are culturally Westerners – certainly in the Greek environment in which Yannaras is writing. It is worth noting that there are several important analyses of human rights by non-Orthodox philosophers,¹⁵ but these are concerned with the normative roles of human rights, with how they function, not with their philosophical basis. There are also excellent university textbooks that offer critiques of the failure of human rights to live up to their promise, or to respect different cultural, philosophical and religious traditions, or to avoid a crypto-imperialism or excessive individualism.¹⁶ Yannaras's book, however, is still, to my knowledge, the only one to scrutinize the philosophical foundations themselves of human rights and to attempt to offer a new paradigm.

This translation of *The Inhumanity of Right* is the first into a Western European language. The author summarized his thinking in English in a very brief article published a number of years ago,¹⁷ but it is only with the publication of the present volume that Anglophone readers have an adequate opportunity to judge for themselves whether his philosophical critique of the notion of right has merit.

Norman Russell
Ozenay, May 2021

13. Ladouceur, 'Can Orthodox Support Human Rights?'

14. Kalaitzidis, 'Individual versus Collective Rights.'

15. E.g. John Rawls, *The Law of Peoples* (Cambridge, MA: Harvard University Press, 1999); Charles R. Beitz, *The Idea of Human Rights* (Oxford and New York: Oxford University Press, 2009).

16. E.g. Michael Goodhart, ed., *Human Rights: Politics and Practice* (Oxford: Oxford University Press, 2016).

17. Christos Yannaras, 'Human Rights and the Orthodox Church,' in Emmanuel Clapsis, ed., *The Orthodox Churches in a Pluralistic World: An Ecumenical Conversation* (Geneva/Brookline, MA: WCC Publications/Holy Cross Orthodox Press, 2004), pp. 83-9.

Preface

The concept of *individual rights* summarises the philosophical and cultural identity of modernity's paradigm. It is not exhausted in its specifically legal use. It constitutes the axis (the self-evident semantic constant) of the way life is actually lived in modernity – of 'liberal' social and political practice. It is the constitutive material for the formulation of moral problematic on the individual or collective level.

As a semantic constant right refers to utilitarian intentionalities, it does not have fully worked out anthropological presuppositions. The theoretical starting-point of modernity's concept of rights is a phenomenalist naturalism: it presupposes an abstract concept of the human subject as a fundamentally undifferentiated natural individual. It ignores questions of ontological definitions, interpretations of the existent and the real, and criteria of the existential authenticity or existential alienation of the human being. On the social level the modern concept of rights presupposes corresponding naturalistic priorities: the collective 'rational' consent and the individual 'capacity for law' – on the basis of a natural power of intellection and its methodical use.

The pages that follow explore the question: in what degree does the fundamental priority of the rights of the individual in modernity's structure relate to the contemporary *crisis* of the entire paradigm? Perhaps the crisis of modernity (a crisis of politico-social achievements, of the end of modernity's ideologies and values, of the

bitter rivalry between community and state, of the detachment of the economy and politics from common needs), which is made manifest today by many initiatives and by a rich bibliography, exaggerates the coincidental dysfunction of institutions and regulative principles. Could it be that the concept of rights, within the exclusive perspective of individualistic utilitarianism, institutionalises and at the same time releases a radically antisocial dynamic: does it impose the alienation of subjective otherness and therefore of social relations, thus leaving the social and political event without anthropological goals and consequently without meaning?

This study aims to focus principally on political theory. My purpose has a limited demonstrative character. I seek to give priority to alternative anthropological presuppositions in politics instead of focussing on the abstract schematisations that today underpin the logic of rights. I wish to approach the political debate in conjunction with the initial concepts that prioritise human needs and constitute the political articulation of culture. On the level of methodology, my study seeks to suggest a way of escaping from the reliance of the social sciences on the Newtonian version of reality: on the perception or attitude that regards as valid knowledge the subjection of the existent and the real to the quantitative terms of a deterministically organised mechanical order – the identification of the existent and the real with definitive conceptual signifiers productive of the illusion of ‘objectivity’.

On this basis, the main tasks that the book sets out to achieve may be summarised as follows:

- (a) The sketching out of the basic lines of a political theory without anthropological gaps, so that the theory should presuppose as the subject of social and political rights not the abstract and undifferentiated unit of an arithmetical whole, but the operative factor of non-predetermined social relations – the dynamically activated existential otherness of every human being.
- (b) The sketching out of the basic lines of political practice with the aim of a socially-centred concept and exercise of individual rights, so that political practice should institute individual rights as an initial guarantee of the possibilities of relation, of the existential inviolability (non-alienation) of the factors contributing to the sharing of relations, and so that the right should be safeguarded in the difference or the antithesis not as individualistic autonomy but as the possibility that the difference should be shared.

- (c) The sketching out of the basic lines of a political theory and practice within the perspective of the realisation of institutions and regulative principles with the aim that the social dynamic should above all be freed from *ankyloses* – from seizing up – so that the realisation of this should guarantee social adaptability to new needs and new prioritisation of needs, and so that it should release the regulative function of Law and of institutions from a utilitarian polarisation between *convention* and *authenticity*.

The aims of the book are clearly difficult to attain – the reader of course will judge whether I have succeeded.

Christos Yannaras
Nea Smyrni, December 1996