CHRISTIANITY AND HUMAN RIGHTS*

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Sadly, I never met Cardinal Heenan. Having read a little about him in preparation for this lecture, I wish I had. He must have been stimulating and entertaining company: to visit the Soviet Union in 1936, disguised as a psychologist, displays both high courage and a rare sense of humour. One of the things about him that I find especially endearing is that he seems to have made a habit of answering his mail almost by return. I had always thought this was a virtue, and have indeed tried to practise it myself — but the commentator who reports it describes it as 'a practice that did not lend itself to restraining impetuosity'. Evidently, I must try to ponder my replies rather longer in future.

But Cardinal Heenan's most lasting contribution to the affairs of Christianity was his work for ecumenism — before, during, and after the Council. Here, his concern was not only for separated siblings (one must not say 'brethren' any more, since there is no such word as 'sisters') or schismatics or heretics within the Christian faith, but just as much with the non-Christian religions, and indeed with unbelievers. Clearly, he had a profound interest in values which unite rather than divide, and with ideas and ideals which all humanity can share, regardless of its manifold differences.

It is therefore particularly appropriate to his memory that I have been asked to talk today about just such a domain in the world of ideas, namely human rights — and all the more appropriate for the fact that, just four days from now, we shall have occasion to celebrate the fortieth anniversary of the adoption by the United Nations of the Universal Declaration of Human Rights.

Human Rights

Let me begin, then, with a brief sketch of what we mean today by 'human rights' — a phrase much used in our times, though not always with a proper understanding of its scope or its limitations.

For centuries, theologians, philosophers, moralists, politicians and others have debated about the nature of rights; whether rights can be classified into different categories; whether there are some rights which are universal in the


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sense that they are 'inherent' in, and 'inalienable' by, everyone; if so, from what antecedents such rights can be derived; and what is the relationship between rights and laws.

Those debates continue. Meanwhile, however, a modern notion of 'human' rights has developed which is drawn almost entirely from international law, and that is where I shall therefore start, returning to Christianity later. One of the central concepts of this legal system has always been that of 'sovereignty', precisely because its main (and indeed for a long time its only) concern was with the relationship between sovereigns — originally sovereign Princes, and only later their successors, the sovereign nation states.

Sovereignty, in this context, meant the unfettered exercise of power within the Prince's 'domain' — that is, the territory over which he ruled, and the individuals within that territory who owed him allegiance, originally called his 'subjects' but now more usually described as the state's 'citizens'.

Within his domain, the Prince had the right to do as he pleased. In the context of his territory, this was called his 'territorial' sovereignty; in the context of his human subjects, it was called his 'personal' sovereignty. Quite logically, international law could have no concern for the relationships of Princes and their subjects with each other. How a sovereign Prince treated his own subjects — or later, a nation state its own citizens — was entirely their own affair. Accordingly, the notions of 'civil rights' and 'civil liberties' which began to be developed in the domestic law of England in the seventeenth century, and found their first full flowering, almost simultaneously, in the French Déclaration des droits de l'homme et du citoyen in 1789 and the US Bill of Rights in 1791, for a long time found no echo in international law. Private individuals could not be the subjects of that law: they were the subjects of their Princes, having only those rights which their rulers allowed them on the level of 'national' or 'domestic' law.

A Legal Revolution

With only a few marginal exceptions, notably during the time of the League of Nations in the inter-war years, this remained the position until as recently

2. For a brief account of this development, and of the substance of the new international code, see Sieghart, P., The Lawful Rights of Mankind (Oxford, 1985); for the code itself, with full annotations and commentary, see The International Law of Human Rights (Oxford, 1983), by the same author.

3. There was just one exception to this: how a sovereign Prince treated aliens — that is, the subjects of another sovereign Prince — was a matter for international law, for any maltreatment of them might constitute an infringement of the personal sovereignty of their own Prince, who might therefore be entitled to demand compensation — for himself, not for the maltreated subject.
as 1945. However, by then it had become plain that this resolute shutting of international eyes to the state of affairs within a sovereign state held grave dangers for the international community of nations. The atrocities perpetrated on their own citizens by the régimes of Hitler and Stalin were not only moral outrages: they were a very real threat to international peace and stability. And so, there was carried through a veritable revolution in international law: within a single generation, it developed a complete new legal code, enumerating and closely defining certain very specific 'human rights' and 'fundamental freedoms' for all human beings, anywhere in the world, which were thenceforth no longer to lie in the gift of the sovereign states whose citizens these human beings were, but were said to 'inhere' in them 'inalienably', and so could not be abridged, denied, or forfeited — even by their sovereign rules — for whatever cause. In the words of a great British international lawyer, Sir Hersch Lauterpacht, in 1950: 'The individual has acquired a status and a stature which have transformed him from an object of international compassion into a subject of international right.'

These new legal 'human rights' and 'fundamental freedoms' were drawn from several existing sources. The first group comprised the classical 'civil and political' rights of non-intervention by the state in the lives of private citizens, claimed as moral rights and freedoms from at least the eighteenth century onwards, and transformed into legal rights on the national plane — and indeed often into constitutional rights — in the course of the revolutions at the end of that century and the early part of the next. These were the rights to life, liberty and security, equality before the law, and fair trial, and the freedoms of conscience, belief, speech, assembly, association, and so on. The second group was composed of the 'economic' and 'social' rights claimed in the later nineteenth and early twentieth centuries, calling upon the state to intervene positively in order to redress manifest and undeserved injustices suffered by individuals and the groups to which they belonged, such as the right to decent pay and conditions of work, to housing, health, education and so on.

These rights have now been incorporated into international law partly through custom, but pre-eminently by the entry into force of a number of what are called 'law-making treaties', freely entered into by the sovereign states which

5. At the global level, these are the UN Charter of 1945, read together with the Universal Declaration of Human Rights of 1948; the twin UN Covenants, one on Civil and Political Rights and the other on Economic, Social and Cultural Rights (adopted 1966; entered into force 1976), and around 20 or so Conventions dealing in more detail with specific rights. At the regional level, they are the European Convention on Human Rights (1950/1953), the African Charter on Human Rights and Peoples' Rights (1983/1986), and the African Charter on Human Rights and Peoples' Rights (1983/1986)
constitute the international community, and so creating what is in effect a completely new international legal order. Though still very young and therefore decidedly fragile, the potential for this new order is huge, and some of it is only just beginning to be realised. Once there are legally binding norms which set limits to the manner in which a sovereign state may treat its own subjects, this at last becomes the legitimate concern of all the other states which constitute the international community, and of all their subjects too, so that their protests may no longer be dismissed as 'an illegitimate' interference in the internal affairs of a sovereign state. Human rights are therefore today the legitimate concern of all Christians and of all their churches, who collectively have it in their power to exercise a great deal of influence in this field — provided, of course, that they are willing to support such a cause, which they will understandably only do if they can be convinced that it rests on sound Christian foundations.

The Christian Contribution

Let me therefore now return to Christianity, for it is undoubtedly the case that human rights, and often even the language in which they are formulated, owe much to Christian insights, both before and after the Reformation. Perhaps the most important insight was the notion that laws themselves could be judged by a discernible standard superior to themselves. As long ago as the eleventh and twelfth centuries of our era, the Canon lawyers of Paris and Bologna devised the important maxim lex iniusta non est lex — an unjust law is not a law. This was a highly subversive idea, since it sought to limit the sovereign right of a Prince to make such laws as he pleased: if his laws were unjust — perhaps because they offended against divine law, or what a little later came to be called natural law, or the law of right reason — his subjects were entitled to disobey them, and in an extreme case even to rebel against him. By this doctrine, the justice of a Prince's laws could serve as a test for the legitimacy of his rule, and in the measure in which that legitimacy was eroded, so legitimacy was conferred on the claims of those who sought to overthrow him. As the Netherlands States-General put it, in their Act of Abjuration from the Catholic King Philip II of Spain in 1581,

'God did not create the subjects for the benefit of the Prince, to do his bidding in all things whether godly or ungodly, right or wrong, and to serve him as slaves, but the Prince for the benefit of the subjects, without which he is no Prince.'

5a. An article with this title by Dom David Knowles OSB Regius Professor of Modern History at Cambridge University 1954-63 appeared in this journal No.44 Trinity 1974 at p.92.
At around that time, in the course of the sometimes barbarous struggles of the Reformation and the Counter-Reformation, the concepts of freedom of conscience, freedom of opinion, and freedom of thought became invested with high values, and their concepts — together with their later derivative, freedom of expression — have all survived into the modern international code. Perhaps this too should therefore be seen as a Christian contribution — though admittedly not one for which the Church of Rome can claim the credit.

Likewise, the rights to positive intervention to redress social injustices were not only put forward by the early secular socialists such as Proudhon, but were powerfully supported by Pope Leo XIII's encyclical *Rerum novarum* of 1891, which induced many Catholic countries which were in no sense 'socialist' to include such rights in their Constitutions.

However, in both form and content the modern code of international human rights law is avowedly secular. There is no mention of the Creator (as in the American Declaration of Independence of 1776), or even of a Supreme Being (as in the French *Déclaration des droits de l'homme et du citoyen* of 1789). Indeed, all references to a divinity, and even to natural law, were deleted from the draft of the Universal Declaration of Human Rights on the eve of its adoption by the United Nations in 1948. If such a code is to attract the consent of nations of all religions and none, it must not exhibit a bias in favour of any single tradition, such as that which used to be called 'Christendom' — the more so as the principles and insights which it enshrines are in fact common to all humanity's major belief systems, religious or humanistic. And yet, if it is to carry conviction with Christians, it must at the least not be incompatible with their particular beliefs, and at best be shown to be independently deducible from them.

**Rights and Duties**

Let us now look for a moment at the way in which rights and duties are distributed in this secular code. To secular lawyers, it is axiomatic that all rights and duties are correlative — that is, that there cannot be a right without a corresponding duty. Non-lawyers have no difficulty in accepting this proposition, but they often believe that it means that the right and the duty must coexist in the same person: that I cannot claim rights unless I am also willing to accept duties for myself.

In modern secular law, this is in fact not so: for every right vested in me, there must be a correlative duty imposed, not on me but on someone else — or, it may be, on everyone else. In order to reclaim the property that has been stolen from me, I simply assert my right of ownership: I do not need to justify
that assertion by showing that I have discharged some general social duty to use the property charitably, or generously, or even productively. Likewise, in order to claim my right to cross the road in safety I do not need to show that I have paid my rates or taxes, or that I am going anywhere useful, or that I drive with care, or even that I drive at all. In respect of my right to my property or my safety, it is others who have the duty not to steal from me or to run me over — just as I owe the same duties to them in respect of their rights. And this goes for all *my* ordinary legal rights.

Who then owes me the duties which correlate with my *human* rights? In the secular code, the answer is simple: the state. What this code requires is that all the states which are subject to it should ‘respect’, ‘ensure’, or ‘secure’ to every individual within their jurisdiction the rights which they define, ‘without distinction of any kind such as race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status’, and that in the event of any violation of these rights the victim should have ‘an effective remedy’.

These reflections lead me to a question which I believe to lie at the centre of the complex, and at times fraught, relationship between Christianity and human rights. As we have seen, the subject is now of enormous importance, and Christianity has made some notable contributions to it — and yet its relationship with this spiritual offspring, at all events in its secular form, has not always been as close as one might have expected, and has at times been frankly hostile. As the Roman Pontifical Commission *Justitia et Pax* has put it:

> ‘... there have been periods in the Church’s history when in thought and action the rights of the human person have not been promoted or defended with sufficient clarity or energy.’

> As we are well aware, the Church’s attitude towards human rights during the last two centuries too frequently has been characterised by hesitations, objections, reservations, and, on occasion, even vehement reaction on the catholic side to any declaration of human rights made from the standpoint of liberalism and laicism.’

(Am I alone in detecting in this language a faint whiff of that phrase ‘certain negative elements’ which Soviet official spokesmen were for so long apt to use, by way of reluctant concession, when pressed about the events of the Stalinist period?)

There were, of course, many well-documented reasons for this past rejection. But there is another one which has been much less discussed, and

7. Ibid., para. 18.
yet seems to me to be at least equally important, namely the profoundly different role which rights and duties play in the construction of the Judaeo-Christian code of morality, and indeed of law.

For example, in the Introduction to his fascinating book *Human Rights in Jewish Law*, Justice Haim Cohn of the Supreme Court of Israel points out that

'... no explicit concept of (human rights) is to be found in Jewish law... the particular structure of Jewish law *qua* religious law — with God as the central object of love and veneration, and the worship and service of God as the overriding purpose of all law — postulates a system of duties rather than a system of rights.'

Likewise, in the chapter on the Christian theology of human rights in a recent book called *Human Rights and Responsibilities in Britain and Ireland: a Christian Perspective*, the contributor (who comes from the Anglican tradition) says this:

"The New Testament is a charter for responsibilities — towards the weak, the suffering, the oppressed. But nowhere does it seem to encourage the pursuit of individual rights and entitlements."

Let me suggest some reasons why this should be so. In all three of the ‘religions of the Books’ — that is, Judaism, Christianity and Islam — ‘the law’ comes in the form of clear commands from the Deity himself, as proclaimed either through his prophet Moses or Mohamed, or in our own case by his divine Son. The authority of such a command is of course absolute: the creature has no option but to accept it, obey it, and regulate his or her conduct by it — all else is sin, usually mortal. In that situation, the most direct and effective formulation will be a simple injunction, unqualified by any supporting reasons. It is enough to command ‘thou shalt not kill’, rather than first to declare that ‘everyone has the right to life’ and then to follow this with the more complex injunction ‘thou shalt respect the rights of others’. Likewise, ‘thou shalt not steal’ is more forceful and effective — and less liable to lead to questions or arguments — than a declaration of a right to own property.

So, in a theocracy, it is enough for the Deity to impose duties on his creatures, and their rights will look after themselves. If the divine command to everyone is ‘thou shalt drive with due care upon the highway’, my right to cross the road in safety is automatically protected. And indeed Haim Cohn, despite the disclaimer in his Introduction, has no difficulty in the rest of the book in find-

10. p.18.
12. p.16.
ing virtually all the modern secular human rights enshrined somewhere or other in Jewish law.

And what goes for a theocracy goes — up to a point — equally well for any other autocracy, as it did for example in the Roman Empire. For so long as a ruler can expect to be obeyed, and not to have his commands questioned by his subjects, there is no need to protect their interests by giving them rights: it will be enough to command them to conduct themselves in a fashion which will not harm others — *sic utere tuo ut alienum non laedas*.

But only up to a point, for there is a crucial difference between a theocracy and other autocracies. God is not only unfailingly good, but he has some other attributes important for a legislator: a perfect sense of justice, perfect love for his creatures, and that essential quality of foresight which in his case achieves the infinitude of omniscience. The same, alas, cannot be said for any secular autocrat, be he even the most enlightened despot — nor yet for a democratically elected 'tyranny of the majority'.

So long, therefore, as the Christian faith was universally accepted, and the still undivided Western Christian Church was taken to have authority to rule on the justice of a secular autocrat's laws, the imposition of duties was enough, and the notion of rights (though it played an important role in private rather than public law) was very far from being central to the relationship between the citizen and the ruler — any more than between the creature and the Creator. Magna Carta, which is revered throughout the English-speaking world as an early precursor of modern human rights codes, is in fact formulated as a series of self-denying *duties* accepted by the ruler. It does not say 'everyone has the right to': rather, it says 'to no-one shall We deny'. Even the English Bill of Rights of 1688, despite its title, still proceeds largely 'by imposing duties on the sovereign, only implicitly corresponding to rights claimed for his subjects.

What is perhaps most striking is that the change in emphasis from duties to rights came at just about the time when the Church, rent by the Reformation, was no longer able to command authority over secular rulers, and the unquestioning acceptance of the Christian faith began to ebb before the flow of the Enlightenment. With that came an increasing degree of scepticism about the justice, charity, or foresight of any secular rulers — even the new-fangled elected legislatures and presidents of the French and American revolutions, intended to articulate *'la volonté générale'* or *'the will of the people'*. 

Somehow, these had to be held in check: one needed to question the laws they wished to enact, to call for justifications for them, and to have some standard against which those justifications could be tested. Divine law, or St. Thomas' law of right reason, were no longer accepted for this purpose, and
there was no other universally credible authority for the imposition of duties. Instead, therefore, recourse was sought in their correlates: rights, elevated ('on stilts', Jeremy Bentham complained) to the central status of being 'inherent' and 'inalienable' by polemicists like Tom Paine and Jean-Jacques Rousseau.

Given the response of the Christian churches to the Enlightenment, to the French and later revolutions which drew so heavily on these new ideas, and to the 19th century Modernism which took them for granted, it is scarcely surprising that they did not immediately welcome theories based on 'the rights of man' — or indeed any theories based primarily on rights rather than duties. Despite external events, it took some of them the best part of two centuries to become reconciled to these, and to adopt them as part of their own mission.

The Churches and Human Rights

Where then stands their relationship with human rights today? Diversely, I think. Many theologians of a wide range of Christian denominations give me the impression that in their heart of hearts they are still much more comfortable with duties — or, better still, their virtual synonym 'responsibilities' — than with rights. There is still much talk, in their quarters, about the 'overvaluation', if not 'abuse', of what they call 'rights language'. The Anglican contributor of the theological chapter from which I quoted earlier finally resolved this difficulty by accepting a Christian responsibility to vindicate the human rights of others, and ends on this note:

'Human rights are a reflection of the justice which God requires in all human societies, and the Christian can have no release from the constant endeavour to see justice upheld. There is, indeed, a strong and simple motive that impels Christians to demonstrate a profound concern for the poor, the weak, and the oppressed. This is prominent in the Bible and has continued throughout Christian tradition. Christians believe that to pursue this concern is to perform the will of God.'

However, the stance of the Roman Catholic Church today is very different. I have already mentioned Rerum novarum, which was remarkable enough. But far more remarkable is Pope John XXIII's Pacem in terris. Written before the council, before the texts of the two Covenants on Human Rights were even adopted, and 13 years before they entered into force, it gives supreme Papal authority to that most secular instrument, the Universal Declaration of Human Rights, reproducing virtually all its provisions, often in almost the same language, though admittedly in rather a different order.

13. This point, as well as several others highly material to this whole subject, are dealt with at length in the 1988 Gore Memorial Lecture, delivered by the Archbishop of York less than a month ago. Unfortunately, the text did not reach me until far too late to be able to do it justice here.

14. loc. cit., p.25.
Lacking all competence for the exegesis of Vatican documents, I shall not attempt one here. But my lay eye is struck by certain features of this splendid encyclical, and I shall not keep them from you.

First, I find that the Holy Father continues to assert that rights and duties correlate within the same individual:

'For example, to a man's right to life is linked his duty of preserving his life: his right to a decent standard of living brings the duty of living in a civilized way; his right to unfettered search for truth involves the duty of seeking it ever more profoundly and extensively.'

By the canons of modern secular human rights law those propositions are of course profoundly fallacious, but that is no slur either on the Holy Father or on his canonical or theological advisers. Indeed, I am not in the least surprised still to find this passage. What is much more surprising is to find it after he has already derived a catalogue of human rights barely distinguishable from that of the Universal Declaration, for he has quite deliberately not derived rights from duties, but rather from the order of creation, human conscience, and the proposition that '... laws for controlling human behaviour ... are to be found only where the Author of all has written them, that is man's very nature' — in essence, from natural law.

In fact, this starting point later leads the Holy Father to some conclusions quite different from those to which he might have come had he founded himself on Christian duties. For example, he emphatically reasserts the pregnant maxim, *lex iniusta non est lex*, in words which echo those addressed to a Catholic ruler by his dissident Flemish subjects nearly four centuries earlier:

'if ever those holding authority in the State issue laws or commands contrary to this order, and therefore contrary to the will of God, the citizens cannot in conscience be bound by them...';

'if any officers of state violate or neglect to take account of human rights, they not only fail in their duty, they lose all authority to command obedience'.

He goes on to identify the common good with respect and protection for human rights; he expresses support — albeit guarded — for Montesquieu's doctrine of the separation of powers; and he even, albeit perhaps at the risk

17. No.51.
18. No.61.
19. No.60.
20. Nos. 6. 69.
of some inconsistency, has some more things to say about duties which accord rather more closely with the modern secular view:

'the one who has certain rights will incur the duty of claiming these rights as signs of his dignity; whilst on others will lie the obligation of respecting and protecting these same rights.'

"... a declaration of the rights and duties which the citizens and rulers should have towards each other ... should make it clear that the duties of the latter are to acknowledge, respect, harmonise, protect and promote the citizens' rights and duties.'

Finally, one even finds the splendid proposition that

'... in today's world the first thing to be looked for in a state's legal system is some sort of charter of fundamental human rights, expressed in clear and concise language and forming an integral element in the way the country is governed.'

(Did Pope John realise, I wonder, that 20 years later this would become a highly controversial issue in a country that could with some justice call itself the cradle of human rights in the modern world, and yet remains one of the very few that do not yet have such a charter — namely the United Kingdom?)

Though it builds on scholastic tradition and has some precursors, at all events in our own century, I would still have no hesitation in describing *Pacem in terris* as nothing less than revolutionary: a veritable quantum jump over the philosophical and theological hurdles which had hitherto stood between the Christian churches and the secular theory — now transformed into a universally-binding legal code — of human rights.

Much has followed since — not least the second Vatican Council. *Gaudium et spes* built on the foundations of *Pacem in terris*. A whole sequence of Papal documents since then has added to those foundations additional grounds from which a universal theory of human rights may be derived: that all human beings are made in God's image, and therefore have the attribute of inherent dignity; that we are children of the same Father; and that we are all brothers and sisters in Christ.

There is also liberation theology, suspected at one time, perhaps because of an injudicious use of language by some of its proponents, of drawing on Marxist concepts. In fact, as Rome now seems to have acknowledged, its main foundation is the theory of human rights: indeed, it is difficult even to imagine it

21. No.44.
22. No.77.
23. No.75.
without this philosophical base. Beyond that, almost every Papal encyclical since 1963 — though admittedly not *Humanae vitae* — draws some inspiration, tacitly or explicitly, from *Pacem in terris*.

Other Christian denominations have begun to follow suit, and the World Council of Churches too has recently become active in the field of human rights. But today there can be no doubt that their best-known, and most powerful, consistent, and persistent protagonist anywhere in the world is John Paul II, Bishop of Rome and Primate of the Universal Church of Christ. And, as a spiritual ruler, his voice is widely heeded — not only within the Church, but also in the secular world outside.

**Human Rights in the Church**

Were I sufficiently prudent, and could I (unlike Cardinal Heenan) restrain my impetuosity without fail, I would leave it there, on that triumphal upbeat. But I cannot. Something — could it be my conscience? — impels me to go on, even if it means adding a sour postscript to this happy ending. There is a complaint that I have voiced several times before, and that others have been voicing both more audibly, and far more articulately, than I. The complaint is simple but also stark: within its internal structures, my own Church — that is, the Church of Rome — has not yet even begun to practise what it has so forcefully preached for 25 years and more in the matter of human rights.

Let me explain. As we are frequently reminded, the Church is an entity which defies definition, or even exhaustive description. She is both temporal and spiritual, both visible and invisible, both single and diverse; teacher, sanctifier and shepherd, pilgrim and missionary. Her full nature will always remain a mystery.

But at the same time we should not forget that in one of her aspects the Church presents herself as a society of mortal, imperfect and sinful men and women who, for all that they are on the way to holiness, are far from achieving it. In that respect at least, she is like other temporal societies, and like them she needs laws to regulate the secular relationships of her members with each other. That, after all, is why we have Canon law and Canon lawyers.

Today, as we have just seen, the Roman Catholic Church insistently advocates respect for human rights as a central part of her teaching mission, and in so doing addresses herself to other temporal societies. But if those precepts are to have any real influence in a secular world in which her credibility is less than total, she should surely bear witness to this mission by setting a shining example in her own affairs, and discharging her internal governance with at least
as high a degree of respect for human rights as any society that is merely temporal. Any shortfall in this area can only lessen her credibility, and risk bringing her into scandal.

Sadly, in the matter of her internal governance, the defects of her systems of law and administration will remain a legion. They can be traced to two historical factors which happen to operate in the same direction. The first is the well-known influence of late Imperial Roman law, whose exponents had every political motive for supporting His Imperial Majesty’s claim to be the fons et origo of law, justice, mercy, virtue and all that is good in this world. That was, of course, a highly autocratic system, the very antithesis of one founded on respect for human rights, flowing either from the natural law of right reason or from the inherent dignity of human individuals. Yet it persists to this day in Roman practice, and indeed in Canon law despite all the recent reforms.

The second factor is the deeply-ingrained fallacy that advancement in the hierarchy somehow correlates with saintliness. If it did, the Church might be the only society on earth that could risk letting herself be governed by a Platonic élite. But, regrettably, it does not: neither Popes nor Cardinals, nor Bishops, nor Monsignori have displayed any special immunity to the vices which tend to unfold themselves as the power of one fallible human over his fellows increases.

Now if there is one group of human rights which is crucial in any society whose members may sometimes come into conflict with each other, it is that which reflects what we call ‘the rule of law’. This requires that all members of the society should be equal before the law, and that its government should be conducted only under law, as interpreted and applied by a judiciary independent of the executive or the administration. It also lays down, in considerable detail, what are commonly called the ‘rules of natural justice’. Rights and freedoms are useless if they cannot be enforced, and the only guarantee for their just enforcement is an independent judiciary which has nothing to fear from anyone, and everything to gain from administering just laws in a just fashion, openly and subject to constant and public scrutiny. In many of the secular societies which today pride themselves on the justice of their institutions, it is the judges who have helped to create this and who uphold it.

Does the Catholic Church, in its internal and temporal affairs, in fact have a system which ensures the permanent existence of an independent judiciary, whose personal interests are consonant with the task they are charged to perform? Does the administration of justice within the Church in fact ensure that no one within her hierarchy, however highly placed, is immune from suit in
her courts, and that every act of the executive power is subject to review by
the judicial power? Do all parties in her proceedings in fact enjoy the benefits
of the presumption of innocence? Do they have the right to be tried in their
presence, to be represented, to know as much of what is alleged against them
as the tribunal itself knows, to hear and test all evidence given against them,
to have their own witnesses heard, to equality of arms with their opponents,
to publicity if they wish it, to a fully reasoned judgment, and to have the pro-
ceedings reviewed on appeal by an independent superior tribunal?

All these are fundamental requirements of the secular code of human rights
law, so splendidly supported in *Pacem in terris* and ever since. Yet they are
not followed within the Church herself, and hardly a year passes without her
being brought into public scandal as a result. Had I given this lecture three
years or so ago, the first name that would have come to mind would probably
have been Schillebeeckx or Küng; in the next year, Curran or Boff; last year
it might have been Bishop Hunthausen; this year, probably Bishop Casaláliga
— or, nearer home, Father Monaghan of Radio Forth.

Dare I suggest, therefore, that having finally embraced the notion of human
rights, and having preached it so powerfully for a whole generation, my Church
might now consistently apply to her own internal and temporal affairs some
of the precepts which I quoted before from *Pacem in terris*, and which I shall
now quote again with the change of only a very few words?

'In today's world the first thing to be looked for in a society's legal system is some
sort of charter of fundamental human rights, expressed in clear and concise language
and forming an integral element in the way the society is governed.'

'A declaration of the rights and duties which the subjects and rulers should have
towards each other should make it clear that the duties of the latter are to
acknowledge, respect, harmonise, protect and promote the subjects' rights and
duties.'

'If any office-holders violate or neglect to take account of human rights, they not
only fail in their duty, they lose all authority to command obedience.'

So there it is. I hope I shall not have offended too many by repeating a diatribe
which has been close to my heart — and, as you will know, to the hearts of
many sincere and God-fearing Catholics, both lay and clerical — these 20 years
and more. But I believe that it has to be said, and has to be said over and over
again, until something is done about it.

Let me suggest two things that could be done about it for a start, and at
no great risk or cost to the authorities of the Roman Church. First, there are
now only three of the world's great powers which have not yet adhered to a
single human rights treaty: the USA, the People's Republic of China, and the
Holy See. The USA has understandable technical problems with 51 domestic
legal systems — though that is no excuse in the long run, for others similarly placed (like Switzerland and Australia) have managed to surmount them. The I-RC is avowedly Communist and authoritarian, but despite that it is now said to be contemplating adherence to the UN Covenants. The Holy See admittedly has a predominantly spiritual dimension, yet it has for long taken an active and highly effective part in temporal international affairs — for example in the negotiations leading to the final Act of Helsinki of 1975 (which it signed as a sovereign state), and in the endless conferences which mark the continuing 'Helsinki process' ever since then. Clearly, the Holy See could greatly further the promotion and protection of human rights in the world if it were now to move towards adherence to the UN Covenants, or the European Convention, or both.

Secondly, it is a little-known fact that there is no organ or official in the Roman Curia who is responsible for human rights in the Church. That job may not be much sought after, but surely someone could — and should — be charged with it. It seems quite extraordinary that, in a great and influential institution which takes such a leading part in preaching this important subject, there should be no one who is formally answerable for its practice.

As I said at the beginning, I have the misfortune never to have met Cardinal Heenan. Those who knew him will know whether he would have agreed with me. I suspect, from what I have read about him, that during his mortal life here on earth he probably would not. But he was a good man, and a man of great integrity. I can therefore only hope that, from the infinitely wider perspective which he now enjoys, he will.