Human Rights as a Political Doctrine

The Case of Freedom of Conscience

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I Introduction

In this paper, I will argue that human rights are primarily a political doctrine or toolbox that have, of course, moral, moral-philosophical and theological dimensions and a historical context, but that the use and application of a particular feature is polemical, ideological, confrontational or constructivist, but definitely political. This thesis has significant implications for the interpretation of the doctrine, which I will also try to present briefly. My line of thought is as follows. First, I will clarify the concept of political doctrine. The concept refers to a train of thought, a system of thoughts or principles, that is strongly connected to the political struggles of a given age or historical context, but which goes beyond them and is not treated as a political theory or philosophical concept or approach. I will then briefly discuss the historical roots of human rights as a doctrine (especially its mediaeval beginnings) and then explore in more detail the thoughts of authors who had very different approaches to human rights and whose thought left a lasting impact, from John Locke to Edmund Burke and Thomas Paine, whose works particularly clearly represent their political affiliations. If there was, and to some extent still is, an ideology that truly distrusts the political doctrine of human rights, it is the Catholic tradition (more simply: Catholicism). Therefore, it is worth examining this tradition more deeply, and this will be the focus of the next part, after which I will focus primarily on freedom of thought and conscience. Here again, I will select various authors and writings from the sixteenth to nineteenth century; on the one hand, in order to find ideas that can be aligned more with the texts discussed in the previous section, and on the other hand, because today's Catholic teaching, although not denying its own past, has undergone serious modifications, mainly at the Second Vatican Council and afterwards.[1] The lesson is twofold. On the one hand, ecclesiastical teaching includes the 'right' to life, to freedom of thought and conscience, but – and this is the point

[1] In the Catechism of the Catholic Church, Sections 1776–1802 deal with the freedom of conscience. It is, of course, about a false conscience, a neglected conscience, that is, *reference* to conscience in itself does not justify anything; nevertheless, to follow a sure conscience is, *ceteris paribus,* obligatory.

https://doi.org/10.36250/00907_07

– it is conceived not primarily as a right, but as a quality belonging to human nature. On the other hand, and in line with this, the Catholic tradition, due to the depravity or corruption of human nature, sought to shape this freedom (through universities, judicial procedures and monastic orders) not within the framework of law but within the framework of other social institutions. In the wake of the democratic regime and democratic sentiment in general, these institutions proved to be too narrow and elitist, and the Church went on the defensive politically. The doctrine of human rights itself found its own institutions, in fact, by somewhat institutionalising the individual (but also by founding institutions of power, primarily the courts). The fact that this doctrine is basically not a system of philosophy or ethics but of political thought is proved not only by this institutionalisation but also by its very robust mobilising, ideological power, although it is not the task of this essay to list and analyse concrete examples.

II Political doctrine

First, the technical term of 'political doctrine' needs to be interpreted. It is well known that the theory or theoretical knowledge of politics has, entirely unsurprisingly, always been strongly intertwined with the practice of politics, or certainly much more strongly than other modes of philosophical reflection. However, political doctrine was never entirely identified with political practice, or in other words, we can only speak of a political theory or doctrine if direct practical goals and motives prove to be meaningfully and permanently detachable from it. Niccolò Machiavelli clearly had very definite political goals – partly, it can be argued, community goals (Florence's independence and power), partly obviously individual goals (his own career) – but none of his writings became part of the canon of political thought on these grounds. Universally and permanently valid arguments, understanding and insights provide the theory, and in his work, evidently, the backbone of his doctrine or teaching.

In its original context, Locke's *Two Treatises of Government* are in the nature of a discussion paper – the first part is a refutation of Sir Robert Filmer's views on the patriarchal origins of royal power, the second and constructive part concerns the legitimacy of the parliamentary side of the civil war and the defence of how it was perceived, in particular the justification of armed action against the ruler's authoritarianism. At the same time, Locke's various theses – about the origin of property, natural law, the separation of powers, the majority principle, tacit consent and, of course, inalienable rights – have also become the standard set of arguments for modern constitutional-liberal political theory. A third example is the political doctrine behind the American Constitution, which was explained by the authors of *The Federalist Papers,* primarily James Madison and Alexander Hamilton. This corpus of texts was also written for a clear political purpose: The authors sought to

reveal and defend the structure of a new state. However, many of their arguments proved to be universal, and the authors intended them as such (for example, on the issues of the republic, shared popular sovereignty, representation and parties). Political doctrine is thus a system of views, a coherent set of arguments, the political *Sitz-im-Leben,* which may be well-defined, but it is also permanently and broadly connected to the tradition of political theory.

Human rights in this sense can safely be called a political doctrine. First of all, it is enough to recall the decisive impetus given to its development by a policy document (the Declaration of Human and Civil Rights), which was soon joined by renowned amendments of the US Constitution. In case of declarations, proclamations and legal texts, however significant an effect they may have, it is even more important to be aware that these documents fit into a broader *tradition,* which can be identified with the rights-expanding, rights-protecting line of European legal and political development. The philosophical derivation or justification of human rights is, of course, an important task,[2] but the time in which they emerged has a history, in which, however, it is not so much the historical details that matter but the philosophical lessons. One of these is precisely the logic of the expansion of rights, which at that time was halted by certain counter-forces, and its remaining ambivalence. Let me turn first to this tradition or, to use a more outdated expression, to the tradition of spiritual history.

The Middle Ages can be seen as a world of immunities and privileges, which were primarily collective rights. As a reminder, the Cluniac reform movement contained, among others, the idea of papal authority and the sovereign legislation of the Church in general, for which the rediscovery and application of Roman law was paramount. This can even be said to have been a legal revolution,[3] but it was at least as much a political revolution, since to achieve liberation, the freedom of the Church and later to secure her supremacy and her need for control over secular power, it could not have been otherwise. The Church as a legal community is an idea of key importance, but it is not the only one by any means. Within the Church herself, bodies and corporations were established not long afterwards, which enjoyed a special internal freedom, with their own rights and privileges, first the religious

[2] One of the most intriguing early theories that treat human rights entirely within the framework of an analytical moral philosophy is Alan Gewirth's *Reason and Morality* (Chicago: The University of Chicago Press, 1978). Gewirth hypothesises that human action has a normative structure, from the understanding of which a final ethical principle can be deduced, which presupposes respect for generic rights before everything else: 'Always act in accordance with the generic rights of yourself and the person you are concerned with.' Ibid. 135. A similar experiment is the basic work of the modern Hungarian liberal system of ideas, see János Kis, *Vannak-e emberi jogaink?* (Paris: Dialogues Européens, 1987).

[3] Miguel Vatter, 'Theocratic Legal Revolution and the Origins of Modern Secularism in Dante', *Síntesis. Revista de Filosofía* 2, no 2 (2019), 26–48; Paul E Nahme, 'Law, Principle, and the Theologico-Political History of Sovereignty', *Political Theology* 14, no 4 (2013), 432–479.

orders, second the universities, then other communities with various legal standings. Finally, Protestantism also spread, especially in the early days, by taking advantage of the autonomy of local, mainly urban communities: Some of them continued as self-governing churches while others (in the Lutheran and then Anglican Reformations) moved towards the national church concept. Similar processes took place in secular structures, in well-known ways in cities (and within them inside the world of guilds), and in a political society that was progressively arranged into orders. Finally, it is worth noting, even if they are more peripheral in importance, the freedom traditions of ethnic communities (and, of course, mixed cases, such as mediaeval regulations for Jews, which were of course less in terms of privileges than in the sense of immunities).

III The beginnings of doctrine

How did these emphatically collective rights become modern individual rights? Evidently this required a thorough shock, that is, another historical experience, which made it clear that tradition and the processes of legal expansion inspire not only the protection of individual rights but also the idea of collectivism across all borders. The main theorists of the French Revolution were certainly not individualists. On the contrary, they were much more deeply gripped by the idea of collective freedom – referring to the people, to the nation and, eventually, to humankind.[4] In his well-known essay on the freedom of the ancient and modern, Benjamin Constant sought to picture a pre-revolutionary author (Abbot Gabriel Bonnot de Mably) as a 'representative of the system' that 'demands that the citizens should be entirely subjected in order for the nation to be sovereign, and that the individual should be enslaved for the people to be free',[5] but he acknowledged that 'the men who were brought by events to the head of our revolution were, by a necessary consequence of the education they had received, steeped in ancient views which are no longer valid, which the philosophers whom I mentioned above had made fashionable'.[6] This Republican conception was, notoriously, suppressed very soon by the national idea, and with it the collective concept of freedom(s) was transferred to the political discourses on national freedom. The idea of modern collective freedom (republic–people–nation–state) brought with it

[4] For a history of the collective concepts of the French Revolution see Istvan Hont, 'The Permanent Crisis of a Divided Mankind: "Contemporary Crisis of the Nation State" in Historical Perspective', *Political Studies* 42 (1994), 166–231.

[5] Benjamin Constant, 'The Liberty of the Ancients Compared with that of the Moderns', in Benjamin Constant, *Political Writings*. Ed. and transl. by Biancamaria Fontana (Cambridge: Cambridge University Press, 1918), 318.

[6] Ibid. 319.

the expansion and abolition of privileges and immunities at the same time. *Some* (groups, bodies, orders) possessed such desirable privileges, which *others,* that is, the larger communities – potentially all of humanity – coveted, therefore one of the political driving forces was *acquisition*. However, as the nature of these rights is associated with limitation and existence *vis-à-vis* others (or at least existence *compared to* others), their total extension or acquisition by all did not *ceteris paribus* (that is, in the absence of some novel individual right protection strategy) attract anything else but their abolition. Mediaeval legal limitations and contingencies; the material quality of rights, so to speak, their crudeness and sometimes their raw dimension of power have disappeared (there are only remnants of them, of which the right to bear arms under the American Constitution still has spectacular staying power, although a modern state legislature usually easily shrugs it off).[7] The catastrophic consequences of this process became apparent very quickly in the French Revolution – which is what Constant's famous essay quoted above dealt with. Thus, we come to the conclusion that the way in which human rights (or, as Constant himself put it, the language of law[8] as we use it today, in fact and in terms of political tradition) arose was as a ladder used to get out of a pit. The way of filling the vacuum left after the destruction of the world of collective but fragmented rights, and one which has undoubtedly had considerable success, is the doctrine of individual human rights, being both the heir to the world of the Middle Ages and its traitor.

IV The political birth of the doctrine: Locke, Burke and Paine

The proposition that human rights is a political doctrine is a statement that is very broad, textual and cannot be proved empirically, but which can be upheld on the basis of a tradition, hopefully credibly and veritably substantiated by the historical context cited. This is because if we present the most important theoretical texts in terms of the history of their impact, we can gain similar insights. Undoubtedly, among such texts are the two treatises by Locke, already cited, on the origins of civil government. Perhaps less well known is that, despite their titles, these writings are not explicitly philosophical treatises (Locke's very significant philosophical work on the human intellect is such a monograph in today's sense). As already mentioned, despite the text – especially the *Second Treatise* – being written for a political purpose (to establish the case for the exercise of sovereignty by parliament and to question

[7] Interestingly, some more of these include: a degree of autonomy of universities, special rules for churches, separate criminal justice for members of armed bodies, some guild-like professions (chambers of medical doctors, bars of lawyers with public authority powers).

[8] Constant, 'The Liberty', 201.

the legitimacy of the Jacobin Government), it clearly has a broader perspective, addressing key issues in political theory.

As part of this, Locke elaborated on his thesis of inalienable rights, from the first moment as an axiom, leading to the foundation of government, thus as a fundamental political principle. Undoubtedly, Locke also sought to take into account the theological axioms inherent in contemporary public belief: 'Men being all the workmanship of one omnipotent and infinitely wise Maker . . . they are his property whose workmanship they are, made to last during his, not one another's, pleasure'.[9] Shortly afterwards, however, he stated just as emphatically that man is 'master of himself and proprietor of his own person and the actions or labour of it.'[10] The contradiction is quite obvious, all the more so because 'property' for Locke is certainly not a metaphor but a key concept. Referring to this (also), Peter Laslett notes that Locke was 'perhaps the least consistent of the great philosophers', explaining that this may sometimes be due to inattention, but sometimes it is because Locke has run into a real dilemma that he was not able to solve.[11]

Leo Strauss, who loves such contradictions, sought hidden, real meaning behind them, and of course, Locke's real message was by no means a theological statement with restrictive consequences but a political axiom declaring full self-determination and personal sovereignty (everyone owns his own person).[12] The political theoretical goal, at least in this case, is quite clear: Locke certainly wanted to avoid a situation where an absolute ruler may claim that, since everyone owns his own person, he is free to surrender it, as with Thomas Hobbes, not to the Church, of course, but to the State (the ruler or the community). The theological constraint, then, is not merely a rhetorical tool but plays an actual role as it is ultimately supposed to *protect* the *individual* – from himself. Locke, of course, also wanted to anchor the norm that no property could be taken away from anyone without his consent.

The solution to this lies in the theory of the origin of property, the key concept of which is labour. According to Locke, property is in fact an extension of our own body through work (this idea, through Marxism, probably had a better career than many of Locke's other political theses). This may be considered one of the unresolvable dilemmas mentioned by Laslett, which still has many practical manifestations today. It may simply be a matter of Locke recognising a dual interest: On the one hand, we need to be protected by means of our rights, even independently of us, and on the other hand, the 'independently of us' clause

[9] John Locke, *Two Treatises of Government*. Ed. and intr. by Peter Laslett (Cambridge: Cambridge University Press, 1992), 47, 271.

[10] Ibid. 143.

[11] Peter Laslett, 'Introduction', in John Locke, *Two Treatises of Government* (Cambridge: Cambridge University Press, 1992), 82.

[12] Leo Strauss, 'Locke's Doctrine of Natural Law', *American Political Science Review* no 2 (1958), 490–501.

opens up quite dangerous possibilities. In today's dilemma: Is there a possibility of protection of interests being substituted (for example, by collective constitutional complaint or ombudsman inquiries) without the authorisation of those concerned, or even against them, even if it is, so to speak, in their interests? As long as this has well-recognised (material and political) benefits, there are likely to be fewer protests, although the dilemma of paternalism can still be raised. However, more serious ethical dilemmas also exist.[13] In any case, Locke's views already contain a great deal of human rights conflicts in their germs and, to some extent, provide a basis for addressing them. From our point of view here, in any case, they make it clear that one of the founding or key texts of the doctrine is based on fundamental questions of political theory, that is, considerations of the nature of the relationship between the individual and public power, although it is also true that ethical aspects were present in the text from the outset.[14]

A century later, in the early stages of the French Revolution, Burke wrote his notable *Reflections,* and in response to them Paine wrote *Human rights*. Both are intrinsically political texts, perhaps even more explicitly than Locke's treatises. Burke's writing is perhaps better known, but it is worth recalling that the author's main concern is to protect certain rights not because the human intellect either established or found them correct as a result of some philosophical derivation, or by all means considers them to be an axiom, but because, according to historical experience, they are worthy of protection. 'We wished at the period of the Revolution, and do now wish, to derive all we possess as an *inheritance from our forefathers*.'[15] The core idea, which Burke elaborated on in other long paragraphs, is that the law is essentially a legacy. He then provides us with a colourful, rhetorically well-formed and up-to-date description of the model of immunities and privileges that served as a social and political organising principle in the Middle Ages. Arguably, Burke's reasoning is a textbook example of demonstrative argumentation. But, of course, it leaves open the question of 'from where?', which Burke still had to address, as we know, not so much when arguing with the French revolutionaries but with the Jacobins of London. He did so: 'Far am I from denying in theory . . . the real rights of men. . . . If civil society be made for the advantage of man, all the advantages

[13] Suffice it to refer to euthanasia: does disposition over our own body include the right to dispose of our lives; and which is the state of consciousness that is completely 'ours' (for example, in the case of severe dementia, is the doctor or authority bound by my previous decision about my own death, because if so, it means that my previous decision was somehow more deeply connected to me than my resistance now? (The Dutch Supreme Court essentially ruled this way on 21 April 2020 in a relevant case.) Locke is also one of the classics of modern philosophy of consciousness, so other views are important in deciding these ethical issues.

[14] Locke cannot be acquitted of his responsibility for justifying slavery. It is hardly plausible to assume that Locke really thought the slaves were losers in a just war, as his 'justification' has it.

[15] Edmund Burke, *Reflections on the Revolution in France*. Ed. by HP Adams (London: University Tutorial, 1910), 31.

for which it is made become his right. . . . In this partnership all men have equal rights, but not to equal things.'[16]

He then turned to the fact that living in a civil (in today's sense, political) society is all about giving up the right to self-government. This is, in fact, a secondary circumstance anyway, since governance is first and foremost related *to needs* rather than *rights*. If we insist very much on it, the right to meet needs could even be called a fundamental human right, but then we have to accept that the government interferes in our lives in many ways; primarily by means of rules, of course. Thus, Burke's answer to the (universal) question of 'from where?' is twofold, that is, he outlines two different arguments. One argument is that any government is acceptable if it is based on respect for the rule of law – which is the rule of law argument. It is not some 'metaphysical' but particular and concrete rights that matter, and how abstract property rights relate to the general right to life or self-determination is a purely academic question. The argument thus transforms the previous inheritance-based observation (which was limited to England) into a political theoretical thesis. The roots of the other argument may also be found in the Middle Ages, or even further back in the Roman principle of *salus publicus,* which is the basis of modern, utilitarian government philosophy as well. Using a modern example, in disputes over basic income, the law and direct material needs may be linked in a similar way. One can add a John Rawlsian line of thought and state, as a first principle of justice, that everyone should share equally in basic goods, but again, this is not necessary in terms of political theory, as it is part of a millennial consensus about the business of any government. Burke was aware, thus, that after Locke, and of course in the light of French developments, he must have a position on the political significance of human rights, but he stated that (let us add, drawing on David Hume)[17] the organic and needs-based concept of rights can be seen as protecting both the individual and the government. The point, in any case, is that the doctrine of human rights does not emerge outside of politics (governance) and of political theory. From Burke's perspective, the political benefit of the doctrine itself is the ultimate question: If we regard rights as the basis of some ultimate principle of philosophy or ethics, or seek this principle through them, we make good governance impossible; if we take existing rights seriously and generally govern according to the law, we may also provide human rights themselves with political effectiveness and dynamism.

Even a modern, more left-wing liberal may not necessarily be unfamiliar with such a Burkean approach, although typically metaphysical beliefs about the existence of rights tend to complement this. An example can be found in one of

[16] Ibid. 60.

[17] Hume speaks specifically with delight about the monarchical governments of his time: 'They are found susceptible of order, method, and constancy, to a surprising degree. Property is there secure, industry encouraged, the arts flourish.' David Hume, 'Of Civil Liberty', in David Hume, *Essays* (London: Henry Frowde, 1904), 89–97, 95.

Jeremy Waldron's important writings, at the end of which, thus in a prominent place, but somewhat vaguely, he states that: 'Many, perhaps most, conflicts – whether between rights and utility or among rights themselves – are best handled in the sort of balancing way that the quantitative image of weight suggests: we establish the relative importance of the interests at stake, and the contribution each of the conflicting duties may make to the importance of the interest it protects, and we try to maximize our promotion of what we take to be important.'[18] Waldron, of course, not only emphasises the instrumental role of rights in governance, but also follows the argument of Constant, who already saw the danger in Jeremy Bentham's utilitarian philosophy of government,[19] arguing that rights are also essential for protection against government, not just as a measure of the content of government activity (satisfaction of needs). The lesson is the same here, and is affirmed: The doctrine plays an eminently political role.

Paine's pamphlet sharply criticised Burke's views, but did not go beyond the political doctrine of human rights at all.[20] More precisely, in today's language, he contrasted Burke's argument of historicity with political theological reasoning, that is, he argued that Burke was not *sufficiently* historical, because he did not go all the way back to creation, which, as Paine wrote, clearly states the equality and unity of the people. In his opinion, following Jean-Jacques Rousseau's views, this has been spoiled by some governments. Paine considered all this to be an obvious truth, but added that classical political theological truths are only helpful as long as natural rights are accepted and acknowledged. Nevertheless, they are still needed, because they cannot be overwritten by civil society, on the contrary: It is the power of the community that is needed to enforce them. Some natural rights do not need to be enforced because they are within the purview of the individual (freedom of thought), but for most, this is not the case.

It is noteworthy that, up to this point, Burke may have agreed with Paine's reasoning. The novel part of his argument comes after this. Paine turned to the extent to which this logic prevailed in the familiar systems of government, and, of course, unsurprisingly, he found it to exist virtually nowhere: In fact, this was also Rousseau's legacy. He cited two reasons for this: one is superstition (in today's language, domination based on religious legitimacy), the other is conquest (in today's language, domination based on violence, which, as Paine notes, will always attempt to find some more acceptable source of legitimation for itself, and this will typically be religion again). However, Burke's arguments are not theological, at least not directly; as we have seen, for him, governance *per se* carries its own legitimacy

[18] Jeremy Waldron, 'Rights in Conflict', *Ethics* 99, no 3 (1989), 503–519, 518–519.

[19] Benjamin Constant, 'Az egyéni jogokról', in Benjamin Constant, *A régiek és a modernek szabadsága* (Budapest: Atlantisz, 1997), 197–208.

[20] Thomas Paine, *Common Sense: The Rights of Man, and Other Essential Writings* (New York: Meridian, 1984).

(meeting needs and creating rules, which in turn presupposes the permanence of rules, that is, the rule of law). Paine sensed this as well, so he tried in detail to unmask and mock all of Burke's rhetorical tools, dash and sometimes exaggerations, to expose them as irrational, but at the same time he spared no effort to construct some kind of government philosophy based on the doctrine of human rights.

Obviously, it is not difficult to guess that constitutionality, the constitutional encirclement of doctrine and the right to political participation derived from equality play a key role in his argument. Of course, Paine was not naive either, but he trusted that Man's baser instincts would disappear as soon as the disguised domination of violence was abolished. As we know, in the light of the later events of the French Revolution, Burke is considered a prophet and Paine an idealist at best (no doubt his not-so-pleasant experiences of revolutionary government did not shake his worldview), but we cannot deny that in the long run only Paine's constructivist-democratic governance prevailed, although the counter-arguments of the anti-rationalist (but not irrationalist) Burkean tradition did not disappear or become obsolete either. However, the lesson is the same, even in the case of Paine, who faithfully followed the ideas of the Enlightenment: He derived a robust concept of governance (or political system) from a legal theological foundation based on the tradition of Protestant biblical interpretation and distanced himself from thinking in an abstract, axiomatic philosophical-ethical system. The doctrine of human rights is thus, in the minds of both Burke and Paine, crucially located in a political context.

V Viewed from the theological tradition

The well-known *topos* of the Enlightenment, which Paine also shared, and which has its roots in the Reformation, is that Catholic theology, or rather the Teaching Office of the Church – the Magisterium[21] – has always and radically opposed the doctrine of human rights. They did not go into great detail or devote much energy to explaining this *topos;* similarly to Paine, they attributed it to priestly craftsmanship, the desire for domination, moral depravity, and they fondly cited the persecution of heretics, the mediaeval emperor–pope conflicts and the provisions of the Council of Trent, mainly on censorship. Of course, it would not have been particularly difficult to find the writings of the masters of Scholasticism, with their findings on natural reason and the markedly non-absolutist socio-political principles they derived from them. It is not that they would have found a flawless

[21] Of course, this is not about a single institution. In Catholic terminology, teaching is a power of Christian origin (in this sense, office, one might say, ability or competence) that can be exercised in various legal forms, including official manifestations of synods, popes and bishops. 'Teaching' itself also has several levels of binding force. The opinion of theologians, if uniform, mature and multiplied in many ways (for example, appears in official papal or synod documents) also has binding force.

doctrine of natural law, free from contradictions. But they would have found that the origin, purpose and destination of the government and the relationship between the individual and the community were no less prominent themes and problems for the scholastics as they were later. The classics merely developed and used a more sophisticated theological and natural law conception than that presented by Paine and many Enlightenment propagandists.

Francisco de Vitoria's lecture *On the American Indians* was written a good two hundred years before Paine's essay.[22] Vitoria was the founder of the School of Salamanca, and one of the main figures and dominant intellectuals of his age and country (which was perhaps the most powerful Christian state at that time, and influential in Rome), so his views cannot be called peripheral (much less heterodox). This is not to claim that this text is entirely free from contradictions. The reason for this is partly the author's very delicate intellectual role (I will address this shortly), and partly the secular, theological and philosophical conflict between secular power and spiritual power, which was based on much deeper problems than the philosophers and evangelists of the Enlightenment would have acknowledged, or would have been willing to appreciate at all (Burke might have done so, but the radical Quaker Paine, with his anti-Catholic roots, would certainly not have). Vitoria was required to legitimise the presumed claims of the Spanish ruler over the peoples of the New World, but he was essentially unable – or unwilling – to carry out this task in full. Above all, this was because he had to maintain some key theses in his own European context: Non-Christian governments can also be legitimate; even unnatural sins cannot justify war (since such sins are also committed by Christians); natural reason is a sufficient basis for the establishment of a legitimate government. (The European context focused on the situation of Christian subjects of Islamic rulers, including their political and civic duties.)

Vitoria's argument sometimes seems startlingly enlightened, although it is based heavily on scholastic and antique authorities: 'My sixth conclusion is that, however probably and sufficiently the faith may have been announced to the barbarians and then rejected by them, *this is still no reason to declare war on them and despoil them of their goods*.'[23] He adds that this theorem is accepted by Saint Thomas Aquinas and 'the doctors of both canon and civil law', and then, referring to Aristotle, supports it with the argument that 'belief is a matter of will, but fear considerably diminishes the freedom of will. . . . To come to the mysteries and sacraments of Christ merely out of servile fear would be sacrilege.'[24] Religion, therefore, cannot be promoted by force. However, his argument also undermined religious legitimacy of secular power. Moreover, Vitoria accepted the decisive difference between secular and spiritual

[22] Francisco de Vitoria, 'On the American Indians' in Francisco de Vitoria, *Political Writings*. Ed. by Anthony Pagden and Jeremy Lawrance (Cambridge: Cambridge University Press, 1991), 231–292.
[23] Ibid. 271.
[24] Ibid. 272.

power or authority, emphasising that the enforcement of natural law does not require ecclesiastical authority, so ecclesiastical or canonical laws concern only those who accept the mystery of faith. Thus, these laws have a different status. In doing so, he questioned papal authority (that is over 'barbarians').

As previously indicated, at the end of his lecture, Vitoria tried to find arguments for proving *Spanish* authority. Expressed in today's language, he referred to the prevention of crimes against humanity (human sacrifice), and assumed, with emphasised caution, that the inability to self-govern could also justify intervention or the establishment of an external government, but only for educational purposes. However, even these arguments cannot prove the legitimacy of an enduring tutelary government and, of course, make the exact identity of the external power which may intervene entirely incidental. Vitoria went so far as to leave the election of the government to the freedom of the people (the majority!).[25] Two important lessons can be learned from this. On the one hand, that the doctrine of human rights, with its theological roots, is essentially consistent with the general consensus of the scholastic doctors; and on the other hand, that it had or could have had direct political significance for the Magisterium. This significance is also twofold: On the one hand, it requires that the legitimacy claims of secular power be universally accountable (in fact, it requires secular power to act proactively on the basis of natural law – natural rights), while on the other hand, it limits from the outset the possibility of ultimate religious legitimacy (that is, conquest is not permitted and other peoples and countries cannot be subjugated on the grounds of spreading the Christian faith, which Vitoria called outright sacrilege; a stronger term for the protection of freedom of conscience in the sixteenth century can scarcely be found).

Vitoria, as previously noted, is a classic and an authority on Spanish neo-scholastics, so even if his reasoning cannot be regarded as a direct and indisputable manifestation of the Magisterium, it is not far from it. Of course, there are plenty of classic authors in patristic literature and mediaeval thinking, especially those who provided the ideological ammunition for the Crusades, who did not reject the strategy of forced conversion. The basis of the argument is Augustine of Hippo's

[25] 'The choice ought not to have been made in fear and ignorance, factors which vitiate any freedom of election, but which played a leading part in this particular choice and acceptance' – the author here refers to the hypothesis that the Spaniards were about to somehow offer the peoples of the New World the acceptance of their own government. 'The barbarians do not realize what they are doing; perhaps, indeed, they do not even understand what it is the Spaniards are asking of them. Besides which, the request is made by armed men, who surround a fearful and defenceless crowd. Furthermore, since the barbarians already had their own true masters and princes, as explained above, a people cannot without reasonable cause seek new masters, which would be to the detriment of their previous lords. Nor, on the contrary, can the masters themselves elect a new prince without the assent of the whole people. . . . Since, therefore, in these methods of choice and acceptance some of the requisite conditions for a legitimate choice were lacking, on the whole this title to occupying and conquering these countries is neither relevant nor legitimate.' Ibid. 275–276.

school of thought. Saint Augustine rejected violence in his early works, but was more supportive in his later years, particularly due to his increasingly gloomy views concerning the original sin, the resulting corrupt will, and the consequent weakness of judgement and understanding. Paine's political principle (equality), drawn from the history of creation, would presumably have been rejected very robustly by Saint Augustine, who would point out that it was only half of the story, and that the troubles mentioned by Paine were not caused by the deterioration of government, as *that* also has a cause. The corrupted will leads to a corrupted conscience, which in turn is corrupt, broken, flawed and sinful; it cannot have complete freedom, much less because it could cause more harm as it can damage others. However, the Augustinian argument can only be called constructive and politically relevant if it includes the possibility of redress; that is, if it can anchor the truth in a specific institution. This, of course, can only be the Church, which is the bearer of regenerative grace leading to truth. But the sanctity of the Church and its imperfect, human and depraved dimension are also inextricably linked, while worldly structures cannot be denied the help of grace, that is, the justice-bearing role of natural reason, either. More specifically, the functioning of secular power or government also stands or falls on its ability to distinguish, for example, between good and evil, right and wrong, merit and sin; if not, it not only becomes despotic but also disintegrates. Saint Augustine's own distrust of political authorities was considered suspect by orderly, consolidated mediaeval scholasticism, but its representatives could not deny the complications caused by pervasive sin.

Freedom to accept faith and the impossibility of freedom also appear in today's human rights arguments, although mostly not as problems of faith but of the ability to live autonomously. The problem is not whether one can be forced to believe in, be convinced of, accept and identify with it, but whether one can be forced into freedom, an autonomous life where the form of coercion is not necessarily violence, especially not physical violence, but education, the exclusion of certain opportunities (such as drug use) or, possibly prescribing specific actions or forms of participation (such as compulsory schooling or compulsory sex education). In this context, some elements of institutional continuity are also striking. Even though it is a simplification to say that the office of ecclesiastical teaching has only been replaced by the constitutional judiciary, or more broadly by the transcendence of the judiciary, the analogy and even the real lineage is nevertheless very strong.

Whether we look at the enlightened, more optimistic scholastic tradition or the gloomier (late) Augustinian tradition, at least Catholic theology and social doctrine can be said to be ambivalent and, of course, inclusive. In any case, it created from the outset a very broad space for interpretation, in which the course of interpretations developed in no small part under the influence of the political power-relations of the given age. In other words, the theological problem or dilemma was typically addressed along with some political conflict of interest, or perhaps was sought to be

decided. What was and has ever been conceptually and philosophically impossible, proved to be politically workable.

In this context, it becomes clearer why, in the face of the Reformation, especially the French Revolution and the intellectual movements that prepared it, the Magisterium's position, rhetoric, and reasoning on the doctrine of human rights became much more hostile, clearly in line with the Augustinian tradition. In Pope Gregory XVI's encyclical *Mirari vos,* cited in modern-humanist circles with holy horror and as an example of infamy, because it declares the freedom of conscience to be insane, and asserts that censorship, the index and similar institutions are necessary and useful, so much so that the author did not even shy away from praising book burning; we come across an extreme formulation that might have amazed even old Saint Augustine. However, it is fairly easy to see that the document is not exactly an example of in-depth theological reasoning but rather a pamphlet, despite the author's office and the sources he quoted, as well as the ecclesiastical terminology. The pope primarily pursues pastoral goals, declaring himself a pastor (not necessarily in the shrewdest way); stresses that there is a wealth of views and information (in today's language: *fake news*) poured on people who lack sufficient judgement, which sows the ground for the doctrine of complete freedom of conscience. I have quoted today's fashionable term to make it clear that what causes headache is living with freedom in practice. It was this practical problem then as it is today, rather than the theological axiom that no one can be saved against their will, that is, contrary to their free choice. The text, then, does not question this fact but the implicit idea that we are free because we can choose our own truth; and that since we choose, it must be absolutely true (it is not about the truths of science – the Enlightenment basically believed deeply in the truth of science, or rather in the scientific truth – but the truth of salvation).

John Newman provided a much more authentic and nuanced critique of such a theorem of freedom of thought and conscience. Newman's credibility is ensured by the fact that he was regarded by Catholics as a convert (not to Christianity, of course), after an extremely long journey and by the circumstance that his conversion was specifically a path of intellect and conscience, rather than that of mystical and therefore difficult-to-follow experience. The nuance is provided by Newman's acute awareness that the absence of external coercion and a deep internal urge were similarly important to his conversion as the influence of the necessary external authorities – living and dead. Hence, Newman rightly referred to liberalism and the problem that liberalism posed for him as the defender of freedom of conscience, being its beneficiary, in his notable autobiography *Apologia pro vita sua*.[26] Even a discussion of the explanation evokes a political context: Newman referred to

[26] John H Newman, *Apologia pro vita sua* (New York: William Norton, 1968). The book is not an autobiography in the sense we usually understand, but a 'history of his religious views' quoting the author's own clarifying remark. See pages 417–432.

French liberal Catholics, whose position he considered radically different from his own, and even pointed out that the history of French religious freedom is far from being the same as that of the English, as has already been discussed here.

This difference in political context is quite crucial. Newman, however, was not a politician, or more precisely he was not a secular politician; he was more of a cleric and an intellectual-spiritual opinion-forming public figure. This means that he had definite religious and ecclesiastical reform goals; paradoxically, sometimes in an almost comical way, he wanted to bring the bishops and superiors of his own church closer to a more hierarchical and authoritarian government, while consciously seeking to gain and exercise influence over Anglicanism. He ultimately failed in both areas, and attributed the failure in both areas to the influence of the liberal (secular) spirit, or else to liberal political theology. This led, on the one hand, to the weakness and political dependence of ecclesiastical government (Newman attributed his removal from Oxford to the influence of the Liberal Party, indicating with sufficient irony that liberal conceptions can be very intolerant), and to a rationalist theology on the other hand, which ultimately abandoned judgement-making and succumbed to the fallibility of human reason (Newman relied here on Augustinian arguments). Nevertheless, he firmly stated that 'freedom of thought is good in itself'.[27]

He concludes his explanations, however, with the exhaustive rejection of a series of theorems in a passage which is something of a statement of an anti-liberal credo, a theologian striving to conform to Rome. Some of his conclusions seem rather absurd to our contemporary eyes (for example, Newman argued for a quasi-theorem that there is a collective conscience and that collective punishment may be justified accordingly), others just seem to be liberal (Newman denied that secular power has the right to exercise ecclesiastical authority), but overall it can be interpreted in the context of contemporary English conditions rather than as a mature concept. Newman clearly saw liberalism as an opponent; a conception and a spirit of the age that seeks to subjugate the Church to its own logic through politics, that is, to the secular world, and therefore he rejected the doctrine of human rights, for all its personal merits and recognised values.

Alongside Newman's anti-liberalism, it is worth placing John Stuart Mill's notable essay on freedom, including the chapter on freedom of thought and expression.[28] The reason is that Mill, who grew up in the Protestant tradition (and from whom, contrary to popular belief, faith and religion were not at all far away), admitted that the Catholic Church, which was widely considered to be intolerant and to persecute freedom of opinion, was for some reason able and willing to consider dissenting opinions under certain conditions; moreover, it specifically deemed them necessary. At various points in the essay, Mill mentioned three such systems of conditions or specific exceptions, but he had not really thought through

[27] Ibid. 420.

[28] John Stuart Mill, *On Liberty*. Ed. by Gertrude Himmelfarb (Harmondsworth: Penguin, 1974).

any of them properly, though, to put it mildly, it might have been worthwhile. One of them is the famous *advocatus diabolic* role, which, even if the official terminology does not call it that, does exist,[29] and whose whole logic builds on the idea of *legal* freedom which is inferred from natural reason, and from its ability to question but at the same time to discover the truth.

Mill's other observation is that the Church actually retains full freedom of opinion and thought, but keeps it behind closed doors. It is available to those who are ordained and entitled to use it, but not to the masses. Mill himself was quite sceptical about the ability of the masses to see the truth through their own natural mental abilities (or to filter out and reject lies), yet he believed that progress toward rationality was undeniable. Probably not everyone thinks this way today, and certainly not in Mill's time, but even now there is no solution as to how harmful and detrimental beliefs can be controlled with greater certainty. It is worth noting, however, that there is, in fact, a political-governmental aspect behind both of his remarks. Mill was, of course, pushed in that direction by his own utilitarianism in the first place. Utilitarianism is naturally a more communal ethic than deontology, yet it is worth pointing out that Mill's first (briefly mentioned) example aptly illustrates that freedom of opinion itself has a well-defined benefit and value, and this determination may be found in the system of conditions of a particular *institution* – in our case, that of the ecclesiastical court, but in a broader sense, that of any court – the value of which is surely obvious to everyone.

Mill did not notice that the ecclesiastical example actually fits perfectly well in his own logic and methodology, which treats freedom of opinion within a certain set of conditions. Another issue – and this is illustrated by the second example – is that Mill did not think in such a well-defined institutional framework while trying to defend the value of freedom of opinion. He was speculating with some rather opaque world of knowledge, something that, according to Jürgen Habermas's ideas, can also be called a kind of deliberative community, whose *telos,* its internal logic, is the search for truth. If it is true that humanity as a whole actively seeks the widespread dissemination of knowledge and the truth, and to live a well-governed life, then perhaps, in principle, an institution such as deliberative democracy can be established, in which everyone participates as a cleric, that is, as an initiate. If we do not happen to believe this,[30] then in one way or another – most suitably hypocritically – we will replace it with experts,

[29] More precisely, it existed under the name *promoter fidei* until Pope John Paul II reorganised the procedure and abolished this function (instead, they can listen directly to opponents, even atheists).

[30] A major opponent of Mill's views is Judge James F Stephen. Similarly to Mill, Stephen professes the usefulness of freedom, but he looks at it not just from the viewpoint of the individual, but from that of the community: 'To me, the question of whether freedom is a good thing or a bad thing seems as meaningless as asking whether a fire is good or bad. It is a good thing or a bad thing, depending on time, place and circumstances.' James F Stephen, 'The Liberty of Thought and Discussion', in James F Stephen, *Liberty, Equality, Fraternity*. Ed. by Stuart D Warner (Indianapolis: Liberty Fund, 1993), 24–69, 34–35.

professional boards, ethics committees, constitutional courts, medical consultative bodies and the like, building the order or orders of a secular clergy instead of that of the Church. Mill did not go so far, but he insisted on his utilitarianism, which in turn made him completely open to the question of exactly how freedom of opinion itself must or should be thought of in a given society.

Finally, there is the third example, the mediaeval disputes (disputations), which, according to Mill, took place only seemingly in the spirit of complete freedom of opinion, since, he wrote, their premises were 'taken from authority, not from reason'.[31] Mill did not go into details here either; he did not notice, for example that the famous proofs for the existence of God advanced by Saint Thomas do not work with any theological premise at all, but seek to prove a truth with natural reason. God's existence was not doubted for a moment, yet its demonstration was not considered unnecessary. Today, we better appreciate the sincere and convincing rationalism of Scholasticism and the philosophical achievements of the Middle Ages. Mill's limited knowledge or prejudice is not particularly important here, but it is a blunder on his part that he passed over a fact that the university was an institution of the mediaeval Church. The university began to develop a knowledge-based community that went beyond the clerical–lay distinction in several aspects, opening the way to lay intellectuals or lay clergy in practice.[32] There is no space here to discuss on genealogy, only to point out the fact that without some institutional framework and, embeddedness, freedom of opinion does not really mean much. The teachers and students of the university and the knowledge they formed and handed down argued according to a certain system of rules, a pattern of thinking, driven mainly by the desire for truth, true and correct knowledge, faith in the Creator's ultimate intention or plan, and these scholars, in fact, identified the relevant issues and problems for themselves. This is now a commonplace in the philosophy of science. Although Newton, René Descartes, Gottfried Leibniz and their colleagues were not theoretically concerned with the problem of their own intellectual freedom (Blaise Pascal more so),[33] even less with the Augustinian and Thomist theological

[31] Mill, *On Liberty,* 107.

[32] There have also been disputes between people of different religions (typically Christian–Jewish disputations, a kind of duel of knights of faith, obviously on unequal terms). Moreover, we know that there have been debates between Orthodox Catholics and, for example, Albigensians. Carlo Ginzburg processed an inquisition procedure against a sixteenth-century miller (Domenico Scandella) (*The Cheese and the Worms,* Baltimore: Johns Hopkins University Press, 2013), which, in addition to many interesting facts, also shows how wide an opportunity – of course much more limited – even an uneducated person had to explain even quite complex theological views in his community or village, and then to his surprised judges who tried to argue with him. In the end, he did not escape the death penalty, but it means a lot that the case lasted for another 16 years after his first trial ended. The Middle Ages, the Early Modern Age were far more pluralistic than any other thinker like Mill in the nineteenth century seems to have known.

[33] To quote a typical line of thought: 'What then shall man do in such a state? Shall he doubt of all, doubt whether he wake, whether you pinch him, or burn him, doubt whether he doubts, doubt whether he is? . . .

problem of the corruption of the intellect, the methods they defined and developed targeted (and were raised to) the rank of authority, similar to the method of an open, though faith-embedded free speculative thinking of mediaeval theology.

Thus, if we examine specifically the problem of the right to freedom of conscience and opinion – and if there is a so-called fundamental right, this (or these) are indeed such right(s) – we find that even the allegedly fiercest opponent of these rights did not question the metaphysical content and truth of these rights (all mankind holds them by nature and is inconceivable without them), but, rather, opposed the transformation of this truth into a universal right. The Church's opposition had its own theological background (I have already quoted the Augustinian argument), but in the nineteenth century it was not this, but the context of political purposefulness and instrumentalization, that was decisive. This heated debate, which was often in bad faith, but was unavoidable in the political discourse about the freedom of conscience (concerning who is the friend and who is the enemy of this right) has made it virtually impossible to recognise, or at least appreciate from either side, that transformation into a right means some kind of institutionalisation.

The examples of the Middle Ages, also quoted by Mill, were themselves concrete institutions of free thought, and as such, shaped the (limited!) socio-communal possibilities of living free thought through constraints and rules, through spheres of competences and entitlements or licences. At a time of the unstoppable advancement of democracy in the Tocquevillean sense (democracy is a spirit and passion of the age), these means proved to be clearly inadequate. Despite the fact that the list of forbidden books survived and was still in force, no one could take seriously the notion that thousands of daily press articles, pamphlets and books would be able to be evaluated and judged by a Church office in a comprehensive and up-to-date way. These institutional frameworks became anachronistic. In a last-ditch attempt, Pope Pius X introduced the so-called antimodernist oath, which, however, he demanded only from certain (typically clerical) professions (which was abolished in 1967), and which thus became no longer an institution of internal freedom but of internal closure, and tended to contribute to the marginalisation of the Church.

VI The political triumph of political doctrine

The doctrine of human rights has thus won the political battle in both areas. On the one hand, by becoming a constitutional catalogue of values, and fulfilling

Shall he say on the contrary that he is in sure possession of truth, when if we press him never so little, he can produce no title, and is obliged to quit his hold? . . . Who will unravel such a tangle?' Blaise Pascal, *Thoughts*. Transl. by C Kegan Paul (London: Kegan Paul, 1888), 106. After that, Pascal saw no other solution than to refer to pervasive sin, which explains the desperate ambivalence of this confusion, namely the desire for certainty, and the shaking and questioning of all certainty.

Paine's most sanguine hopes, it swept away the Burke–Stephen arguments in ideological-principal terms.[34] At the same time, it is true that, especially in today's debates on freedom of expression, the question of what can be said, to whom, when and how, cannot be answered simply with universal validity. As Burke predicted, no definitive principle can be elaborated (see the problem of hate speech, the problems of the interpretation of publicity and the relationship between and demarcation of private and public spheres). This uncertainty has, in turn, had a massive effect on the interpretation of freedom of conscience (notable cases could be listed, primarily in terms of the representativeness and the constitutional protection of views on sexual orientations and their naturalness, in the context of the moral neutrality of the state). Nevertheless, those who feel threatened by their own freedom of conscience do little themselves and can do nothing but seek to use the doctrine of human rights as a political weapon, since if rejected, they would then either feel defenceless or simply become incomprehensible to others.

There are, of course, rights whose discussion quickly reveals the massive philosophical, worldview dilemmas beyond them, highlighting the fact that the ambivalence of freedom of conscience persists. Thus, for instance, there can be no human rights discourse on the status of the foetus as a human being, or on the essential duality of man; only a philosophical discourse. I quoted above Alan Gewirth's book, which seeks to establish human rights rationally in the most rigorous way possible and as far away from political theory as possible. However, when it comes to the issue of abortion, he deals with the problem very briefly by presupposing and assigning different generic rights (which meaningfully expand during development) to the foetus at the different stages of development: At first practically nothing, as 'it' is not able to formulate practical-rational goals and desires yet. Except, Gewirth adds, 'in some distant potential form'.[35] Indeed, but if it is already a potentiality, then with elementary Aristotelian metaphysical knowledge, or in fact with the use of natural common sense, the reader may wonder whether it really does not matter that, in a process, in virtue of the natural logic of things, something becomes something different, or rather, remains the same, though in a different way. Whatever we think of this, we must seek philosophical truth, and no political doctrine can help in this. The triumph of political theory in this sense is therefore the victory of politics

[34] As I have already indicated, in this essay I will not deal with other totalitarian political ideologies of the twentieth century or their consequences. It is worth noting in a footnote that the doctrine of human rights was rejected by both National Socialism, with its theory of community and race, and Marxism, with its theory of class struggle and ideology. The – deserved – fall of both has, by definition, confirmed and further increased the political power of the human rights doctrine, also showing that there are and may be historical situations in which a more vaguely conceived Burkean conception of rights may be vital for resisting a totalitarian system (protection of small circles of liberty), but Paine's system of intransigent principles (protection of liberties in principle) may also be equally important. Both elements also played a role in the dismantling of the Kádár regime: internal petty bourgeois resistance and liberal, principled protection of rights (among other things, of course).

[35] Gewirth, *Reason and Morality,* 142.

over philosophy as well, of course, not for the first time in history. However, since it is a political triumph, it can only be temporary, as it is provocative precisely because of its political content, and it has stimulated resistance as well as impulsive defence – examples of which could be listed all day long.

On the other hand, the doctrine has essentially abolished the previous institutional framework of human rights, or in other words, expanded it more than ever before – this is the other victory, as it were. Each individual is now his own institution, equal to everyone else, equally initiated, competent, and sovereign; 'owner' of himself, as Locke asserted. In any event, that is why human rights as a political doctrine does not really know what to do with collective rights. These collective rights are perceived or real collective grievances, but no matter how much they evoke and strengthen community and political anger, ultimately they also aim to expand the individual's free fulfilment and opportunities. In any case, the fact that the doctrine of rights has visibly become a major political force *as the protection of rights,* including the mobilising force, also proves that it has a robust political meaning and that it can institutionalise itself.

From time to time some kind of moral outrage brings people onto the streets, but it is hard to think of an example of protests for or in the name of a categorical imperative, or say, for honesty or for universal respect. Liberty, equality, fraternity – these were once the real political buzzwords, as well as the 'virtue' in the name of which terror was to be practiced. In the same sense, the doctrine of rights was able to become a political programme and idea, written on the flags of movements, parades, barricades and urban zones. One may finally wonder how much the modern branch of the judiciary, however far it is from street politics, has accepted or will accept the same political doctrine (insofar as it is part of the constitution, of course, it no longer has much choice). In any case, it is significant that this doctrine also has its own EU court built on it, which is a strong indication that, in modern systems of rule, doctrine, as part of the dominant ideology, also finds its own forms of institutional power.

In summary, human rights are a powerful political doctrine, a system of thought that has strong roots in the Western intellectual, philosophical and theological tradition, with its social antecedents as freedoms, and certain elements of it, such as freedom of thought and conscience also have institutional forms, but these were formed in specific political conflicts in which they triumphed. This process has been going on for many centuries, and of course it is not over today. It cannot be said at all that its philosophical foundations are indisputable and unquestionable; on the contrary: Despite all efforts, neither ethics or moral philosophy nor political philosophy have been able to solve the fundamental dilemmas of freedom and of the exercise of freedom. Political – constitutional and institutional – success thus remained unstable. It is the duty of the philosopher to be aware of this and to be prepared to confront the participants sincerely against the spiritual background of political conflicts and struggles, not forgetting to reckon with the inevitable political consequences of his own worldview.

Bibliography

Burke, Edmund, *Reflections on the Revolution in France*. Ed. by HP Adams. London: University Tutorial, 1910.

Constant, Benjamin, 'The Liberty of the Ancients Compared with that of the Moderns', in Benjamin Constant, *Political Writings*. Ed. and transl. by Biancamaria Fontana. Cambridge: Cambridge University Press, 1918.

Constant, Benjamin, 'Az egyéni jogokról', in Benjamin Constant, *A régiek és a modernek szabadsága*. Budapest: Atlantisz, 1997, 197–208.

De Vitoria, Francisco, 'On the American Indians', in Francisco de Vitoria, *Political Writings*. Ed. by Anthony Pagden and Jeremy Lawrance. Cambridge: Cambridge University Press, 1991, 231–292. https://doi.org/10.1017/CBO9780511840944.012

Gewirth, Alan, *Reason and Morality*. Chicago: The University of Chicago Press, 1978.

Ginzburg, Carlo, *The Cheese and the Worms*. Baltimore: Johns Hopkins University Press, 2013.

Hont, Istvan, 'The Permanent Crisis of a Divided Mankind: "Contemporary Crisis of the Nation State" in Historical Perspective'. *Political Studies* 42, (1994), 166–231. https://doi.org/10.1111/j.1467-9248.1994.tb00011.x

Hume, David, 'Of Civil Liberty', in David Hume, *Essays*. London: Henry Frowde, 1904.

Kis, János, *Vannak-e emberi jogaink?* Paris: Dialogues Européens, 1987.

Laslett, Peter, 'Introduction', in John Locke, *Two Treatises of Government*. Cambridge: Cambridge University Press, 1992.

Locke, John, *Two Treatises of Government*. Cambridge: Cambridge University Press, 1992.

Nahme, Paul E, 'Law, Principle, and the Theologico-Political History of Sovereignty'. *Political Theology* 14, no 4 (2013), 432–479. https://doi.org/10.1179/1462317X13Z.0000000009

Newman, John H, *Apologia pro vita sua*. New York: William Norton, 1968.

Mill, John S, *On Liberty*. Ed. by Gertrude Himmelfarb. Harmondsworth: Penguin, 1974.

Paine, Thomas, *Common Sense: The Rights of Man, and Other Essential Writings*. New York: Meridian, 1984.

Pascal, Blaise, *Thoughts*. Transl. by C Kegan Paul. London: Kegan Paul, 1888.

Stephen, James F, *Liberty, Equality, Fraternity*. Ed. by Stuart D Warner. Indianapolis: Liberty Fund, 1993.

Strauss, Leo, 'Locke's Doctrine of Natural Law'. *American Political Science Review* no 2 (1958), 490–501. https://doi.org/10.2307/1952329

Vatter, Miguel, 'Theocratic Legal Revolution and the Origins of Modern Secularism in Dante'. *Síntesis. Revista de Filosofía* 2, no 2 (2019), 26–48. https://doi.org/10.15691/0718-5448Vol2Iss2a288

Waldron, Jeremy, 'Rights in Conflict', in Jeremy Waldron, *Liberal Rights: Collected Papers 1981–1991*. Cambridge: Cambridge University Press, 1993, 203–224.