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Human rights in the global perspective – Developing a universal human rights culture in a context of positive secularism

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1. The E.MA spillover

Dear Masterini and Masteroni of E.MA and of the other Regional Masters, first of all, let me thank you for the pleasure and the honour you have bestowed on me by inviting me to share your joy in celebrating the launching of the Global Campus Alumni Associations Network, and your hopes for a successful future for your undertaking

I am deeply moved to revisit the Monastery of San Nicolò where, during the first six years of the European Master programme's existence, I worked in a spirit of agony and ecstasy. Some might call that "romantic" (though I'd be embarrassed if they did so). It was a totally new and original experience given both its educational content and its organisational structure; an academic experience, an experience in trans-national citizenship; an experience in supra-national integration. An experience made fecund by the generous collaboration of illustrious colleagues from various European universities (Horst Fischer and Florence Benoît Rohmer worked alongside me from the very beginning); and of courageous staff from the European Commission (Daniela Napoli, in particular); of Prof. Marco Mascia, at that time assistant to the E.MA Director, and now my successor as Director of the University of Padua's Centre on Human Rights; of the tiny staff which included the highly virtuous trio, Elisabetta Noli, Corinna Greco and Alberta Rocca.

In collaboration with sister universities and the European Commission, with considerable grace and in a spirit of service, the University of Padua acted as a legal incubator for the new experience. The goal, within the context of university cooperation, was to set up a European joint degree qualifiable as an authentic European-integrated diploma. We succeeded. Our enterprise was soon considered one of the most advanced, if not the most advanced achievement in the "Bologna Process".

My mind teems with memories. I'll share four of them with you, like a tale. In the first year, especially, we had problems in accommodating the *masterini*. Together with Prof. Mascia we managed to get our hands on a little hotel behind Saint Mark's Basilica (the Hotel Città di Milano), with tiny double rooms. To each floor we assigned the name of a paragraph from Boutros Ghali's Agenda for Peace: "Preventive Diplomacy", "Peace-keeping", "Peace-building" and "Peace-making". The scant level of material comfort was amply compensated by cultural identification with the Agenda of the United Nations General Secretary.

The training field missions (field trips) in January started out in Bosnia and Herzegovina. Two military aircrafts (the noisy C 130) transported us. In January 1998 we were traveling from Sarajevo to Mostar in two buses lent by the Spanish military contingency stationed at Mostar. Halfway through the journey, amidst snow-covered mountains, the larger bus, occupied by most of the young master candidates, Prof. Mascia, and myself, caught fire. In five minutes it was completely destroyed. The first generation of *masterini*, together with the then EMA Director and Assistant Director, were miraculously saved. The human root of the Master programme proved capable of triumphing over fire and frost; it symbolised vital fecundity.

During that first field mission, our headquarters were at the University of Sarajevo, in a near state of ruin. During the inaugural meeting, chaired by Sarajevo University's Rector, we gave voice to our dream of setting up a regional master programme with headquarters in that very university. Three years later, in January 2001, that dream came true. We were again in Bosnia and Herzegovina, now for our third training mission, to witness the birth of the Regional Master for South-Eastern Europe. The Rector of Sarajevo University, in the presence of the Vice Rector of the University of Beograd (a fact reflecting the political peace-making process), presided over a crowded assembly uniting master students from Venice and Sarajevo. That was an ideal beginning for your Network, as it stands today: a beginning under the auspices of human and academic solidarity. I need not emphasise the importance of networking in facilitating cooperation as an instrument of soft power.

The E.MA's growth is marked not only by good will and commitment on the part of teachers and students, by also by "spillover" dynamics. We might say that EMA spillover emerges in varying types.

Logistics spillover: E.MA originated in 1997 in the Palazzo Ducale, in a small ground-floor room; inauguration of the first academic year took place on the second floor, in the so-called "Sala del Piovego"; the following year, we rose to the fabulous Sala del Gran Consiglio.

Membership spillover: in 1997 we were ten partner universities; the year after, fifteen; today we number 41.

Networking spillover: it emerges in the context of Regional Master programmes. In the beginning there was one; today there are six.

Institutional spillover: at first it was the University of Padua which furnished the strict legal groundwork; later we came to set up the EIUC, the association of our universities endowed with juridical personality.

And we even see *territorial spillover*: from Giudecca to San Nicolò, from San Nicolò to include hopefully the monumental barracks Caserma Pepe, from the monastery courtyard to the Human Rights Village on the island of Lido, currently headed by the "Serenissimo Governor", Fabrizio Marrella.

2. The humancentric compass for world order

My reflection here is articulated in four parts. The first will concern the globalisation of human rights, the second how to overcome 'liquidity' of the current human condition, the third as an extension of your round-table, intercultural dialogue, religious freedom and secularity, the fourth will deal with a new language to develop a universal culture of human rights.

As we all know, ever since 6 October 1997, at the end of the E.MA awarding-inaugural ceremony, university rectors and professors together pronounce the solemn formula: "Bearing in mind the principles of the International Law of Human Rights and in the spirit of inter-university cooperation, we declare open the Academic Year of the European Master Degree in Human Rights and Democratisation". Recital of this formula reflects the will to contribute toward the effectiveness of International Human Rights Law and to facilitate the spillover dynamism within it, a dynamism that is inherent to the universal norm which, precisely because it is universal, is intrinsically fecund.

International Human Rights Law originates in the history of *ius positum* with the United Nations Charter and the Universal Declaration of Human Rights, 1945-1948. The Universal Declaration did not remain a solitary voice crying out in the desert, nor a sacred ikon, mysteriously remote and static; instead, it revealed itself as the fecund mother to the many legal instruments constituting the organic body of International Human Rights Law: from the two International Covenants of 1966 to the Convention on the Rights of Persons with Disabilities and the Convention on Forced Disappearance. The general Conventions themselves have proved to be fecund: in turn, they have generated Protocols. From the global Covenants we passed to regional ones, which were, as well, enriched by Protocols and further specific Conventions. Therefore, today we find a normative family made up of parents, children, grandchildren and great grandchildren. Amartya Sen comes to mind, at this point: he maintains that human rights are the parents of law, not its children.

The fecundity of standard-setting (whose rapid "demographic" growth, some say, should be somewhat regulated) has been accompanied by that of human rights machinery. The universal system has been joined and echoed by regional systems; the UN Human Rights Commission has been followed by the UN Rights Council; the individual communications system has been joined by that of judicial verdict; on the regional level we find Human Rights Courts; the International Tribunal for ex-Yugoslavia has been succeeded by the International Criminal Court; and so on.

Human rights mainstreaming is at work in various fields, including the critical field of bioethics. In this area, on the universal level, UNESCO is the leader, in particular by way of two Declarations qualified as "universal": that concerning the human genoma and human rights (1997), and that on bioethics and human rights (2005). These instruments are instruments of soft law (but beware: soft law is often

the far-seeing father of hard law), but they do enshrine fundamental principles such for instance the strong one defined in article 3 of the Declaration on bioethics: “1. Human dignity, human rights and fundamental freedoms are to be fully respected. 2. The interest and welfare of the individual should have priority over the sole interest of science or society”.

We might even speak of a force of attraction exercised by International Human Rights Law towards other areas of international law, in particular International Humanitarian Law and International Criminal Law; attraction with a logic proper to it, summed up in the pair “life-peace”. The principle of international accountability of individuals in matters of criminal law is due partly to the fact that the individual, as a possessor of internationally recognised fundamental rights, is directly responsible toward the international community. International Humanitarian Law does not question war, which may be licit, and therefore legitimate; at the same time, however, it must deal with article 4 of the International Covenant on Civil and Political Rights, which expressly declares that even in exceptional situations, certain rights cannot be disregarded even temporarily, beginning with the right to life. War is the negation of life; as such, there is no place for it in universal Human Rights Law. The wide interpretation of article 51 in the United Nations Charter is absolutely arbitrary. Like war, capital punishment is incompatible with Human Rights Law. With the second Protocol to the International Covenant on Civil and Political Rights (signed, till now, by 70 states parties), the prohibition of capital punishment entered into international law into force. At the European level, punishment by death is forbidden by Protocol 13 of the 1950 Convention and by the European Union Charter of Fundamental Rights.

3. How to overcome ‘liquidity’ of the current human condition

The far-seeing, visionary fathers and mothers who in the mid of last century worked to create the new international law, established several principles present in the DNA of a just and peaceful world order, beginning with the principle saying that “recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world” (Universal Declaration, Preamble).

In a wholly positive light, the International Human Rights Law advanced and opened the era of globalisation as we perceive it nowadays. The legal “global compass” of human rights is actually available to us to guide the multiple, diversified globalisation processes that crucially affect us all. It is more and more necessary in responding to such great challenges as world governance of the economy in respect for the principle of the interdependence and indivisibility of all human rights; reform of the international monetary system; real disarmament; reform aiming to democratise and strengthen the United Nations; safeguarding the natural environment; and intercultural dialogue.

The fact that this global compass exists, and that it remains valid, is reiterated in the recent Declaration of the High-Level Meeting of the 67th Session of the General Assembly “on the rule of law at the national and international levels”. Let me quote some few excerpts: Declaration reads: “We are determined to establish a just and lasting peace all over the world, in accordance with the purposes and principles of the Charter […]. We reaffirm our solemn commitment to an international order based on the rule of law and international law, which together with the principles of justice, is essential for peaceful coexistence and cooperation among states […]. We consider the rule of law to be a principle of governance in

which all persons, institutions and entities public and private, including the state itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards […]. We reaffirm that human rights, the rule of law and democracy are interlinked and mutually reinforcing and that they belong to the universal and indivisible core values and principles of the United Nations […]. We reaffirm that, while the rule of law shares common features as laid out in the present Declaration, there is no one model of the rule of law and that the rule of law does not belong to any country or region […]". This document presents a valuable synthesis of a new sustainable statehood based on the coupling of "rule of law/welfare", as two sides of the same coin.

According to the universal human rights code, the architecture of a just and peaceful world order can only be one of multilevel governance, to be exercised according to the principle of subsidiarity, and therefore in respect for cultural and institutional diversity.

In order for such a structure to function, we need to share the global compass' core values. The big question is: how can we develop the sharing of core values in a period marked by distrust in numerous political leaders' capacity for governance, by revolt against four decades of disasters caused by an orgy of neo-liberalism, by more than twenty years of "easy war", by the persistence of politico-religious fundamentalisms? Should we surrender to the pessimism of Zygmunt Bauman, who speaks of the current human condition in terms of liquidity, i.e. uncertainty? Should we surrender to that of Marshall McLuhan, who described the globalising world as a quarrelsome little village devoid of safe homes where we can abide peacefully? No. Certainly not.

Personally, I believe that not everything is liquid; there is something solid in today's world. As I noted before, the right compass exists, and is there to guide us; and homes do exist in which we can develop reciprocal knowledge, and cooperate toward the common good: I refer to the many legitimate multilateral and supranational institutions at global and regional levels.

The future of human rights is rife with stumbling blocks along a pathway which, however, has reached a point of no return: a path leading the system of international relations once and for all outside the primitive state of *bellum omnium omnibus*, the war of all against all, towards an architecture of multi-level democratic governance.

We might view today's complex transition toward a more fair and peaceful world order by using four metaphors.

Metaphors and signs of the times are analytical tools relating not only to our capacity/will to discern, but also to our willingness to marvel over the opportunities offered to the good will of persons. Such tools help to expand the horizons of hope, through commitment to plan-making and action.

The first metaphor is that of childbirth: in our case it regards labour pains. What must be born in terms of a new world order does not remain at a stage of mere wishful thinking; rather, it is already project; indeed, already a pathway which has been clearly traced in its essentials since 1945-1948. The issue is not to conceive a child, but to help the newborn baby grow and mature.

A rather artistic metaphor is that of the mosaic. For an image formed in mosaic to be recognisable, we need not only tesserae, but also their composition according to a design. As regards the world order, the tesserae exist, but the mosaic cannot take shape unless we commit ourselves to compose them. As

mentioned before, the project for a humanly sustainable world order exists; what we need to do is make it visible, develop it. What I mean to say is the DNA for an order of peace in justice is inscribed in the United Nations Charter (Preamble, articles 1 and 2), in the Universal Declaration (article 28 in particular), and in what they have produced by way of more specific juridical instruments and specialised bodies: all of them "tesserae" of a mosaic just waiting to be composed in order to carry forward and complete the construction of positive peace.

The third metaphor centres on a bucolic image. Through the centuries, universals are sown; that is, those inventions, creations and discoveries in various fields—art, science, philosophy, law—and in various parts of the world, which do and must benefit all members of the human community; they are global goods making up the material and non-material "world heritage". Once discovered, such "universals" are fixed in works of art and geographical maps; they emerge in the frescoes of the Sistine Chapel, in Michelangelo's "David", in the *Divine Comedy*, in *Don Quijote*, in the pyramids, in the temples of Nubia, Yucatan, Cambodia; in the dome of Santa Maria del Fiore; in the Colosseum; in Bach's "Passion according to Saint Matthew" and Beethoven's Ninth Symphony; in Gandhi's philosophy of non-violence; in the Dolomites; in the French Declaration of 1789, and the Universal Declaration of 1948… All mark points of no return along the pathway of civilisation promoting humanity.

In the field of juridical creativity, International Human Rights Law is a fully shaped Universal.

The fourth metaphor is that of a house, one as vast as the planet earth, richly furnished with sophisticated devices which, if properly used, would make the life of its inhabitants more comfortable. Certain of these "household appliances" function only intermittently, or have stopped functioning at all, once unplugged.

Beyond metaphor, the world today has available fine new juridical norms, sophisticated international institutions, innumerable instruments suitable for enhancing cooperation towards the common good in all areas. We must use them; we need the political will to make them work; we need to stop making the United Nations and other legitimate multilateral institutions the scapegoat for political and juridical failures caused by States' governing classes, the most powerful ones in particular.

As regards the "house" motive, we might call to mind one of the many marvellous allegories created by the great theologian, St. Anthony of Padua, in his *Sermons*. Writes St. Anthony:

"The house is called *domus* in Latin, from the Greek *dòma*, also meaning 'roof'. Consider that the house consists of three parts: the foundations, the walls and the roof. The foundations represent humility; the walls, the virtues as a whole; the roof, charity. Wherever these three parts are united, there is the Lord, who says: 'My house shall be called the house of prayer'". Anthony adds, "Prayer is called *oratio* in Latin, as if to say, *oris ratio*, the reason (reasoning) of the Mouth".

"We, the Peoples of the United Nations…": to use St. Anthony's allegory in considering the load of ideals and universal values carried by the UN, we might say that the organisation is a house shared by all members of the human family and its respective peoples, a grand house protecting lofty civil virtues; and that the standard-setting it carries on under the auspices of universal ethics is like a prayer addressing those who hold power, so that they will exercise it in a legal manner and in a spirit of solidarity among all the peoples of the earth.

It is for good reason that lovers of wisdom look to the UN as to a “moral forum”, an institutional entity endowed with high “moral authority”. Without strong institutions, in our case without the United Nations and other multilateral institutions in communion with it, there is no soil in which to raise guarantees for the fundamental rights, or to enact that collective secular prayer called “international cooperation”.

4. Intercultural dialogue, religious freedom, secularity

Multiculturalisation all over the world is one of the many processes relating to globalisation. It is often addressed as a disturbing factor of social cohesion, instead of considering it a physiologic cultural and economic enrichment for societies. The best answer to the question of how to move from a stage of suspicion and fear to one of acceptance and inclusion is: intercultural dialogue.

Sharing core values is the necessary premise for carrying out a fructuous intercultural dialogue. I mean sharing values, and not deleting or ignoring values. Putting aside the solution of exporting and forcefully imposing values (see the dreadful results of so-called “humanitarian wars”), we must choose the way of dialogue to seek an axiological common ground and go on in a spirit of healthy secularism.

Human rights and fundamental freedoms as enshrined in the Universal Declaration are the core values we are referring to, values to be translated into concrete, shared goals, in places which must become inclusive.

This paradigm has also an instrumental function to play as a code of communication symbols, as a trans-cultural tool that facilitates moving from the potentially conflicting condition of multi-culturality to the dialogic stage of inter-culturality. But dialogue could still be limited to an exchange of information, a reciprocate exchange of images and stereotypes. This is certainly a pre-requisite but not enough to achieve the principal aim that is: the inclusion of all in the political community to benefit from equal citizenship rights. For to be fructuous, dialogue among individuals and groups bearing different cultures should occur among equals; if not, the case will be another kind of interaction, for instance for deliberate homologations from one side or another. And the «equals» are the original holders of the universal citizenship. The right reply to the question «intercultural dialogue for what?» is: dialogue for working together, to imagine and put into practice common projects for common good goals.

For the dialogue we are interested in is one that should be carried out in the context of daily life. If we start, as we should, from the human rights paradigm, dialogue should be carried out above all on how values and principles are translated into objectives for behaviour and policies, on what should be done together within the same polity. As mentioned above, dialogue should be common goal-oriented more than identities comparison-oriented. The strategic common goal is building up and developing the inclusive city as the result of the contributions of many cultures.

Once more, we should emphasize that the culture and strategy of inclusion has a direct relationship with both internal peace (social cohesion) and international peace. These are the two faces of the same coin: the inclusive city is the ground for the construction of a peaceful and a just world according to article 28 of the Universal Declaration.

One important aspect involves religious freedom, not only in the specific context of inter-religious dialogue, but also in the wider context of intercultural dialogue. One shortcoming of inter-religious dialogue as it has proceeded up to now, has lain in its claim or pretence to remain autonomous with respect to intercultural dialogue; often, one has treated the right to religious freedom as if it were cut off from the "systemic" context and logic of all other human rights. In certain religious environments, it is difficult to admit that religions are part of a culture; that religions form the basis of several grand cultures. And it is difficult to recognise the autonomy of secularism; difficult to admit that there exists a positive secularism, and not only a negative one. As an expression of positive secularism and as a sign of the times, International Human Rights Law specifically deals in matters of religious liberty, and decides what relationship must exist between the civil sphere and the religious one.

Freedom of opinion, of conscience, of religion: article 18 of the Universal Declaration contains the sacred triad of the Universal Code of human rights; that is, the axiological nucleus at the heart of the assembled rights inherent in the dignity of the human person. Article 18 of the International Covenant on Civil and Political Rights takes up its text and further clarifies it. So does the 1950 European Convention (article 9), the 1969 Inter-American Convention (article 12), the 1981 African Charter on the Rights of Man and Peoples (article 8), the 1989 International Convention on the Rights of Children (article 14), the European Union Charter on Fundamental Rights, of the year 2000 (article 10), and the 2004 Arab Charter on Human Rights (article 30). Article 19 of the Italian Constitution is in perfect syntony with international norms: it declares that "each person has the right to freely profess his or her religious faith in any form, individual or associated, to propagandise it and to worship in private or public, so long as the rites involved are not contrary to public decency".

This universal concordance of norms is itself a vigorous sign of the times: we find ourselves standing before a fundamental human right endowed with profound valence, not only moral, but juridical as well.

The exercising of this right is not limited merely to the private sphere. Religious faith is not a separate part of the person's identity, but instead permeates it in its totality. Except as a conceptual abstraction, it is impossible to separate the person's religiosity from other roles and conditions relative to one's social situation, to one's civic and political behaviour. An eminent religious leader has justly declared: "it is inconceivable that believers must suppress a part of themselves—their faith—in order to be active citizens; it should never be necessary to deny God in order to enjoy one's rights".

Religious freedom includes the believer's right by which the symbols of his/her religious creed are respected: offending them touches deep feelings directly affecting the dignity of the person, so that even the fundamental right of freedom of opinion and expression must be exercised in respect for the general principle according to which the believer's honour, reputation and identity must be safeguarded.

As long as they do not transmit messages contrary to respect for the equal dignity of all members of the human family, life and peace, religious symbols mirror the personal identity of believers in its entirety.

Secularism should not be considered an alternative to religious freedom: correctly understood—in the sense, that is, of "positive secularism—it is not a *tabula rasa* (empty desk) of values; it does not imply the annulment of cultural and

religious symbols, of historical roots; instead, it is a public space for freedom, open to the exercising of each person's human rights; it nourishes harmony with the spirit of inclusion, provided, of course, that the various cultural diversities can become compatible with the paradigm of universal values, accepting to purify themselves by drinking at the common source of the universal in order to communicate with one another. In such perspective, pre-existing religious symbols, like other identifying symbols of collective history, must not be removed from public spaces. If necessary, others may be displayed alongside them, provided that they are compatible with the values of International Human Rights Law. A wise religious leader emphasised: "the heritage of principles and values expressed by an authentic religiosity is wealth for peoples and their ethos".

A healthy secularism defends itself and nourishes itself through inter-religious dialogue, which must proceed in respect for the various specific traits characterising the interlocutors, and, as already pointed out, in the framework of a wider, intercultural dialogue: in part, to avoid sterile verticalisms, and any temptation towards self-referential behaviours. Current international law urges religions to contribute develop a universal human rights culture. We might well refer here to the 2005 UNESCO Convention, which came into effect in 2007, "on the protection and promotion of the diversity of cultural expressions". Its Principle n. 1 reads: "Cultural diversity can be protected and promoted only if human rights and fundamental freedoms, such as freedom of expression, information and communication, as well as the ability of individuals to choose cultural expressions, are guaranteed. No one may invoke the provisions of this Convention in order to infringe human rights and fundamental freedoms as enshrined in the Universal Declaration of Human Rights or guaranteed by international law, or to limit the scope thereof".

Definition n. 8 regards interculturality: "'Interculturality' refers to the existence and equitable interaction of diverse cultures and the possibility of generating shared cultural expressions through dialogue and mutual respect".

The duties of those claiming respect for their religious freedom, of course, include that of respecting the rights of those professing a different religious creed, and of those who are atheists or agnostic or sceptical or indifferent. This duty is highlighted in Recommendation 1962 (2011), adopted by the Parliamentary Assembly of the Council of Europe on 12 April 2011, under the title "The religious dimension of intercultural dialogue". This important document helps clarify fundamental aspects in the exercising of the right to religious liberty, accompanied by the right to freedom of opinion and conscience. The basic premise is that in Europe, Churches and religious communities have a right to exist and organise in an independent manner and that, at the same time, religious freedom itself is inseparable from the unconditional acceptance by everyone of the fundamental human rights. The document further specifies that in the degree to which they are compatible with respect for human rights and for the principles informing democracy, differences not only have a right to exist, but also help to determine the very essence of our many societies. According to the Council of Europe, it is not only desirable, but necessary that the various Churches and religious communities—in particular, Christians, Jews and Muslims—mutually acknowledge the right to freedom of religion and freedom of worship… They must agree to intensify the construction of dialogue on a shared foundation of equal dignity for all peoples. They must together commit themselves to the democratic principles and to human rights. The goal is twofold: to promote "solidarity among communities by caring for the most vulnerable", and to develop "a new culture of coexistence". On

their part, States have an obligation to ensure that all religious communities which accept the common fundamental values may enjoy an appropriate juridical status; but that any preferential support lent to given religions must not, in practice, result as "disproportionate or discriminatory".

5. Religious freedom and education

Starting out from the premise that religious liberty is a fundamental right, religious education cannot do without human rights education and training, whose content is well illustrated in the fourteen articles of the United Nations Declaration on Human Rights Education and Training", adopted by the General Assembly on 19 December 2011. This is a strategically important juridical instrument declaring that "*everyone has the right to know, seek and receive information about all human rights and fundamental freedoms and should have access to human rights education and training*" (article 1, italics added). This type of education and training aims to empower persons to "*contribute to the building and promotion of a universal culture of human rights*" (article 2, italics added). The document also declares that "*human rights education and training should embrace and enrich, as well as draw inspiration from, the diversity of civilisations, religions, cultures and traditions of different countries, as it is reflected in the universality of human rights*" (article 5).

On a European level, we might usefully refer to the "Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education", adopted by the Committee of Ministers on 11 May 2010. This important document, as well, declares that this branch of education aims to empower students to "contribute to the construction and defence of a universal human rights culture in society", in light of the "promotion and protection of human rights and fundamental freedoms".

In the United Nations sphere, we find the Human Rights Committee (for civil and political rights), an independent body instituted in virtue of the International Covenant on Civil and Political Rights. In its "General Comment n. 22", 30 July 1993, the Committee explains that the fourth clause of article 18 in the International Covenant allows for "education in public schools regarding such topics as general history of religions and ethics, if offered in a neutral, objective manner". It also specifies that the liberty of parents or legal guardians to ensure that children receive a religious and moral education in line with their convictions, is linked to the safeguarding of the freedom to teach a religion or creed in accordance with the first clause of article 18, and that public education which includes instruction in a particular religion or creed is incompatible with the above-mentioned fourth clause, unless exemption or non-discriminatory alternatives are accorded which correspond to the wishes of parents and legal guardians.

Note that the United Nations Declaration "on the elimination of all forms of intolerance and of discrimination based on religion or belief", adopted by the General Assembly in 1981, specifies that "the parents or, as the case may be, the legal guardians of the child have the right to organise life within the family in accordance with their religion or belief and bearing in mind the moral education in which they believe the child should be brought up". The document also states that "every child shall enjoy the right to have access to education in the matter of religion or belief in accordance with the wishes of his parents or, as the case may be, legal guardians, and shall not be compelled to receive teaching on religion or

belief against the wishes of his parents or legal guardians, the best interest of the child being the guiding principle".

The section of the above-mentioned Recommendation of the Parliamentary Assembly of the Council of Europe specifically regarding the teaching of religion in schools and the training of teachers of religion and individuals having religious responsibilities is particularly significant. After affirming the importance and function of the educational system relative to learning about and understanding various cultures and religions, the Recommendation stresses the need for religious communities and States to cooperate in reviewing this sector "in a holistic approach".

The principle of "State neutrality" as regards religious education in schools is expressly evoked in urging the national authorities to prevent parents' religious and non-religious convictions from being "offended".

The Recommendation declares that the internal autonomy of religious institutions in educating those having religious responsibilities, beginning with ministers of worship, constitutes a principle intrinsic to religious freedom; at the same time, it finds limitation in the fundamental rights, in democratic principles and in the rule of law. With this premise, on one hand the Parliamentary Assembly of the Council of Europe urges religious institutions to study together, in the context of inter-religious dialogue, the best ways to educate their leaders. On the other hand, it offers suggestions relative to method and substance: education must be carried out in openness, dialogue and collaboration among difference religious communities; it must transmit the knowledge and understanding of other religions and faiths; it must educate toward respect for human rights, for the principles of democracy and the rule of law, as a common foundation for dialogue and collaboration.

The Council of Europe Recommendation's insistence on the human rights paradigm should be interpreted in light of the concept of positive secularism, as mentioned above. In stating that human rights must be included in education programmes for religious personnel, the Council of Europe does not mean, of course, to urge the "secularisation" of religious practice. Human rights are ethically universal values, recognised as such by international *ius positum*: knowledge regarding them, axiologically marked as it is, is in perfect syntony with the universalist, transcendent vocation of the great religions, in particular the three monotheistic religions.

Like cultures, religions as well are urged to drink from the source of "the universal" in order to purify themselves of any dregs that may have accumulated from the negative parts of their respective histories. One vigorous sign of this will for purification will come from the radical, definite repudiation of any justification for capital punishment and just war, and of any unjust discrimination between men and women. For the exercising of the specific right to religious liberty must be compatible with the general principles of the universal human rights code. Any religion, or creed of a non-religious nature, which advocates such violations of value as racial, religious or sexual discrimination, violence, intolerance, social exclusion or war, clearly conflicts with the principles and norms of current International Human Rights Law.

Counterparts to the fundamental right to religious freedom include both States, on the one hand—which must bring their pertinent legislation in line with International Human Rights Law, ensuring "open spaces" for worship—and on the other, the holders of the right themselves: that is, believers, beginning with those

who profess the majority religion in a given country. Such persons must respect believers in other faiths, non-believers, and those who profess atheism.

The duty of duties, if I may put it in such terms, is that of the believer toward his/her own religion: anyone invoking one's own fundamental right to religious freedom must first of all honour his/her own religion; that is, be consistent in word and deed with the creed professed, thus helping to build an order of peace founded on respect for the human dignity of all.

In their deepest inspiration, the three great monotheistic religions are inherently in favour of peace, for they favour respect for the life of a human being created by God in his image and resemblance. The life of the human being is sacred; killing a human being is committing a crime against the One who created it. Capital punishment, killing an individual, is a crime against God. Similarly, war—collective killing—is a crime against God: "Any act of war […] is a crime against God and against humanity itself which must be unequivocably and unhesitatingly condemned"[1] (Council Constitution "*Gaudium et Spes*", 1965, n. 80). Condemnation of war is even more radical, if possible, in the above-mentioned "*Pacem in Terris*" by John XXIII (n. 67): "*Quare aetate hac nostra, quae vi atomica gloriatur, alienum est a ratione, bellum iam aptum esse ad violata iura sarcienda*", which might be translated: "In an era like ours, which glories in atomic power, it is against all reason to believe that war is a suitable instrument for re-establishing violated rights". In short, the war lovers are crazy.

Finally, in building a universal human rights culture, which involves developing inter-religious dialogue, the exercising of religious freedom must serve to fecundate intercultural dialogue with deep motivations, creating synergies for:

- invigorating thankfulness to the one God,
- reinforcing respect for universal ethics,
- building bridges and acts of solidarity within the international system; in particular, by fostering multilateral cooperation and the democratic development of legitimate international institutions, beginning with the United Nations;
- making the world become a true home shared by all members of the human family, as a "house of prayer" of and for peace.

6. New language to develop a universal culture of human rights

Dear *Masterini* and *Masteroni*, at the end of your study programme you received or will receive an official diploma as human rights defenders, with a precise identity defined by what we consider our Magna Charta: the United Nations Declaration of 1998 "on the right and responsibility of individuals, groups and organs of society to protect and promote universally recognised human rights and fundamental freedoms". Let me quote articles 1 and 7.

Article 1: "Everyone has the right, individually and in association with others, to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels."

Article 7: "Everyone has the right, individually and in association with others, to develop and discuss new human rights ideas and principles and to advocate their acceptance."

These articles tell us that human rights, being universal, are without borders; that everyone is allowed to act in their defence, inside and outside his/her own

State; that everyone is called upon to nourish with new ideas the human rights culture, made up of law and politics, theory and practise, education, advocacy, commitment. Those who work for the cause of human rights, peace and solidarity are gaining possession of this precious legal instrument we are now considering, by making of it a trans-national identity card for the pioneers of universal citizenship, marked by a strong action orientation in the 'glocal' space.

The examples below indicate a few ways in which we can use article 7 of the Charter to exploit and translate into action, what is inherent in universal law: human rights law as leavening; law with potentialities longing to be identified and developed.

The principle of the "best interest of children", proclaimed by article 3 in the International Convention on the Rights of children (1989), is normally evoked when referring to needs and issues which are specific to these two age groups. While being useful in its specific context, that principle is also a candidate for membership among the general principles of international law. That is, it should be formally added to the list of principles provided by the 1993 Declaration of Vienna, adopted at the end of the United Nations World Conference on Human Rights. For instance, through verdicts pronounced, the Italian Constitutional Court has already found a way to define this principle as "constitutional".

Another example of such "new ideas and principles" regards the way of defining the International community. Traditionally, we refer to it as an entity constituted solely by States and the multilateral agencies created by States. This conceptual category has been used and abused by the more powerful States; in practise, it has become an evanescent entity. In the language of human rights, instead, and in perfect alignment with reality as it is evolving, one should define "international community" as a much vaster, much more concrete institutional container, including human subjects—persons and people—as well as States and other institutional entities; the international community is marked by the ethics of inhabiting the earth as a home shared by "all members of the human family".

The expression "human family", which has recurred in international legal texts starting with the Universal Declaration, is a bearer of moral, social and political meaning which is much more pregnant and demanding than the abstract term "humanity" or "human species". To say "human family", indeed, is to evoke a common bloodline, brotherhood; shared membership; a demand for unity; a commitment to cooperate toward the common good. The most representative institution of a shared world home is, of course, the United Nations.

In times not too remote, I was taught at my university that the State is a political entity *par excellence*; political, since it is not predetermined in the choice of its objectives, unlike functional agencies such as international organisations created by States. In short, I was taught that the State as such may adopt all the goals it wishes. Clearly, here, we see an extreme apology for the sovereignty of a body *superiorem non recognoscens*. Now, in light of the international recognition of human rights which has occurred, such an idea is untenable. Since the human person is recognised as an original subject of fundamental rights even by international law, the State cannot but be considered as a derived entity; and being derived, the State itself is functional, albeit with a higher degree of necessariness with respect to other functional entities. This makes not only the political agenda, but also the very public institutional form of governance as well - I mean 'statehood - *teleologically* predetermined: that is, obliged to prioritise given goals.

Again, we must innovate our theoretical framing of “citizenship”, using appropriate conceptual categories that allow us to grasp the sense of evolution, and of the agonising process of redefinition occurring today, of such an institution. Suffice it to recall the contradictions pervading national immigration legislations. Before the advent of the international human rights law, citizenship was essentially characterised as being national, unilateral, *octroyée* by the state, and based on the *ius sanguinis* (the law of blood) more than on the *ius soli* (the law of land) in a perspective of distinction-separation, in short *ad alios excludendos* (to exclude the others).In virtue of the new International Law, a “universal citizenship” has emerged which asserts primacy over national citizenships: it is the citizenship of the human person as such, endowed with fundamental rights formally recognised by current international law as being unalienable to it. The metaphor of the tree helps us to grasp the meaning of this novelty. National citizenships, which *de iure posito* in modern history are more ancient than universal citizenship, are like branches on a tree trunk. In order to produce leaves and fruit, the branches must be physiologically joined to the trunk and, by way of it, obviously, to the roots. The roots are the fundamental rights; together with the trunk, they constitute the juridical status of the human person internationally recognised as a human being, not as an anagraphic citizen of a given state. Thus composed, the tree would produce the institution of plural citizenship. In light of this novelty which, I repeat, is juridical and not merely poetic—not utopian—we need to accept the fact that with the entry of the international legal system into what we might call the humancentric, peace and life-based plenitude of law (*plenitudo iuris*), the traditional parameters of *ius sanguinis* and *ius soli* must confront the superior *ius humanae dignitatis.*

Today, we are at an advanced phase of fulness of law, whose principles postulate the *plenitudo civitatis*, the fulness of citizenship. Human dignity bridges law and citizenship, articulating the last in the plural, in the sense that the universal dimension does not cancel particular citizenships but rather opens towards the experience of a richer identity. The universal citizenship is not *octroyée* and particular citizenships (the branches of the tree) must be regulated according to the respect of universal citizenship (the trunk and roots of the tree).

This implies that *ius humanae dignitatis* parameter prevails on the traditional parameter of *ius sanguinis*, making the *ius soli* complementary compared to the *ius humanae dignitatis*, and functional for the harmonious exercise of personal identities. Universal citizenship sums up and harmonises anagraphic-national citizenships, and the inclusive city is a place that favours this process, thus plural citizenship and the inclusive city postulate each other.

In the inclusive city, particularly through intercultural dialogue, evolutionary dynamics of the identity/ies is expected to develop in a direction of a «transcend civic identity», a superior identity that is authentically secular because it is universalist, trans- and meta-territorial, and trans-cultural. This transcend civic identity is the *plenitudo iuris* and the *plenitudo civitatis* that is interiorised by individuals, an identity that is open to sharing responsibilities in the inclusive city.

The architecture of multi-level and supra-national governance is congruous with the need to guarantee plural citizenship rights in the enlarged space that logically and legally belongs to it. And it is in fact the «phenomenology in the plural» of citizenship, I mean dialogue and inclusion that obliges institutions to redefine themselves according to *telos*, to aims and objectives, and therefore to open up and develop multiple channels of representation and democratic participation.

Of course, we could continue at length to exemplify processes highlighting new conceptual categories, useful in closing down or redefining old juridical schemes in order to plant and grow new ones. We are aware that humanism and creativity—whether artistic, juridical or scientific—are the vital lymph allowing the civilisation of law to progress.

Dear Masterini and Masteroni, you are the authentic witnesses to universal citizenship. You carry human rights in your minds and in your hearts. You are experts in soft power and in multi-level democratic governance, masters in subsidiarity. May you become capable of innovating, in language and practises, being aware that you are the front-line servants of “all members of the human family”: a smart critical mass inside and outside the academic world; a powerful catalyser of new leadership and of qualified civil, cultural and political service within states and international organisations.
