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»The First Theological-Ethical Doctrine of Basic Human Rights Developed by a Twentieth-Century German Protestant Theologian«

Dietrich Bonhoeffer and Human Rights

1. Introduction

Due to his early, violent death in 1945, Dietrich Bonhoeffer never witnessed the adoption of the Universal Declaration of Human Rights (UDHR) by the United Nations in 1948. This declaration – celebrated rightly as milestone – is the first global expression of rights that belong inherently to all human beings, and was crafted as a direct response to the horrors of World War II. Though Bonhoeffer is rarely directly associated with the precursors of this declaration, I want to argue in this paper that he might as well be. He presents, as the editors of the German edition of *Ethics* maintain, »the first theological-ethical doctrine of basic human rights developed by a twentieth-century German Protestant theologian«.¹

In the following, I will trace the development of Bonhoeffer's concept of human rights in four subsequent steps: First, I explore the grounding of his concept of human rights within his understanding of the ultimate and the penultimate. Second, I discuss the development of concrete human rights that Bonhoeffer expounds, such as the right to bodily life. In a third part, I briefly connect the human rights Bonhoeffer develops to their equivalents in the UDHR. And finally, I offer some thoughts on the connectivity of Bonhoeffer's decidedly theological grounding of human rights with non-theological approaches.

1. DBWE 6, 218, note 162. Cf. Heinz Eduard Tödt: »Soweit ich weiss, ist dies im protestantisch-deutschsprachigen Raum vor dem Ende des Zweiten Weltkriegs die einzige ethische Ausarbeitung eines Theologen zu dieser Thematik, also das einzige systematisch in Angriff genommene evangelische Menschenrechtskonzept.« H. E. Tödt, *Dietrich Bonhoeffers theologische Ethik und die Menschenrechte*, in: *Theologische Perspektiven nach Dietrich Bonhoeffer*, ed. by E.-A. Scharffenorth, Gütersloh 1993, 138-145, 139.

2. The Foundation of Human Rights: The Ultimate and the Penultimate

Bonhoeffer's approach to the topic of human rights is somewhat unusual in the sense that he does not start with the individual or an individualistically understood right to freedom. He rather begins by making a fundamental distinction between the ultimate and the penultimate. This distinction is of considerable importance to Bonhoeffer. Not only is this the title of one of his chapters in his *Ethics*,² but he thought about structuring his entire work along these lines, as he mentioned in a letter to Eberhard Bethge.³

The premise from which Bonhoeffer works is this: »The origin and essence of all Christian life are consummated in the one event that the Reformation has called the justification of the sinner by grace alone.«⁴ This is what he calls the »ultimate«. It is ultimate in two ways, qualitative and temporal: The *qualitative* aspect refers to the fact that there is no word of God that goes beyond God's grace; it is the ultimate reality. Its *temporal* dimension means that there is always something penultimate preceding the ultimate, such as »some action, suffering, movement«.⁵

In trying to establish their mutual relationship, Bonhoeffer first points to two misapprehensions: The *radical solution* emphasizes the ultimate to the utter neglect of the penultimate, while in the *compromise solution* the penultimate becomes something in its own right.⁶ To Bonhoeffer, the only solution that avoids both pitfalls is Jesus Christ. We encounter here a theme that runs through most of Bonhoeffer's theology, his christocentricity. »In Jesus Christ God's reality and human reality take the place of radicalism and compromise.«⁷ The penultimate depends on the ultimate for its existence; there is no penultimate as such.

2. »Ultimate and Penultimate Things« DBWE 6, 137-162.
3. Letter to Eberhard Bethge from Ettal on November 27, 1940: »Today a possible title for my book occurred to me: ›Preparing the Way and Entering In‹ – corresponding to the division of the book (into penultimate and ultimate things).« DBWE 6, 453.
4. DBWE 6, 146.
5. DBWE 6, 150.
6. Bonhoeffer gives a succinct characterisation of both radicalism and compromise: »Radicalism hates time. Compromise hates eternity. Radicalism hates patience. Compromise hates decision. Radicalism hates wisdom. Compromise hates simplicity. Radicalism hates measure. Compromise hates the immeasurable. Radicalism hates the real. Compromise hates the word.« DBWE 6, 156.
7. DBWE 6, 155.

As Jürgen Moltmann says in his *Ethics of Hope*: »It is the ultimate that gives meaning to the penultimate.«⁸ Yet to follow from this a disregard for the penultimate on Bonhoeffer's part would be misconceived. Quite the contrary is the case. For the sake of the ultimate, the penultimate is endowed with a rather high standing; For if the penultimate is wounded, so is the ultimate: »Arbitrary destruction of the penultimate seriously harms the ultimate.«⁹ And: »When, for example, a human life is deprived of the conditions that are part of being human, the justification of such a life by grace and faith is at least seriously hindered, if not made impossible.«¹⁰ The penultimate must be understood, therefore, as a preparing of the way (*»Wegbereitung«*) for the word.¹¹

Though not yet expressed in the language of rights, Bonhoeffer makes it clear that hunger, poverty, slavery, injustice, etc. are concrete obstacles to the ultimate, while bringing »bread to the hungry is preparing the way for the coming of grace.«¹² This, one could say, contains *in nuce* the foundation of Bonhoeffer's social ethics. Preparing the way is not only understood as an inner activity, but takes place as a clearly visible and concrete action.¹³ »The hungry person needs bread, the homeless person needs shelter, the one deprived of rights needs justice, the lonely person needs community, the undisciplined one needs order, and the slave needs freedom.«¹⁴ If it weren't eight years too early, one might almost think one is reading the UDHR – with the possible exception of the reference to discipline and order. Yet I

8. »Das Letzte gibt dem Vorletzten seinen Sinn.« J. Moltmann, *Ethik der Hoffnung*, Gütersloh 2010, 20. All translations, if not otherwise indicated, are my own.

9. DBWE 6, 160.

10. DBWE 6, 160.

11. In a similar vein, Karl Barth writes that the state »could administer justice and protect the law. [...] In so doing, voluntarily or involuntarily, very indirectly yet none the less certainly, it would be granting the gospel of justification free and assured course.« K. Barth, *Church and State*, in: *Community, State, and Church*, ed. by W. Herberg, Gloucester/MA 1968, 101-148, 119. Bonhoeffer, understanding »justification« as ultimate and »justice« as penultimate, agreed with Barth. Cf. the discussion by Andreas Pangritz on Bonhoeffer and Barth's essay in: A. Pangritz, *Karl Barth in the Theology of Dietrich Bonhoeffer: A Clarification whose Time has Come*, Grand Rapids 1999, 63 ff.

12. DBWE 6, 163.

13. Bonhoeffer bases his ideas on a socio-ethical interpretation of biblical scripture speaking of the coming of the Lord: When it says in Isaiah 40:4 »Every valley shall be lifted up«, Bonhoeffer understands the valley to mean the »depth of human misery, [...] of human bondage, of human poverty« (DBWE 6, 161).

14. DBWE 6, 163.

believe Bonhoeffer would be misunderstood if his work was reduced to the socio-ethical dimension of his thoughts. Clearly he calls for concrete action, such as the alleviation of very real hunger, yet »[n]evertheless, everything depends on this action being a spiritual reality, since what is finally at stake is not the reform of worldly conditions but the coming of Christ.«¹⁵ Bonhoeffer manages to combine being as socio-ethical as any humanist advocate for human rights, yet still being thoroughly theological by embedding his call for human rights profoundly in a spiritual dimension, without, however, lessening its very worldly and very real appeal. As he writes in one of his prison letters to Bethge: »We are living in the penultimate and believe the ultimate, isn't that so?«¹⁶

3. Concrete Human Rights

Based on this framework, Bonhoeffer proceeds to elaborate concrete consequences in terms of human rights. Some 35 years later, Wolfgang Huber and Heinz Eduard Tödt would take up Bonhoeffer's grounding of human rights in the penultimate in their book on human rights (*Menschenrechte*), when they speak of the fight for human rights as a fight for something penultimate, yet for the sake of the ultimate.¹⁷

The first »systematic attempt at a Protestant concept of human rights«, as Tödt calls it,¹⁸ is found in the manuscript, *The Natural*. Given its uniqueness, it is quite »surprising«¹⁹ how little attention it has received, even in Bonhoeffer scholarship. When Bonhoeffer left the monastery in Ettal in February 1941, where he had been working on both manuscripts discussed here – *Ultimate and Penultimate Things* and *Natural Life* – his draft of *Natural Life* was cut off. We do have, fortunately, in addition to this manuscript, six *Ethics* working notes that contain drafts of the intended structure. According to them, there are seven aspects in total that Bonhoeffer meant to

15. DBWE 6, 164.

16. DBWE 8, 213.

17. »Der Kampf der christlichen Gemeinde um die Menschenrechte, auch um die Religionsfreiheit, ist in der Tat ein Kampf um Vorletztes – um des Letzten willen.« W. Huber and H. E. Tödt, *Menschenrechte. Perspektiven für eine menschliche Welt*, Stuttgart / Berlin 1977, 215.

18. H. E. Tödt, *Bonhoeffers theologische Ethik*, 139.

19. H. E. Tödt, *Bonhoeffers theologische Ethik*, 139.

discuss. The manuscript we have shows that Bonhoeffer could not even finish the first one.²⁰

The close relationship between Bonhoeffer's biography and his theology has been pointed out numerous times already.²¹ Bonhoeffer's discussion of »natural life« is a particularly striking example of how he takes contemporary events into account, such as the church's devastating failure in objecting to the forced sterilisation after 1933, and the euthanasia program of so-called »worthless life« after 1940, a problem all the more virulent for the church as many of those deemed worthless lived in church-related institutions.²²

Being an audacious writer, Bonhoeffer was not afraid to »courageously and strongly reach out for the old and new Catholic wisdom.«²³ This »daring venture«²⁴ included notably Bonhoeffer's attempt to regain the concept of the natural from the perspective of the gospel.

In regaining the concept of the natural, Bonhoeffer begins by first refuting two common misunderstandings – regarding the natural as either completely contaminated by general sinfulness, or as reflecting the original, immaculate creation. These misunderstandings, along with the fear of letting anything diminish grace, led to the abandonment of the natural in Protestant thought. This was a great loss, indeed, for now the church had lost a valuable resource for giving orientation in concrete questions of natural life.

Bonhoeffer differentiates between the natural, which is part of the fallen world, and the created. Again, his characteristic christocentricity shows that »only by Christ's becoming human does natural life become the penulti-

20. Cf. Ethics working notes 52, 47, 49. The drafts differ from one another. Each of the six drafts contains, however, the right to happiness (»Recht auf Glück«). Other rights include: right to work, right to community, right to piety, [protection from] intellectual violation.

21. This holds true especially for his »Ethics« which shows according to their editors how »contemporary events – along with ecclesiastical, theological, and ethical failures when faced by these events – have been taken into account more intensely and more consciously than in perhaps any other previous Protestant ethic« (DBWE 6, 428).

22. See also Bonhoeffer's church confession, DBWE 6, 139: »The church confesses that it has witnessed the arbitrary use of brutal force, the suffering in body and soul of countless innocent people, that it has witnessed oppression, hatred, and murder without raising its voice for the victims and without finding ways of rushing to help them. It has become guilty of the lives of the weakest and most defenseless brothers and sisters of Jesus Christ.«

23. DBWE 6, 419.

24. DBWE 6, 419.

mate that is directed toward the ultimate. Only through Christ's becoming human do we have the right to call people to natural life and to live it ourselves.«²⁵ From this christological foundation, Bonhoeffer moves on to define the natural from two perspectives, form and content. With regard to *form*, the natural is determined by its orientation towards Christ and God's will to preservation and can only be recognized by looking at Christ. Its *content*, however, is recognized by reason.²⁶ Reason recognizes the natural as given, not set.

With regards to the two extremes – i. e. viewing the natural life as either exclusively an end in itself or as mere means to an end – he emphasizes their connectedness, again in Christ. »In Jesus Christ life as an end in itself expresses its createdness, and life as a means to an end expresses its participation in the kingdom of God.«²⁷ It is here that the origin of life's rights and duties is found. Rights are the expression of life as an end in itself, while duties arise from life as the means to an end. Against Kant, Bonhoeffer sets rights before duties, because God gives before God demands. Accordingly, Bonhoeffer first expounds basic human rights, before he had planned to turn to life's duties, which he, however, could not carry out.

Bonhoeffer begins by discussing the well-known *suum cuique*, going back to Roman law and before,²⁸ and the *ius nativum*, before coming to »[t]he most primordial right of natural life [namely] the protection of the body from intentional injury, violation, and killing.«²⁹ I would like to use his discussion of this right as an example to demonstrate Bonhoeffer's way of reasoning here, which is two-dimensional. He always strives to give a theological as well as a non-theological grounding for the right he discusses. In this case, the theological argument claims that »[s]ince by God's will hu-

25. DBWE 6, 174.

26. Bonhoeffer distances himself in two ways from the Catholic understanding of the natural. First, while the Catholic tradition regards reason as having retained an essential integrity, Bonhoeffer views it as being completely immersed in the fall. Second, the Catholic doctrine allows reason to comprehend the formal dimension of the natural. Bonhoeffer differs from the Enlightenment in that he bases the natural in the given and not in the »subjective spontaneity of reason« (DBWE 6, 175, note 1).

27. DBWE 6, 179.

28. »Honeste vivere, alterum non laede, suum cuique tribuere« (»live honestly, do not harm others, give to each his own«) are the three basic guidelines for human conduct given by the Roman lawyer Ulpian. The origin of these commonplaces goes back even further. Plato points to fifth century B.C.E. Simonides who already defined justice as *suum cuique*. Cf. DBWE 6, 181, note 39.

29. DBWE 6, 186.

man life on earth exists only as bodily life, the body has a right to be preserved for the sake of the whole person. [...] [T]he preservation of bodily life is the very foundation of all natural rights.«³⁰ The non-theological argument points to the *ius nativum*, deducing from the fact of the body the right to its preservation which is »born with us«.³¹ We will encounter Bonhoeffer's attempt at providing a double base for his argument – theological and non-theological – as a red thread running throughout his discussion of human rights, even though he does not make this intent explicit. His non-theological arguments refer to nature and reason, including Kantian reasoning or pragmatic arguments such as the slippery-slope argument. Quite contrary to a theological tradition that tended to disregard the body, the right to bodily life leads Bonhoeffer to rather astounding ensuing rights, the first one being the »right to bodily joys«,³² including »shelter«, »food«, »clothing«, »recreation« and »play«, as well as »sexuality«.

While explicating the »first right of natural life [namely] the protection of bodily life from arbitrary killing«,³³ he tackles the very concrete problem of euthanasia. He defines arbitrary killing as the deliberate killing of the innocent, and firmly rejects the idea of a utilitarian, relative right to life. Bonhoeffer's discussion of euthanasia reveals the difference between his own concept of human rights and other Western concepts. Many Western concepts start with the individual as the bearer of all rights. Social contract theory has the individual surrender certain alienable rights to the community he or she joins in order to have their inalienable rights protected, among them human rights. Bonhoeffer, in contrast, understands »the natural life« itself as primary bearer of the rights. Tödt rightly emphasizes the social aspect of this approach; for whoever understands herself as bearer of the gift of natural life sees the ensuing fundamental connection to the other, who is bearer of the same gift.³⁴

30. DBWE 6, 185.

31. DBWE 6, 185.

32. DBWE 6, 186. The editors of his »Ethics« are right in pointing out that »[p]roviding a theological basis for »a right to bodily joys« was rare in German Protestant preaching and ethics during the first half of the twentieth century.« DBWE 6, 187, note 57.

33. DBWE 6, 189.

34. »Geht man, wie Bonhoeffer, von den Rechten des natürlichen Lebens aus, so ist es unmöglich, zum Beispiel die Freiheitsrechte isoliert individualistisch, also egozentrisch zu interpretieren, wie es stets eine Gefahr in liberal-kapitalistischen Verhältnissen gewesen ist; denn wer sich als Träger der Gabe natürlichen Lebens versteht, der weiss sich fundamental mit anderen verbunden, denen die gleich Gabe zuteil

Natural life may, at times, confront even the individual's will. This is the case in Bonhoeffer's example of an incurably ill patient who demands that her life be ended. Bonhoeffer sees the doctor not only obligated to the will of the patient, but to the patient's natural life itself.³⁵ The same holds true for suicide and abortion, which he calls »murder«.³⁶

Further rights that spring from the basic right to bodily life include the »right to reproduction«, the »right to personal choice of a marriage partner«³⁷ and the »right of life that will come into being«.³⁸ Bonhoeffer even discusses a »right of birth control«³⁹ before dealing with the urgent issue of sterilization, basing his discussion on the human body's »right to inviolability«.⁴⁰ It is the right to bodily life that leads Bonhoeffer to the right of »protection against arbitrary encroachment on the freedom of the body«.⁴¹ Concretely, Bonhoeffer establishes »the right of a person freely to give or withhold her or his own body, especially its sexuality«.⁴² Similarly, »rape«, »exploitation« »slavery«, »torture« and »arbitrary imprisonment« violate this right to freedom of the body.

After the discussion of the »right to bodily life« Bonhoeffer had planned but could not finish a section on »The Natural Rights of the Life of the Spirit«, spirit meaning here, as Clifford Green clarifies, »all aspects of the conscious person – such as mind, intellect, imagination, feeling, judgment, and will.«⁴³

With these different human rights – and their possible violations – in

geworden ist, und sieht sich veranlasst, das Recht anderer Träger natürlichen Lebens zu respektieren und ihm dienlich zu sein.« H. E. Tödt, *Bonhoeffer's theologische Ethik*, 142.

35. DBWE 6, 192.

36. DBWE 6, 206. It is a different matter with the fictitious scenario of the plague having broken out on a ship and the only option of everyone else surviving is the death of the sick. But even there, he leaves the decision open. This scenario could be understood as a hint towards Bonhoeffer's own motives in participating in the coup d'état against Hitler. DBWE 6, 195. Cf. G. H. Stassen, *Human Rights*, in: *Global Dictionary of Theology*, ed. by W. Dyrness and V.-M. Kärkkäinen, Downers Grove/MI 2008, 405-414, 411.

37. DBWE 6, 203.

38. DBWE 6, 206.

39. DBWE 6, 208. Bonhoeffer questions Catholic rigorism that only allows for abstinence. Instead, Bonhoeffer argues for a »right to full bodily communion.«

40. DBWE 6, 212.

41. DBWE 6, 214.

42. DBWE 6, 214.

43. DBWE 6, 217, note 159.

mind, the question arises: is it permissible to fight for one's rights? Bonhoeffer answers this question by first emphasizing that it is »God who stands up for these rights«,⁴⁴ frequently by using life itself.⁴⁵ Contrary to the modern emphasis on the individual, Bonhoeffer employs a timeframe transcending the individual's lifespan, conceding that for some individuals, their rights might never be restored during their lifetime. As to the legitimacy of defending one's own right, he stresses that »[u]nder all circumstances they must defend a right in such a way as to make it credible that God, not the individual, is standing up for the right.«⁴⁶ This cautious phrasing seems in some ways unsatisfactory. Are we not more used to phrases like »stand up and fight for your right«? Notice that Huber and Tödt use a more assertive language, too; they actually speak of a »fight« (*Kampf*) for human rights. Notice also that Bonhoeffer's own biography, especially his participation in the planned coup d'état, points to a more assertive approach as well. Yet Bonhoeffer is in good theological company here, with Luther himself differentiating between asserting (*bekennen*) a right and winning (*gewinnen*) a right and recommending leaving one's rights to God.⁴⁷

Bonhoeffer has furthermore been criticized for a general scepticism towards human rights. Katharina Kunter points to Bonhoeffer's comments on William Paton's work »The Church and the New Order in Europe« (1941).⁴⁸ There Bonhoeffer argues that freedom is »in the first place not an *individual* right but a *responsibility*; freedom is not in the first place oriented toward the individual but toward the neighbour.«⁴⁹ Further »the question of individual freedoms – such as freedom of speech, freedom of the press, freedom of assembly, etc. – can be addressed only within this overarching context.«⁵⁰ From this, Kunter infers that »Dietrich Bonhoeffer had difficulties with human rights.«⁵¹ She portrays Bonhoeffer as adherent of the »radical solution«, overemphasizing the ultimate to the detriment of the penultimate.

44. DBWE 6, 184.

45. »In the end, it is life itself that tends toward the natural and ever again turns against the unnatural and breaks it down.« DBWE 6, 176.

46. DBWE 6, 185.

47. Cf. *The Magnificat*. If it is not possible to »win« one's right, one should leave it to God. M. Luther, *The Magnificat*, in: *The Sermon on the Mount (sermons) and the Magnificat*. Luther's Works 21, St. Louis 1956, 336. Cf. DBWE 6, 185, note 50.

48. K. Kunter, *Vor Freiheit bewahre uns, o Herr!*, in: *Zeitzeichen* (2/2002), 17-19, 17.

49. DBWE 16, 528-533, 532.

50. DBWE 16, 532

51. »Deutschlands Protestanten, auch Dietrich Bonhoeffer, taten sich mit den Menschenrechten schwer« (DBWE 16, 17).

She is mistaken, I think, because Bonhoeffer distances himself explicitly from this. In addition to this, Bonhoeffer had no problem in actually claiming human rights for the church and for Christianity. In »Church and World I«, he writes: »In the hour of danger, the children of the church who had become independent and had run away now returned to their mother. [...] Reason, justice, culture, humanity and other concepts like these sought and found new meaning and new strength in their origin.«⁵² Kunter is right, however, in pointing to the fact that general Protestantism for a long time has taken a critical stance towards human rights, viewing them as a product of the unchristian French Revolution. Wrongly, for – as Glen Stassen emphasizes – »[t]he full concept of human rights was first developed and articulated during the free-church struggle for the right of religious liberty in Puritan England in the 1640s.«⁵³

4. Human Rights in the UDHR and Bonhoeffer – A Comparison

Even though Bonhoeffer is not commonly thought of as one of the precursors of the UDHR, one could argue he might as well be. A comparison of the rights Bonhoeffer discusses with the individual rights included in the UDHR yields quite astounding similarities – even though they each were developed independently. It must be left to conjecture what other rights Bonhoeffer would have included had he been able to finish.⁵⁴

UDHR	Dietrich Bonhoeffer
1. All human beings are born free and equal in dignity and rights . They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.	»a right we are born with« ⁵⁵ »human ›reason‹ is the organ for recognizing the natural« ⁵⁶

52. DBWE 6, 341. The explicit mentioning of human rights is found in an earlier draft: »The newly awakened general and passionate quest for natural law, for basic rights and for human rights, felt itself to be in very close proximity to Christianity« (DBWE 6, 340, note 7).

53. G. H. Stassen, Human Rights, 405.

54. It seems quite reasonable to assume, for example, that rights such as the freedom of religion would have been included in his discussion of the »The Natural Rights of the Life of the Spirit.«

55. DBWE 6, 182.

56. DBWE 6, 174.

UDHR	Dietrich Bonhoeffer
3. Everyone has the right to life, liberty and security of person.	»the right to bodily life« ⁵⁷ »the freedom of bodily life« ⁵⁸
4. No one shall be held in slavery or servitude ; slavery and the slave trade shall be prohibited in all their forms.	»the exploitation of the human body [...] we call [...] human enslavement« ⁵⁹
5. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.	»torture [is] the arbitrary and brute infliction of bodily pain« ⁶⁰
9. No one shall be subjected to arbitrary arrest, detention or exile .	»arbitrarily robbing [...] people of freedom by imprisonment [...] or by arrest« ⁶¹
12. No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence , nor to attacks upon his honour and reputation . Everyone has the right to the protection of the law against such interference or attacks.	»forcibly and unjustly separated from their homes, their work, and their families« ⁶² »deprived of the honor« ⁶³
16. (1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family . They are entitled to equal rights as to marriage , during marriage and at its dissolution. (2) Marriage shall be entered into only with the free and full consent of the intending spouses .	»right to personal choice of a marriage partner« ⁶⁴
17. (1) Everyone has the right to own property alone as well as in association with others. (2) No one shall be arbitrarily deprived of his property.	»the natural right to work and property« ⁶⁵ »forcibly and unjustly separated from their homes« ⁶⁶

57. DBWE 6, 185.

58. DBWE 6, 214.

59. DBWE 6, 215.

60. DBWE 6, 216.

61. DBWE 6, 217.

62. DBWE 6, 217.

63. DBWE 6, 216.

64. DBWE 6, 203.

65. DBWE 6, working note, No. 49 (= DBW 6, Ergänzungsband, 75).

66. DBWE 6, 217.

UDHR	Dietrich Bonhoeffer
18. Everyone has the right to freedom of thought, conscience and religion ; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.	»intellectual violation [geistige Vergewaltigung]« ⁶⁷
19. Everyone has the right to freedom of opinion and expression ; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.	»freedom of speech« ⁶⁸ »intellectual killing of inferior minds« ⁶⁹
20. (1) Everyone has the right to freedom of peaceful assembly and association. (2) No one may be compelled to belong to an association.	»freedom of assembly« ⁷⁰ »right to community« ⁷¹
22. Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality .	»communal order« ⁷² »the natural right of the life of the spirit: [...] culture« ⁷³
23. (1) Everyone has the right to work, to free choice of employment , to just and favourable conditions of work and to protection against unemployment.	»the natural right to work« ⁷⁴

67. DBWE 6, working note, No. 47 (= DBW 6, Ergänzungsband, 74).

68. DBWE 16, 532.

69. DBWE, working note, No. 49 (= DBW 6, Ergänzungsband, 75).

70. DBWE 16, 532.

71. DBWE 6, working note, No. 47 (= DBW 6, Ergänzungsband, 75).

72. DBWE 6, 217.

73. DBWE 6, working note, No. 49 (= DBW 6, Ergänzungsband, 75)

74. DBWE 6, working note, No. 47 (= DBW 6, Ergänzungsband, 75).

UDHR	Dietrich Bonhoeffer
24. Everyone has the right to rest and leisure , including reasonable limitation of working hours and periodic holidays with pay.	»recreation, play« ⁷⁵
25. (1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.	»housing, food, clothing« ⁷⁶
26. (1) Everyone has the right to education . Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit. (2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.	»education [<i>Bildung</i>]« ⁷⁷ »education [<i>Bildung</i>]: working reality as a whole into one's own mind and spirit« ⁷⁸

75. DBWE 6, 186.

76. DBWE 6, 186.

77. DBWE 6, working note, No. 51 (= DBW 6, Ergänzungsband, 76).

78. DBWE 6, working note, No. 51 (= DBW 6, Ergänzungsband, 76).

UDHR	Dietrich Bonhoeffer
<p>27. (1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.</p> <p>(2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.</p>	<p>»community«⁷⁹</p> <p>»giftedness, genius, talent: working reality into artistic [künstlerisch] expression«⁸⁰</p>
<p>28. Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.</p>	<p>»communal order«⁸¹</p>
<p>29. (1) Everyone has duties to the community in which alone the free and full development of his personality is possible.</p> <p>(2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.</p>	<p>»duties spring from the rights themselves«⁸²</p> <p>»freedom is not in the first place oriented toward the individual but toward the neighbour«⁸³</p>

I will close by briefly offering some reflections on Bonhoeffer's theological foundation of human rights in the light of other, secular foundations.

5. A Theological Foundation for Secular Human Rights?

Human rights are both in need of foundations and open to them, as the political scientist Anton Pelinka points out.⁸⁴ They belong – in the sense of

79. DBWE 6, working note, No. 47 (= DBW 6, Ergänzungsband, 75).

80. DBWE 6, working note, No. 51 (= DBW 6, Ergänzungsband, 76).

81. DBWE 6, 217.

82. DBWE 6, 180.

83. DBWE 16, 532.

84. »Menschenrechte sind begründungsbedürftig und begründungsoffen.« Weltethos und Recht, ed. by A. Pelinka, Berlin 2011, 211.

the Böckenförde-Diktum⁸⁵ – to the realm of those premises that the modern constitutional state depends on yet cannot give to itself. They therefore cannot be grounded solely in the socio-political context, but rather require a different rationale. This is what Pelinka means by »in need of foundations« (*begründungsbedürftig*). The plurality of modern constitutional democracies in matters of religion and world-views resists any one absolute grounding of human rights, but rather calls for a variety of approaches, thereby reflecting the neutrality of the state as well as societal pluralism. This is meant by the rights' »openness to foundations« (*begründungsoffen*). Pointing to the justified scepticism towards an optimism of reason, especially in light of the experiences of the 20th century, Pelinka argues that it is not only possible and valid to also offer a theological grounding for human rights, it can provide a deeper grounding than a mere secular rationale could.⁸⁶

While a theological grounding of human rights might therefore be deemed legitimate in principle, it is a different question if or in how far it is communicable to other, non-theological approaches. In Bonhoeffer's case, I think, such a connection is possible.

Bonhoeffer wrote from a decidedly theological stance. His ultimate foundation of human rights in the penultimate and the ultimate is explicitly theological and difficult to communicate on non-theological grounds. Yet within the course of his argument, there is a lot that seems very accessible from a non-theological point of view, especially Bonhoeffer's emphasis on reason as the organ for recognizing the content of the natural. While for Bonhoeffer himself there is always a deeper theological layer, reason often must suffice: »The *sum cuique* is the highest possible recognition of reason, which corresponds to reality and, within natural life, discerns the right that God (whom reason does not know) gives to the individual.«⁸⁷ This accounts for the fact that in his line of reasoning, Bonhoeffer always strives to provide a theological as well as a non-theological dimension of his argument. This is close to being what Christiane Tietz would call »bilingual«.⁸⁸

85. »Der freiheitliche, säkularisierte Staat lebt von Voraussetzungen, die er selbst nicht garantieren kann.« E.-W. Böckenförde, *Staat, Gesellschaft, Freiheit. Studien zur Staatstheorie und zum Verfassungsrecht*, Berlin 1976, 60.

86. »So ist es nicht nur möglich und zulässig, die Menschenrechte (auch) theologisch zu begründen, es kann sogar gegenüber einer rein säkularen Herleitung eine tiefere Fundierung bedeuten.« A. Pelinka, *Weltethos und Recht*, 212.

87. DBWE 6, 184.

88. For Tietz' call for bilingualness and the »translation« of religiously ground ethical arguments into publicly understood language based on reason cf. C. Tietz,

Theological and non-theological arguments should not be viewed as standing in opposition to each other in Bonhoeffer's grounding of human rights; rather, they are two dimensions of one argument. As Tödt concludes: »Because Bonhoeffer recovered the concept of the natural from the gospel, he made it possible to relate discourse based on nature and reason to theological statements«, thereby »creating a level of discourse with all, who opposed the destructive in reality with insights of relative reason and acceptance of life.«⁸⁹

Abstract

Due to his early, violent death in 1945, Dietrich Bonhoeffer never witnessed the adoption of the Universal Declaration of Human Rights (UDHR) by the United Nations in 1948. Though Bonhoeffer is rarely directly associated with the precursors of this declaration, this paper argues that he might as well be. For he presents »the first theological-ethical doctrine of basic human rights developed by a twentieth-century German Protestant theologian.« Bonhoeffer's concept of human rights is traced in four subsequent steps: First, his concept of human rights is firmly grounded within his understanding of the ultimate and the penultimate. This is followed, secondly, by the development of concrete human rights that Bonhoeffer expounds, such as the right to bodily life. A third part connects the human rights Bonhoeffer develops to their equivalents in the UDHR. And finally, some thoughts are offered on the connectivity of Bonhoeffer's decidedly theological grounding of human rights with non-theological approaches.

»... mit anderen Worten ... Zur Übersetzbarkeit religiöser Überzeugungen in politischen Diskursen,« in: *Evangelische Theologie* (72/2012), 86-100, 98.

89. H. E. Tödt, *Bonhoeffer's theologische Ethik*, 144 f.