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A Nuclear Just War?
**Reflections on the main ethical issues
posed by nuclear weapons**

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9 January 2019

Isodarco





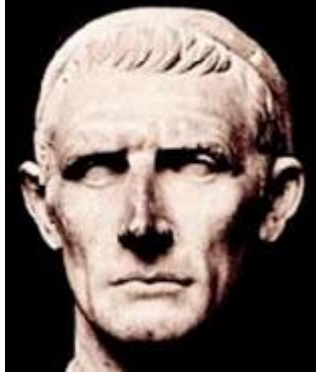
How to overcome the "desire for war", which inexplicably passes through the history of humanity?

The killing of Abel by Cain.
From the mosaic floor of the cathedral of Otranto

Origin of the expression «just war»

Roman Empire	753 BC - 476 AD
Age of kings:	from 753 BC - to 509 BC
Republican age:	from 509 BC - to 31 BC
Imperial age:	from 31 BC - to 476 AD

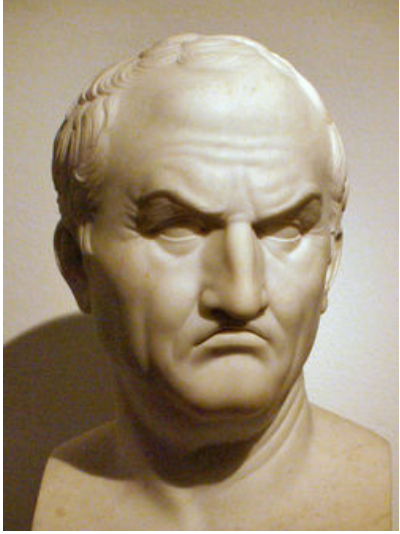
- We find traces of the just war in the republican-imperial era.
- For the ancient Romans, everything happened if it was desired by the gods, even victory and defeat.
- There were sacred religious-legal rituals to be respected during the war, which was called "*Duellum*", and later "*Bellum*", from *Bellona*, the name of the war goddess of Roman mythology.



The historian **Titus Livius** (59 BC - 17 AD) handed down to us the ancient form for the declaration of war, preceded by the invocation to the Gods as witnesses and avengers of violations and by granting a range of 33 days to the attackers for the "return" of what had been unjustly removed and the repair of the transgression.

Either if the offense was not repaired or if Rome did not feel satisfied with the enemy's offer, then it was war.

So the just, legitimate war was the one fought as an act of reparation for a wrong received. It was needed to have justice



According to **Marcus Tullius Cicero** (106 BC - 43 BC), considered the theoretician of *Bellum Iustum*, the *just war* concerned the armed conflicts between the Romans and other peoples, **within the norms of international relations**.

War was **the mean to achieve peace**, but it was legitimate on condition that it was sanctioned by the "Roman people", to demand a reparation

War was to be previously announced and declared.

The right causes were those provided for by law.

The just war differed from the struggle for supremacy.



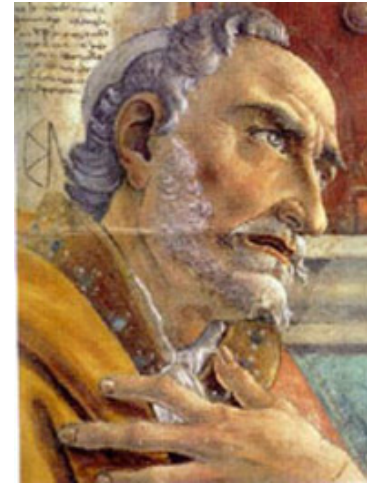
While for the **barbarians** war was a simple demonstration of greater strength and will to conquer, for the **Romans** there existed a right within which to exercise the force of war.





Having said this we must say that in fact things for the Romans did not always go that way, that both the wars of expansion, as well as the "just" ones, were not done exactly for the reparation of justice.

Christian doctrine starting from **Augustine** (354-430) and **Thomas Aquinas** (1225-1274).



For a war to be right, three things are required.

- Whoever orders the war is constituted in authority.
- There is a just cause: that is, a fault on the part of those against whom the war is waged.
- The intention of those who fight is right: that is aimed at promoting (maintaining, re-establishing) good and avoiding evil.
 - The war can only serve to repress the wicked and rescue the good.
 - It is despicable: the desire to harm, the cruelty in revenge, the implacable outrage, the ferocity in warring, the urge to overwhelm and other things like that.

Today

- The **expression of "just war"**, which comes from the Roman-pagan juridical culture of republican-imperial time, remained unchanged until the twentieth century, but in fact has undergone variations in its content.
- From the **juridical perspective** of the Romans, it took a different perspective with Augustine, meaning it assumed an **ethic perspective**, being just only if needed to **achieve peace**, and bearing in mind that one must answer to **his conscience** for his actions
- **Can the term "just war" still be used today?**
- And can it also be used in the light of modern armaments, particularly with the **use of nuclear weapons?**

- Speaking of **just war**, today gives space to an **ambiguity**, that is, not previously putting in evidence **that the conflict between people is still the result of sin**, towards which every man is tempted, **remaining free to reject and accept it**, it would seem that a type of war can be considered a pure act of virtue.
- But it is not like that.
- At the time of Augustine and Thomas Aquinas there was not this danger of equivocation, the awareness that the human being **had to deal with the reality of original sin** and with its consequences within him **was clear**.
- It was clear to everybody that **any division and discord** was due to an **evil logic**, in the etymological meaning of division, in opposition to the symbolic logic that **“brings together”**.
- Today **our cultural and religious context has changed completely**. This does not allow us to grasp the sense of a reality with the same verbal expressions. Hence they too must be changed. It is what happened also for the expression **“just war”**.
- Let’s add that even the understanding of both the human mystery and of the Reveiling, progressed

Back to the question:

Can we still talk about “just war” even in light of modern weapons, and in particular with the use of nuclear weapons?

Pius XII

- Already Pius XII in the Allocution *In the desolation* of March 12, 1944, condemned the aerial bombardments of cities that were inhabited by civilians, as a cruel method of struggle, thus giving a negative moral judgment: "Each of the cities affected, in almost all continents , from an air war that knows no laws or brakes, it is already a terrible indictment against the cruelty of such methods of struggle ".



John XXIII

- John XXIII in his encyclical letter *Pacem in terris* (11 April 1963), stated that "**It is contrary to reason** (alienum est a ratione) to think that, in the atomic age, war can be used as an instrument of justice"



Second Vatican Council of the Catholic Church (1962-1965)

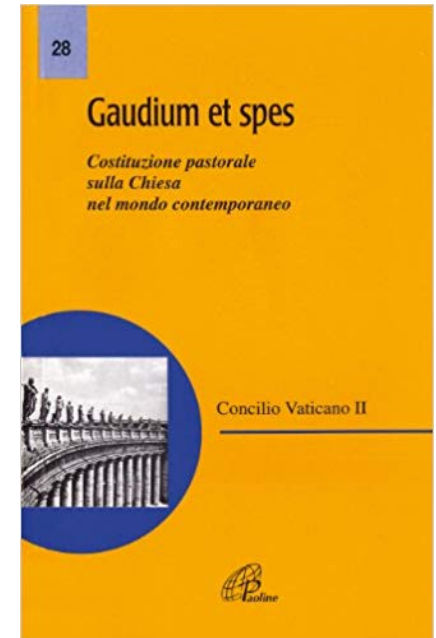
Apostolic Constitution *Gaudium et Spes*, in Chapter V, entitled "The promotion of peace the community of nations",

- number 77 **condemns war as an inhuman act**: "Thus illustrating the true and noble conception of peace, the Council condemned the inhumanity of war"
- number 79 **prescribes the duty to mitigate the inhumanity of the war** classifying it as a "state of degradation of humanity"
- number 81 **it describes it as a slavery**: "Divine Providence demands of us insistently that we free ourselves from the ancient slavery of war".



Second Vatican Council of the Catholic Church, Apostolic Constitution *Gaudium et spes*

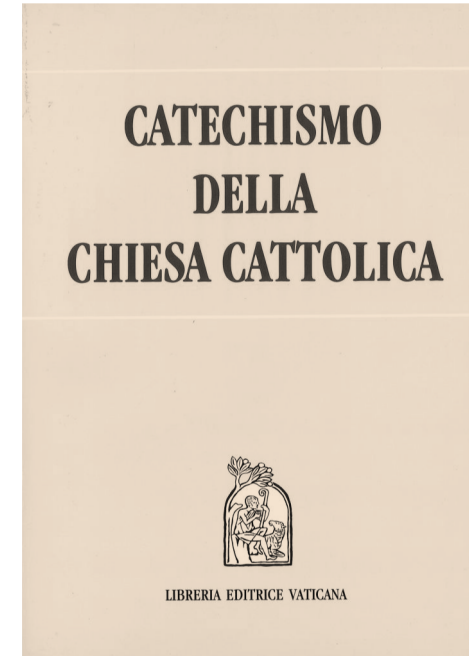
- Today we speak of **legitimate defense of the states that are attacked**.
- However, war is always a failure, and can be used, with all the painful consequences, as a containment of a greater evil, knowing that it has negative consequences in all, aggressors and defenders.
- **The Council does not mention nuclear weapons, but puts them within the more general expression of "scientific weapons"**.



The Catechism of the Catholic Church

by John Paul II (1992)

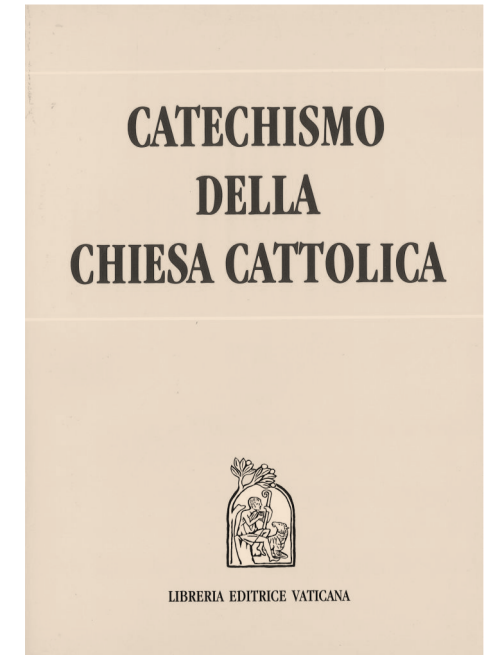
- number 2309 recalls the traditional elements of the so-called "just war", within what it calls "**legitimate defense by military force**", saying that it has moral legitimacy, if at the same time certain conditions are met.
- number 2314 implicitly **includes atomic weapons** within what are called "scientific weapons", together with biological or chemical weapons.
- “ 'Every act of war with the goal of destruction of entire cities, or vast regions, and of their inhabitants, **is a crime against god and humanity, and must be firmly condemned**'. A risk of modern war is to offer occasions to perpetrate such crimes to whom detain such scientific weapons, in particular atomic, biological or chemical ”



The Catechism of the Catholic Church, n.2309:

Four are the Conditions of the Legitimate Defense of States:

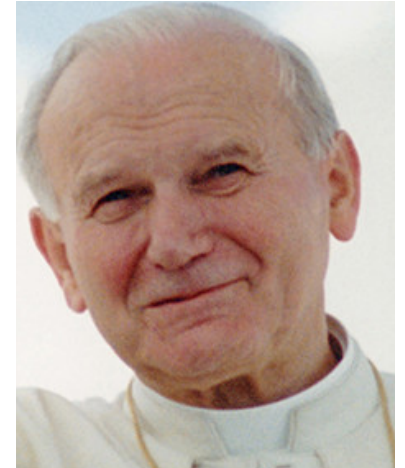
- 1) **The harm caused** by the aggressor to the nation or to the community of nations is **lasting, serious and certain**;
- 2) All **other means** to end it have proved to be **impractical or ineffective**;
- 3) There are **good condition for success**;
- 4) The use of weapons **does not cause evils and disorders more serious** than the evil to be eliminated. In the evaluation of this condition **the power of modern means of destruction has a great weight.**



John Paul II

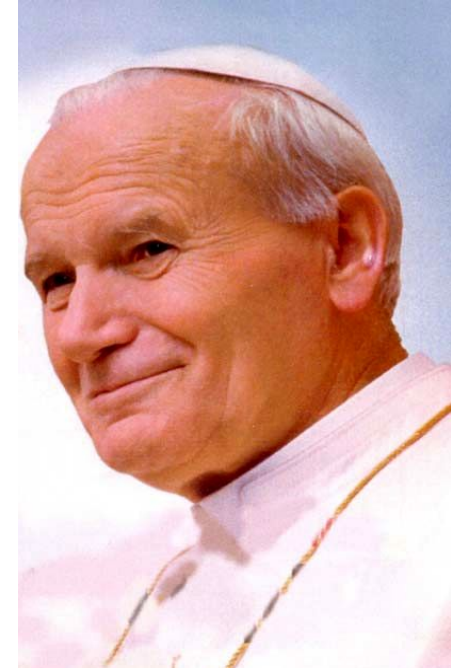
In his *Message to the Second Special Session of the United Nations for Disarmament*, on 7 June 1982, he pronounced it in a prudential manner:

" **Under the current conditions**, a dissuasion based on equilibrium can still be judged as **morally acceptable**, **not as a state permanent of things**, but only as **a stage on the path of progressive balanced disarmament**, simultaneous and internationally controlled".



John Paul II

- His statements from 1982 happens after his speech to the UN on 2 October 1979, in which he said that:
- **It can not yet be believed that the vertiginous spiral of armaments serves the peace of the world.**
- By citing the threat of a potential enemy, **it is thought instead of reserving a means of threat to obtain the upper hand with the help of his own arsenal of destruction.**
- With the growth of armaments, the human dimension of peace tends to vanish in favour of possible, always **new imperialisms.**



Pope Francis

- **On December 7, 2014, Pope Francis** sent a Message on the occasion of the ***Third Conference on the Humanitarian Impact of Nuclear Weapons*** (HINW), held on December 8 and 9, 2014 in Vienna, saying that **"a world without nuclear weapons is really possible and should be banned forever"**.



The 24 May 2015 he has published the **Encyclical Laudato si'**. In it he writes that it is foreseeable that, faced with the exhaustion of some resources, one should create **a favorable scenario for new wars, disguised with noble demands**. The war always causes serious damage to the environment and the cultural wealth of the peoples, and **the risks become enormous when we think of nuclear weapons**, and biological ones that, despite being prohibited by international agreements, are the subject of research for the development of new offensive weapons.

Politics is asked to pay greater attention to prevent and resolve the causes that can give rise to new conflicts and above all **it is asked to the power connected with finance, which is the most resistant to this effort**.

Humanity has never had so much power over itself, and nothing guarantees that it will use it well, as happened with the use of atomic bombs launched in the twentieth century, **because the immense technological growth has not been accompanied by a development of the human being about responsibility, values, conscience, a solid ethic, a culture and a spirituality that give it a limit and contain it within a lucid domain of self**.



- On November 10, 2017 in a speech to the participants of the Symposium "***Perspectives for a world free from nuclear weapons and for an integral disarmament***", organized by the Holy See, Pope Francis recalled how at the UN, the majority of the members of the International Community established that **nuclear weapons** are not only **immoral** but must also be considered an **illegitimate instrument of war**.

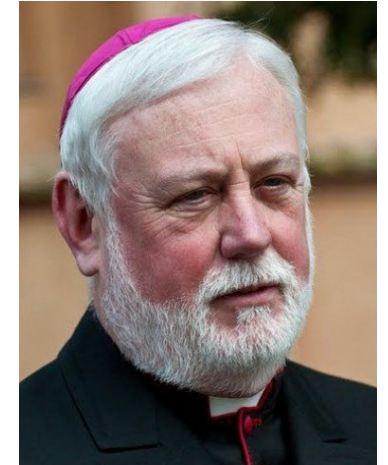


The Pope has also substantially added that it is to be **firmly condemned**

- not just **use**
- but also **the threat of use**
- and even **the sole possession of nuclear weapons** because their existence is functional to a logic of fear that does not concern only the parties in conflict, but the entire human race.

Treaty on the Prohibition of Nuclear Weapons

- On **September 20, 2017**, at the United Nations Building in New York, H.E. Msgr. **Paul Richard Gallagher**, Secretary for Relations with States, **signed for the Holy See**, also in the name and on behalf of the Vatican City State, **the *Treaty on the Prohibition of Nuclear Weapons***, **adopted on 7 July 2017** at the end of the United Nations Conference, aimed at negotiating a legally binding instrument to prohibit nuclear weapons.
- The Holy See continues with its diplomatic relations a work of sensitization of the other States.



On September 17, 2018 the Holy See issued a Declaration to the 62nd General Conference of the International Atomic Energy, in which it pronounced for the global ban of nuclear tests, which release radioactive materials into the environment, and for the nuclear disarmament, reminding that the natural environment it is a collective good, the heritage of all humanity and under the responsibility of all, and that nuclear weapons are weapons of destruction of both mass and the environment.

The Holy See has also reaffirmed that the arms race subtract, irresponsibly, resources that should be committed to actions needed to fight poverty, solidarity, cooperative security, the promotion of peace, an appeal to all leaders and nations for an integral human development sustainable, fostering global and lasting peace.



The diplomatic action of the Holy See

- **On January 7, 2019** Pope Francis in his *Discourse to the members of the Diplomatic Corps accredited to the Holy See on the occasion of the wishes for the new year*, reiterated the fundamental role of the **Universal Declaration of Human Rights, having a universal, objective and rational character**, for the achievement of social justice and the fraternity of peoples.
- He then firmly reiterated to the diplomats the firm **condemnation of the threat, use and possession of nuclear weapons**, adding that international relations can not be dominated by military force, by mutual intimidation, by the ostentation of war arsenals.
- **Weapons of mass destruction, especially atomic weapons**, give nothing but a deceptive **sense of security** and can not be the basis of peaceful coexistence among the members of the human family, which must instead be inspired by an **ethic of solidarity**.



*The Humanization of Robots and
the Robotization of the Human Person*

*Ethical Reflections on Lethal Autonomous Weapons Systems
and Augmented Soldiers*



Regarding the topic on **new technologies that could influence the risk of nuclear war**, such as the weapons that employ artificial intelligence, it is useful to read this study, which is not an official document of the Holy See.

Today there is a heated debate on the subject of **artificial intelligence** and even more so of artificial super-intelligence, if it is possible to enter in addition to numerical values also **ethical values**.

I leave this subject on another occasion

Returning to the ethical reflection

- Now I come back to the title of my speech, “**Reflections on the main ethical issues posed by nuclear weapons**”, **focusing deeper into the ethical theme, looking for its foundation**, to ensure that our meeting is not just informative, but **can give elements for a constructive path for those who are very committed to disarmament and peace.**

Benedetto XV (1854-1922), Pope from 1914 to 1922.

- It is useful to remember what **Benedict XV (1854-1922)** said in the Apostolic Exhortation **Dès le début** (1917), where he lists four cornerstones to get out of the suicidal madness of war and to achieve a "**just peace**" and lasting:
 1. The material force of arms must be replaced by the **moral force of law**;
 2. We must reach a just agreement of all in the **simultaneous and mutual reduction of armaments**, keeping only what is needed for public order in the individual States;
 3. In place of arms, for international issues **an "arbitration" organ with a high pacifying function must be established**, capable of sanctioning the State that refuses to be judged or to accept its decision.
 4. Every obstacle to freedom in the use of communication routes and seas should be removed, **to foster exchanges and to open up new sources of prosperity and progress to all**.
- **The Pope depletes the war that breaks out solely for economic reasons**, urges the parties in conflict to **renounce the damage of war** (which was a motive for "just war" for the romans) and calls the war in progress "**a useless massacre**".
- Note the expression "just peace", in contrast to the "just war", and as the words of the Pope anticipated, and perhaps directed, the constitution of the League of Nations (1919) and the UN (1945).

- **Pius XI (1857-1939)**, Pope from 1922 to 1939.
- It should be remembered how Pius XI firmly opposed Nazism.
- In the encyclical *Mit Brennender sorge* in 1937, **in the light of natural law** he foils what Hitler erroneously defined as "natural law" borrowing it from Nietzsche, i.e. that the masses obeyed the leaders, and that the inferior races were subservient to the superior ones, (all things already hypothesized in the antiquity and in an argumentative manner refuted in the Gorgia of Plato, of 386 BC) and as therefore the Aryan race of the Germans had the right-duty to the dominion of the peoples.
- The Pope writes: "**Human laws, which are incompatible with natural law, are affected by an original defect, which can not be remedied either by the constraints or by the deployment of external force.** According to this criterion the principle "*Law is what is useful to the nation*" must be judged. This principle, detached from the ethical law, would mean, as regards international life, an eternal state of war between nations; in national life then he misunderstood, in confusing 'interest' and 'law' ".

Walking towards peace, building peace.

The **Church** constantly questioned about war looks towards Peace, a Peace that can only be preserved:

- 1) Considering **a global ethic**, as included with the Universal Declaration of Human Rights (UDHR).
- 2) **Building sincere and trustful relationships among States**
- 3) **Developing supranational bodies (UN)** that with real powers over States require **disarmament** and commitment to the **development of all peoples** and nations, and **respect for the environment**.



Is a global ethic possible?

The Church is convinced that it's possible, starting from listening to the **natural moral law that every man finds within himself**, and correctly exposed by the philosophical reflection of Thomas Aquinas (S.Th. I-II, q.94).

The main texts of the Popes of the 20th and 21st centuries that cite the natural moral law regarding peace:

- **Pius XII** – Encyclical letter, *Summi pontificatus* (20 October 1939)
- **John XIII** – Encyclical letter, *Pacem in Terris* (11 April 1963)
- **Paul VI** – Message to UN delegates for disarmament (24 May 1978)
- **John Paul II** – Message to the UN General Assembly, 50th anniversary (5 October 1995)
- **Benedict XVI**
 - Message for the World Day of Peace 2006
 - Message for the World Day of Peace 2007
 - Message to the UN Assembly (18 April 2008)
- **Francis**
 - Message to the Conference on the humanitarian impact of nuclear weapons (7 December 2014)
 - Speech at the US Congress (24 September 2015)
 - Message to the UN General Assembly (25 September 2015)
 - UN Conference on the Prohibition of Nuclear Weapons (23 March 2017)
 - Speech at the Holy See Conference for a world free from nuclear weapons and an integral disarmament (10 November 2017)
 - Speech to the Diplomatic Corps accredited to the Holy See (7 January, 2019)

Some statements by the Popes concerning the natural moral law:

Pius XII: The deep and ultimate root of the evils that modern society experiences is the denial and rejection of a universal norm of morality.

John XIII: Men have in them carved a moral order that conscience reveals and which peremptorily enjoins to follow.

Paul VI: Everyone must recognize the fundamental requirements of the moral law that is present in the hearts of men and must regulate their mutual relations on the basis of truth, justice and love.

John Paul II: Universal human rights are rooted in the nature of the person, with the objective and unavoidable needs of a universal moral law.

Benedict XVI: Human rights are based on the natural law inscribed in the heart of man and present in different cultures and civilizations.

Francis: It must be recognized that there is a moral law inscribed in the same human nature.

The natural moral law

That there is a common **human nature** and a **natural moral law**, is confirmed by the common **experience of every man** and the **convergence of the wisdoms and religions of the world**.

One example is the so-called **Golden Rule**:

"Do not do to anyone what you do not want done to you" found in the *Book of Tobia* (4,15) of the Bible, and which is found under a form or another, in most religious traditions and the wisdom of civilizations.



"Know yourself"
(Portal of the Temple of Apollo at Delphi, 4th century BC)



Examples of religions and knowledge of the world *:

Hinduism (about 900 BC)

- In the fundamental doctrines of the *Upanishads*, secret commentaries of the Vedas: "I will tell you what is the essence of the greatest good of the human being. The man who practices the religion (*dharma*) of the universal non-harming (*ahimsā*) acquires the greatest Good. (...) **He will not do to others what is considered harmful to himself**" (Mahābhārata, Anusasana parva, 113.3-9).



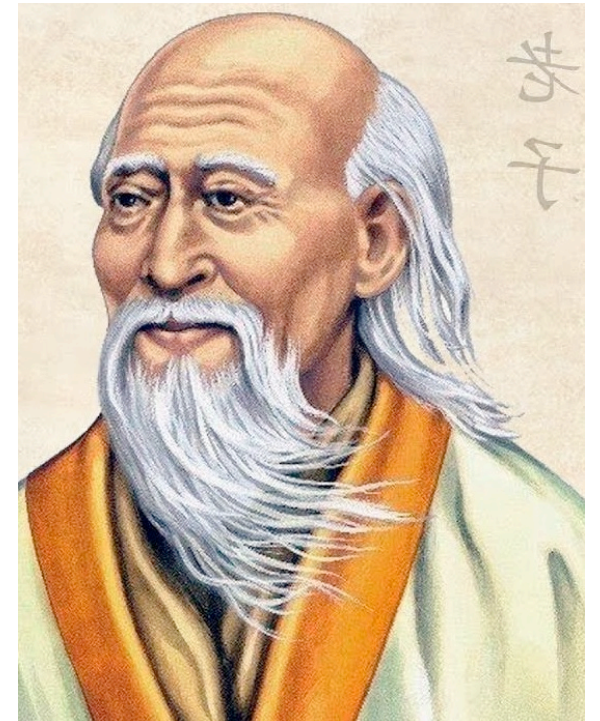
Buddhism (6th century BC)

- On the ethical level, favorable actions can be summarized in the five precepts (*śīla*, *sīla*):
 - 1) **do not harm living beings and do not take life away;**
 - 2) do not take what is not given;
 - 3) do not have an incorrect sexual conduct;
 - 4) do not use false or untruthful words;
 - 5) do not ingest intoxicants that diminish self-control.
- More deeply with **benevolence and compassion**, it arises in the perspective of the golden rule.



Taoism (China, 6th century BC)

- According to *Laozi* or *Lao-Tse*, the *Via* or *Dào* is the primordial principle, immanent to the whole universe, and **the search for harmony with nature, indissociably material and spiritual, is at the heart of Taoist ethics.**



Confucianism (China, 5th century BC)

- For Confucius (571-479 BC) social relations are modeled on family relationships. The ideal to be reached is "*ren*", the perfect virtue of humanity, made of self-control and benevolence towards others. «Is "meekness" (*shù*) not the key word? **What you would not want done to you, do not inflict it on others.**" The practice of this rule indicates the way of Heaven (*Tiān Dào*). (Confucius, Dialogues XV, 23)



Greek-Roman culture (5th century BC)

- The idea that there is a natural law is already found in classical Greek culture with the exemplary figure of Antigone, the daughter of Oedipus, who, to fulfill the duty of piety to his dead brother, **against the prohibition of burial pronounced by King Creon he appeals «to unwritten and immutable laws»** (Antigone, vv. 450-457).



Plato and Aristotle (4th century BC)

- Plato and Aristotle take up the distinction made by the Sophists among **the laws that originate in a convention**, that is, a pure positive decision (thesis), and **those that are valid "by nature"**. The former are neither eternal nor valid in a general way and do not oblige everyone. The latter oblige everyone, always and everywhere (Aristotele, *Retorica*, I, XIII, 2 (1373 b 4-11)).



Stoicism (3rd century BC)

- In **Stoicism**, natural law is the key concept of a universalist ethic. It is good and must be fulfilled that which corresponds to nature, understood in a psycho-biological sense and at the same time rational (Cf., Seneca, *De vita beata*, VIII, 1). .
- This imperative **presupposes that there exists an eternal law**, a divine Logos, which is present in the cosmos, impregnating it with rationality, and in human reason.
- Thus, according to Cicero, the law is "**the supreme reason inserted in nature that commands what must be done and forbids us to do the opposite**" (Cicerone, *De legibus*, I, VI, 18).



Judaism (1800 BC)

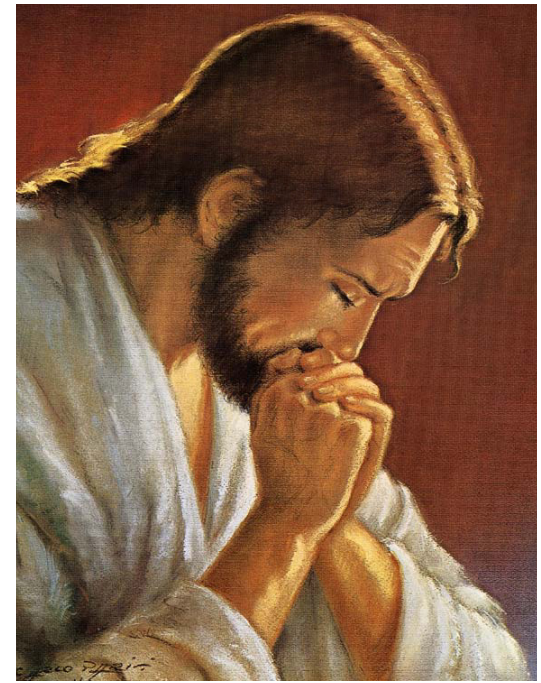
- The Law of Sinai, of which the **"Ten Words"** constitute the center, is an essential element of the religious experience of Israel, **but also applies to other peoples, so much so that God asks for foreign nations that violate justice and law.**
- There is a correct, "wise" way of leading life and the universal law is **"Do not do to anyone what you do not want done to you"** (Tb 4:15).



Christianity

Jesus Christ preached merciful love of God, conversion and a free response of love to God and to the brothers.

- To the negative formulation of the Old Testament golden rule: "**Do not do to anyone what you do not want done to you**" (Tb 4,15), adds the positive part: "**Everything you want men to do to you, you also do to them**" (Mt 7,12).
- St. Paul affirms the existence of a moral law inscribed in the interiority of all human beings, which allows us to discern from ourselves good and evil (Rm 2, 14-15).
- The theologians of the sixteenth century (e.g. the Dominican Francesco de Vitoria), have challenged the imperialist ideology of some States of Europe by resorting to the natural law to defend the rights of non-Christian peoples of America, and have laid the foundations of International law, which regulates the relations of peoples and states among them.





Islam (7th century AD)

Muslim ethics is fundamentally a moral of obedience (Islam means *submission*) to God.

In the ninth century (three centuries after Muhammad), the **mou'tazilite school** proclaimed the idea that **some behaviors are good or bad in themselves, before the divine law that commands or forbids them.**

According to them, **man spontaneously knows that injustice or lies are bad**, and that it is obligatory to repay a loan, remove damage from oneself, or show gratitude to one's benefactors, the first of which is God.

The world wars of the twentieth century

World War I

More than 15 million dead and more than 20 million injured and disabled, both military and civilian.

- Rapes and devastations, widows, orphans.
- Furthermore, the pandemic of *Spanish influenza* favored by the degradation caused by the war, which has counted more than 10 million deaths, a disease that has hit above all soldiers and young people between 18 and 40 years.



The painting reproduced on the cover of the documented book by Laura Spinney was made by Egon Schiele, who portrays him with his wife and their expected son who would be born, if the «Spanish» had not killed his wife in the sixth month of pregnancy and after three days him too.

The world wars of the twentieth century

Second World War

- In the Second World War, **48 million soldiers and more than 20 million civilians were killed, to which 56 million were wounded and disabled, both military and civilian.**
- Among the tragedies caused by the war must be added the rape of women, refugees, tragedies of mourning and widows, orphans (it is estimated that in Poland there were 1 million orphans, in Greece 1 child out of 8 remained without parents about 10 million children have been at least temporarily abandoned or lost by their parents) and then the devastation of the cities and villages must be counted.



How was it possible?

The French Revolution (1789-1799)

had made great promises with her motto:
«**Freedom, equality and fraternity**».



I do not know how much **freedom and equality** have triumphed, but certainly "**fraternity**" has not borne fruit.

Why?

The Universal Declaration of Human Rights (10 December 1948)

- In the Preamble of the Declaration the "dignity" of the human being as a human person, his unique value and the need for respect and the inviolability of his rights are universally recognized.
- The votes of the 56 UN members States were divided as follows:
 - **48 votes in favor, 0 against and 8 abstentions**
- The **abstentions** were: Belarus, Czechoslovakia, Poland, Ukraine, Union of Soviet Socialist Republics, Yugoslavia, South Africa and Saudi Arabia.
- The **supporters** were : Afghanistan, Argentina, Australia, Belgium, Bolivia, Brazil, Burma, Canada, Chile, China, Colombia, Costa Rica, Cuba, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, France, Greece, Guatemala, Haiti, Iceland , India, Iran, Iraq, Lebanon, Liberia, Luxembourg, Mexico, Netherlands, New Zealand, Nicaragua, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Thailand, Sweden, Syria, Turkey, United Kingdom, United States, Uruguay and Venezuela.
- This means that the Declaration, albeit with the abstentions, was indirectly approved unanimously, because: South Africa had in fact just brought to the government the Nationalist Party that forced apartheid and could not contradict itself so blatantly; the Kingdom of Saudi Arabia had internal legislation that would have been destabilized; the Soviet Union with the satellite states to which it imposed its policy, at that time under the dictatorship of Stalin, could veto not participating in the vote, and instead did not oppose it, and refraining it has indirectly approved it.



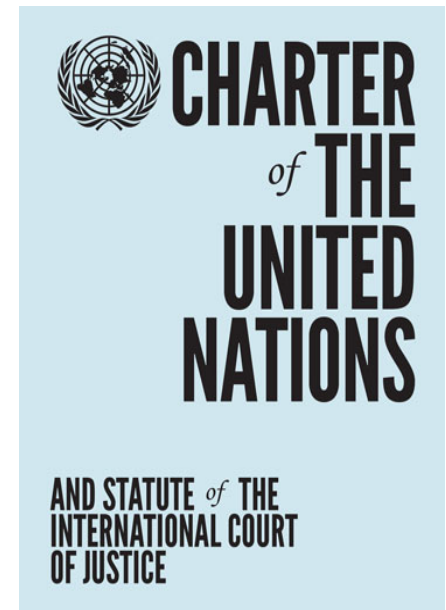
How was everyone's agreement possible?

The Universal Declaration of Human Rights:

- "Considering that the recognition of the inherent dignity of **all the members** of the **human family** and of their **rights, equal and inalienable**, constitutes the foundation of freedom, justice and peace in the world ..." (Preamble);
- "All people are born free and equal in dignity and rights. They are endowed with reason of conscience and **must act towards one another in a spirit of brotherhood**" (Art. 1).

The UN Statute:

- Practicing tolerance and living in peace with one another in **good neighborly relations** (Premise)
- **Develop friendly relations between nations** (Articles 1; 14; 55)
Rights are considered in terms of **fundamental rights** and **equality of rights**
- The Universal Declaration of Human Rights has **completed** the process begun with the Statute in 1945.



- The important architect of the approved document was **Jacques Maritain**, with the Report he held for UNESCO in 1947 in Mexico City in view of the UN declaration.
- It is around his words that it has realized **the harmony, sharing and approval of common work.**
- In 1948 he was called to collaborate in the drafting of the UN Declaration, and it was his personalist practical positions, which were the point of agreement of all Member States.



Jacques Maritain (1882 - 1973),
Biologist, Philosopher,
Ambassador of France to the
Holy See from 1945 to 1948

Maritain writes in his book *The Man and the State*, which presents six important conferences that he held in Chicago at the Charles R. Walgreen Foundation for the Study of American Institutions, in December 1949 (one year after the promulgation of the Charter of Fundamental Rights of man), as if to offer a key to the reading of the Declaration:

"During the rationalist epoch the jurists and the philosophers, who for conservative purposes, who for revolutionary purposes, abused in this way the notion of natural law, they invoked it in such a simplistic and arbitrary way, that it is difficult to use it today without arousing the mistrust and suspicion of many of our contemporaries. However, they should realize that **the history of human rights is linked to the history of natural law and that the discredit posed by positivism for a certain time on the idea of natural law has led to a level of discredit even for the idea of human rights**".



How was everyone's agreement possible?



In the Presentation of the book published by UNESCO in 1952, Maritain writes: “at a meeting of a national commission of UNESCO, which discussed the rights of man, someone was surprised that they all agreed to formulate the presence of rights, given the presence of violently adverse ideologies. The answer was: **we agree on these rights, but on condition that you do not ask why. Otherwise it means the beginning of the dispute**". (Cf pag. 12)



«LE COURRIER»
The UNESCO newspaper
February 1948 reporting
Maritain's speech

Maritain composed the list of human rights starting from the «Natural moral law»

The Natural Law

- **Some types of ethical behavior** when they are recognized by most cultures, by great religious traditions and by moral wisdom, as an **expression of a perfect way of living and realizing one's own humanity**, manifest the broad lines of a properly moral ideal of a life « according to nature », that is, conforming to the profound dimension of every human being, who, although impregnated by the specific culture in which he is immersed and influenced, is not however determined.
- Man progressively recognizes in himself certain ways of behaving and thinking as the best values to be pursued, laws to be observed, examples to be imitated, visions of the world to be welcomed.

* Cf. International Theological Commission, In search of a universal ethic. New look at the natural law, 2009, 43 and ss.

Moral experience: "We must do well"

- **All people** who accesses the **conscience** experiences an **interior call to do well**.
- Man discovers that he is a moral creature, capable of **perceiving and expressing** the inwardness (that is found in all cultures): "**We must do well and avoid evil**".
 - **On this precept all the other precepts of the natural law are founded.**
 - This first precept is known **naturally, immediately**, with practical reason.
 - It is the equivalent of the "**principle of non-contradiction**" of **speculative reason**: "it is not possible at the same time and under the same aspect, affirm and deny the same thing".
- Traditionally, this knowledge of the **first principle** of moral life is attributed to an **innate intellectual disposition** which is called *sinderesi*.

- **The natural moral obligation** that the subject recognizes does not come from a law that would be external to him (pure heteronomy), **it is a law that starts from himself**, is an orientation of practical reason that indicates to the **subject what kind of action is in conformity with the innate and necessary dynamism of his being that tends to its full realization and to happiness.**
- **This law is normative by virtue of an internal need**, born from the very interiority of our being **as an invitation** to the realization and the overcoming of oneself.
- Therefore it is not a matter of submitting to the law of another, but of accepting the law of one's own being.

- The **recognition of the fundamental laws** that must regulate human action, based on this natural moral structure, does not consist in an abstract conceptualization, but rather in the **immediate, vital perception**, based on the connaturality of human interiority with those laws that are perceived as values.
- It is an acquisition that has the depth of immediacy and which is experienced in a simple and common way by everyone.
- The person becomes aware of the fundamental inclinations of his nature, and expresses to himself a certain number of very general precepts that are common to all human beings.

Three sets of dynamisms

- Traditionally there are **three great sets of natural dynamisms** that act in the human creature.

The **first: the inclination to preserve and develop own existence**

- it is common with every substantial creature.

The **second: the inclination to reproduce to perpetuate the species**

- common to all living creatures.

The **third: the inclination to live in society, to know the truth about themselves and their origins (and therefore the question is asked about God).**

- it is precisely and exclusively of rational creature

- Starting from these inclinations, **the precepts of the natural law can be formulated.**

- **These precepts** are very general, but form a **first substratum** that underlies all the reflection on the good to be practiced and on the evil to be avoided.
- On this basis of the natural experience of man, **reason determines which are the concrete moral goods** capable of realizing the person, and thus formulates the **second precepts**, which are capable of guiding his actions.
- In this new stage, the knowledge of moral good proceeds because of a very simple reasoning: it is sufficient a limited experience of life and it is within the reach of the intellectual possibilities of each.

First precept of the natural law

- **The first inclination: the inclination to preserve and develop own existence.**
 - In living creatures there is usually a spontaneous reaction to an imminent threat of death: one escapes from it, **defends the integrity own existence**, struggles to survive.
 - **The life appears naturally as a fundamental**, essential, primordial asset: hence the precept of protecting one's own life.
 - **Under the preservation of life there are inclinations towards everything that contributes, accordingly to creature, to the maintenance and quality of biological life:**
 - **integrity of the body;**
 - **use of external goods** that ensure the subsistence and integrity of life, such as **nourishment, dress, housing, work; the quality of the biological environment, taking care of the world ..**
 - Starting from these inclinations, the human creature proposes purposes to be realized, which contribute to the harmonious and responsible development of creature, therefore, appear as **moral goods, values to be pursued, obligations to be fulfilled** and also **rights to be asserted**.
 - In fact, **the duty to preserve life** correlates with **the right to demand what is necessary** for its conservation in a favorable environment.

Second precept of the natural law

- **The second inclination: survival of the species and procreation.**
 - Generation is inscribed into the **prolongation of the tendency to persevere in the creature**, which if it is not possible for the individual is possible for the species.
 - **The asset of the species is one of the fundamental aspirations present in the person.**
 - It creates a sense of **responsibility towards the human species and the planet.**
 - The dynamism towards procreation is **intrinsically linked to the natural inclination that leads man towards woman and woman towards man.**
- **The inclination to take care of children and educate them** is also intrinsic here.
- This implies:
 - The **permanence of the couple** of man and woman
 - Their **mutual fidelity**
 - The **interpersonal communion.**

Third precept of the natural law

- **The third inclination: the inclination to know the truth, the truth about God and to live in society.**
 - People tend to **organize in a political society** in a connatural way, not for a simple convention, to achieve development, maturity, and the integral good of the creature
 - There is the tendency :
 - **to forge similar relationships of generous friendship with others**
 - **to develop an intense cooperation in searching the truth**
 - **to live in communion with God.**
 - This manifests itself in **religious feeling** of all people.

- Unfortunately, **the subject can always be carried away by particular desires and choose partial goods or make gestures that go against the moral good that he himself recognizes.**
- It is the price of a freedom limited in itself and weakened by the push of an unrationalized instinct, a freedom that meets only particular goods, none of which can fully satisfy the desire of the human being towards happiness.
- **It is for the reason to examine whether the various particular goods can be integrated into the authentic realization of the person:** in this case they will be judged morally good and, if not, morally bad.

In the context of cultural and religious pluralism

- **These precepts** have a **character of immutability** because **they derive from human nature** whose essential components remain identical throughout history.
- In a **pluralist society**, in which it is difficult to understand the philosophical categories, recourse to the natural law makes it possible to reach **shared social norms respectful of every man**, independently of any personal particularism or of a group.
- These precepts **can be "darkened" temporarily due to cultural and historical influences** that can negatively influence personal moral life: ideologies, theorized relativism, social life based accordingly to unethical principles ..., **but they can not be eradicated or destroyed in the interiority of man, and in the end they always re-emerge in the personal and social history of peoples.**

From natural rules to natural "right"

- The **natural "law"** is expressed as a **natural "right"** when considering relations of justice between creatures:
 - relations between natural and legal persons,
 - between people and public authority,
 - relationships of all with positive law.
- We move from the **anthropological category** of natural law to the **legal and political category** of the organization of society.
- This is what must be done starting from the Universal Declaration of Human Rights, the respect of which must be central to every legislative-social political program of every State.

Positive law

- **Positive law is not arbitrary**: the requirement of justice, which derives from the natural law, is prior to the formulation and the enactment of the law.
- **It is not the positive right that decides what is right.**
- **Politics is not arbitrary either: the rules of justice** do not result only from a contract established between men, but **come primarily from the very nature of human beings.**
- **Natural law is the anchoring of human laws to natural law.** It is the horizon in relation to which the human legislator must regulate when he issues norms in his mission of service to the common good.
- **Positive law must strive to implement the demands of natural law**, and as they really derive from it, positive human laws force in conscience.
- **Otherwise they do not oblige.** "If the law is not right, it is not even a law" (St. Augustine).
- **The positive laws change** because the awareness of what is most suitable for the good of the community grows and that the historical conditions of the life of societies change, **but must always try to implement the requirements of natural law.**

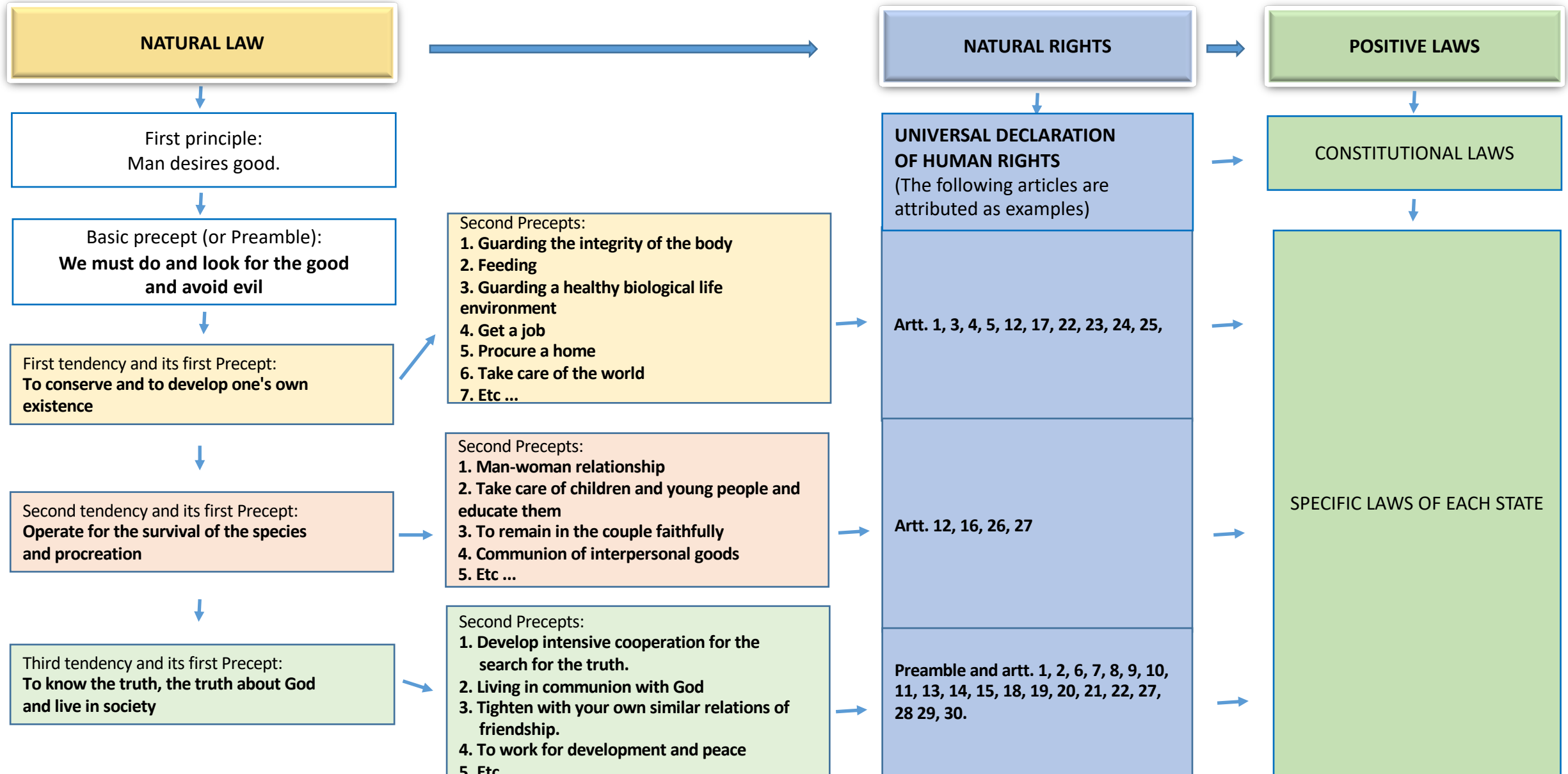
Political order

- **The political order is not the sphere of ultimate truth**, it must be open to the continuous search for **truth** and **justice** and **remain linked to the universal human ethics inscribed in human nature**.
- **Natural law**, which is the **correct basis for social and political order**, leads to a continuous purification of reason, saving the political order from the temptation of arbitrariness, particular interests, organized lying and manipulation.
- **The reference to the natural law restrains the State** from surrendering to the temptation to absorb civil society and **to subject men to an ideology**.
- The natural law contains the idea of the **rule of law, which is structured according to the principle of subsidiarity**, respecting people and intermediate bodies and regulating their interactions.

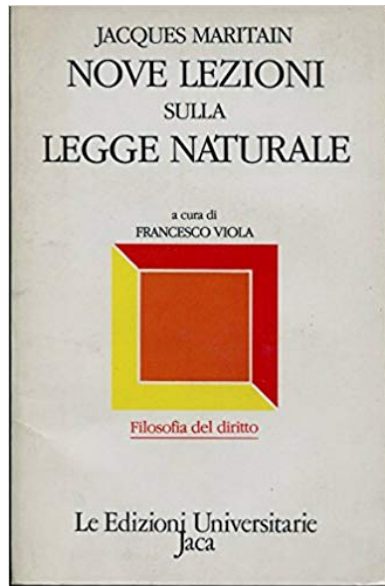
The social relations

- **The person is at the center of the political and social order because it is an end and not a means.**
- The person is a social being by nature, not by choice or by virtue of a pure contractual agreement.
- To realize itself as a person, he needs the **interweaving of relationships he establishes with other people**. It is thus at the center of a **network of concentric circles: the family, the environment in which he lives and works, the neighborhood community, the nation and finally humanity**.
- The **person draws** from each of these circles the elements necessary for his growth, and at the same time **contributes** to their improvement.
- **The search for a universal ethic, with a rationally justifiable foundation of reality**, which highlights the fundamental values of common humanity **allows us to work together, to promote understanding, mutual recognition and peaceful cooperation among all the components of the human family**.

Summary scheme of knowledge of natural law, and of the relationship with natural law and positive laws



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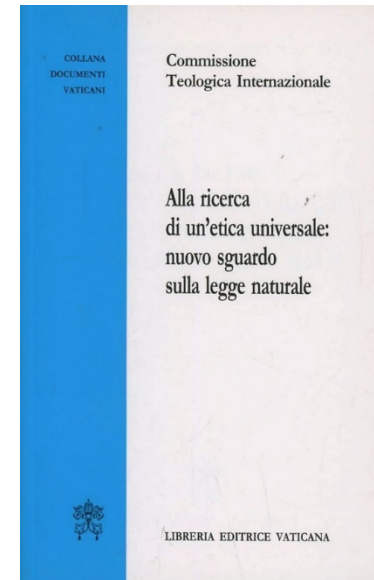
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Peace is a right of every man and every people
(Pope Benedict XVI)

A world without nuclear weapons is really possible
and they must be banned once and for all
(Pope Francis)

We need a global ethic
(Francis)

Do to others what you would like to be done to you
(Jesus of Nazareth)

THANKS FOR LISTENING!

