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**Moral Virtues of Human Freedom to the Crossing Between
 Religious Tradition and Civil Law**

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Abstract: In Europe increasingly dominated by voices denouncing secularism stands sacred survival, especially of Christianity, under the folds of morality, even forgetting or denying that it has organized the project of reconstruction of the world just based on the principle of equality between people in front of God. In a profane view, Christian moral codification in civil law means in fact legitimacy of some unacceptable things of some members of society. We can extend that value judgment even in the area of justice. More specifically, we refer to the arbitrary nature of law which is not accepted by everyone. Even if most people do not know only a small piece of Christian doctrine or the civil law of a democratic country, it is hard to imagine life without law or morality. The relation between canonical law and civil law is obvious and this leads to find support for human freedom in both the „divine history” and the „human history”.

Keywords: freedom; Christianity; justice; morals; law; dignity; humanity

*“God did not want to show Himself on His comforting throne
 defeating the bitter ones’ stubbornness, but because so many
 people turned out to be unworthy of His indulgence, He wanted
 to abandon them depriving them of the good they do not want”*

(Blaise Pascal)

1. Introduction

The Book of Genesis places man on the top of divine creation as a king and priest of this (Crihălmeanu, 2009, 40-41; Heidel, 1963, 89-97; Smith, 2002, 144; Davies & Rogerson, 2005, 116; Louth & Conti, 2001, 27-28; McGrath, 2006, 484; Kvam & Scheering & Ziegler, 1999, 208; Velkley, 2007, 13-14). The cosmic harmony dissolves when he abandons the privileged position he used to occupy, being attracted more by the hypostasis of king than the one of priest. When he does not come to the level of his calling and he forgets his responsibility to the world he has been placed in, man transforms the divine blessing in curse (Semen, 1997, 25-26)¹. He is not aware of the fact that Knowledge Tree

¹ Conformable to Festeu, 2009, 7-8, n. 9-10. On line at: <http://www.scribd.com/doc/16381754/Terapie-prin-creatieconsideratii-ecoteologice-despre-natura-si-psihic>.

represents in essence a border between the human nature and the divine nature, border that shows him clearly that he cannot be equal to God, although he is his “image” (Zetea, 2009, 45-47; *Genesis* 1, 26; cf. Constantin Aslam, 2006, 132; Machiela, 2009, 91; Erickson & Hustad, 2001, 110; Brueggemann, 2003, 36-37; Bartholomew & Goheen, 2004, 35). He does not understand he cannot change his nature, and his only freedom is that of knowing his limits and to subdue to the Creator. He despises the free will he is gifted with and he does not put importance on the fact that his choice depends on “keeping the received grace” (meaning “morality”/ “immortality”) or the collapse from “this condition” (Larchet, 2006, 8).

Denying his condition as a creature and abusing of freedom given to him by God, the man wishes to “kill” Him to conquer the “mother nature”. Because he has no more the true perspective on the reality, he sees in nature just “a simple object for his pleasures” (Zetea, 2009, 45-47). The consequences of the sin are disastrous for him, because death “imprint to the world a dimension of violence” (Zetea, 2009, 53). Man is so forced to kill for surviving, reality that does not happen in paradise. Going out from the cosmic-edenic dimension, man clothes temporarily “the skin clothes”, which are the equivalent of material degradation (biological death) (Zetea, 2009, 53). Death, the daughter of the sin, “gives birth to the sin” (Larchet, 2006, 13) moving man away from the divine grace and from the salvation. “The sin is from now on like a clothing of misery, a distinguishing mark which man can hardly remove” (Zetea, 2009, 54). He should not complain because it is a “freely chosen condition, although to the influence of an external force, namely turning his back on God to submit towards the creatures” (Zetea, 2009, 54; Russell, 1987, 125). It is very important to mention that in this context man’s **freedom** is not taken away from him after he disobeys the divine will, and he can anytime use his free will¹, precious quality of the soul/mind (St Augustine, 2004, 194; Stent, 2002, 138-141; Butler & Cheng, 1997, 59-62; Vassányi, 2010, 201-204; Cram, 2004, 5; McIntosh, 1998, 229; Cosgrove, 2005, 221-222; McGrade & Kilcullen, 2001, 527), to hold a dialogue with God, with the fellow creatures and with nature. This means that **the free will implies the existence of the freedom**. Moreover, the possibility of restoring the human nature by the coming of a divine savior is also foreseen. This means that death which is dominated by devil would be finally defeated (*Apoc.*, cap. 20; Jean-Claude Larchet, 2006, 13-17; Zetea, 2009, 54).

Starting from this formal context, we wish to highlight three aspects: 1. close connection between the right to liberty and church doctrine on the creation of human status, 2. human ability to build its own destiny in a world under the sign of social transformation, 3. human freedom and the limits imposed by religious and civil law tradition.

2. Freedom, Divine Gift

The will is not only the center of the human being, for most of the equals, but also the embodiment of the freedom. Conferring the freedom attribute, they forget that this is subdued to the various influences from the intellect area, from the feelings area, from the nature or passions. They are unaccustomed to the theological reading of to religious practice and they have the false impression that God feels to refer to “something” or “someone”, as they do, to feel free, when we deal with an obvious practicing of the divine will which is just a “loving” will. In other words, God’s freedom is not alike with the man’s one, which is changeable, “capable of choosing the bad”. Modern people, dominated by the spirit of the age, overlook the religious tradition which teaches that God created the world “from freedom” and not “from

¹ The free will or the ability of choosing between the possibilities he is offered.

necessity” (Stăniloae & Barringer, 2002, 44-45; Grenz, 2000, 99; Craig, 1991, 222-224; Plantinga, 1974, 60-63)¹. To understand better the things we think it is necessary to review the way “the image of God into human” is seen by the Fathers.

The patristic theology presents the existence of man relying on “three coordinates” useful to “explain the creation in God’s image”: *the reason* (λογικόν), *the free will* (ἀντεζουσίον) and *the sovereignty* (ἀρχικόν) (Câteia, 2007, 124). “The three attributes of human personality represent the synoptic revision of the way of human existence as an alterity towards the nature and as a personal alterity” – states Adrian Câteia (Câteia, 2007, 124). The model of the Holy Trinity offers to Christians the image of love as “freedom fact”. “The perihoretic connection between the Persons of the Holy Trinity, the act of hypostatization means communion of freedom and personal love, dynamic connection and indestructible union of love” (Câteia, 2007, 124).

The Church is “an icon of the Holy Trinity; it comes from the Trinity, it is structured in Its image, it goes towards It. The eternal communion between the divine Persons, distinct and one being, constitutes, thus, the ground, the inexhaustible spring, the model and the power to continue towards our eternal communion with God and with the others”². Starting from this model we are able to understand why “The man of the patristic tradition is not one of some sins and juridical-moralistic interpreted virtues, but of the most contradictory tendencies, of the greatness and of the modesty, of the dynamism and of the freedom”³. (Costache, 2002, p. 228) “If man, described by The Holy Fathers, intensely lives the duplicity of his own degenerate condition, he is not left fatally divided between good and bad, because he is able accomplish the union of his tendencies in good, to transfigure his actions from irrational passions to virtues concordant to the model of perfect humanity, the Christic archetype – he is able to perfect his existence and entire life into Christ” (Costache, 2002, p. 228).

Saint Basil the Great, having as an “Absolute Model” the Holy Trinity, sees the “image” as “free will, self-determination, constraints liberation, freedom” (Câteia, Târgoviște, 91). Because of its origin and its resemblance to God, the soul is not only “a sort of demonstration of Him”, but also a “mirror” in which the divinity is reflected⁴. We shall see what the great capadocian says: “The intimate union of The Holy Spirit with the soul (does not consist) in nearness in space, because how is it possible the bodily to get near the unbodily? -, but abstaining from the sins, which added subsequently to the soul, due to the love for the body, alienated it from God’s intimacy. Therefore, when someone would clean himself from the shame he caught from the badness and he would return to the natural beauty and he would reflect through the cleaning, as in a imperial mirror, the old image, only then - he would get near by the Paraclet”⁵.

Origen relates the freedom and the reason, stating that “the freedom is asked by the normality” (Țepelea, 2004, 87.). In alexandrian Theologian’s opinion “Any rational soul is gifted with free will and will” (Origen, *Periarchon*, I, 5; cf. Țepelea, 2004, 87, n. 130), First “the reason precedes in the action of the soul which has free will, then the freedom comes, and finally, man’s will makes the distinction between good and bad”. Within this framework of the discussion is also called upon the man’s “pedagogical

¹ Pruteanu, 2009, *passim*. On line at: www.teologie.net/?file=PP_antropologia-staniloae... - Republica Moldova.

² See Freedom and responsibility in the Church. The speech of The All-Happy Father Daniel, The Patriarch of The Romanian Orthodox Church, made with the occasion of the ceremony of receiving the title of Doctor Honoris Causa of The Institute of Orthodox Theology Saint Serge from Paris, 9th of July. On line at: http://www.patriarhia.ro/_layouts/images/File/Franta2009/Cuvant%20Saint%20Serge.pdf.

³ On line at: <http://www.scribd.com/doc/914350/Doru-Costache-Antropocentrismul>.

⁴ Semen, Petcu, 2009, *passim*. On line at: <http://www.scribd.com/doc/36612338/Parintii-Capadocieni-Extras>.

⁵ Saint Basil The Great, 1988, 39. On line at: <http://www.scribd.com/doc/32155642/PSB-12-Sfantul-Vasile-Cel-Mare-Scierii-III-Despre-Sfantul-Duh-Corespondenta-Epistole>.

education”, which can transform the most rigid and libertine citizens in true models of Christian moderation and experience” (Origen, *Periarchon*, III, 1, 35; cf. Țepelea, 2004, 87, n. 131.). With the only difference that the one who wishes to get near to God and to serve Him has to be ready to face the temptation¹. Otherwise, “man, gifted with reason, is also capable for praise and for punishment, relying on the way he uses the reason to make the good or the bad” (Origen, *Periarchon*, I, 5, 1; cf. Țepelea, 2004, 79, n. 110.).

For Gregory of Nyssa the freedom is “the result of the resemblance of the man with God, an ontological freedom, resulted from the sum of the Christian virtues” (Câteia, 2007, *passim*). It is important for man to reflect to the real meaning of his existence. The choice is simple but in the same time difficult: to remain slave for the world and his senses or to become free into God and liberated by untruth (Semen, Petcu, 2009, 321)². We must hold the St. Augustine’s conception regarding the connection between the free will and grace (Câteia, 2007, 113; Strong, *Forgotten Books*, 876-877)³. The word “*libertas*” loses its initial aptitudes, anterior to the fall. The Adamic freedom has the power for not committing sin. The post-Adamic freedom names the state of that who is *liberatus*, who has received the grace for doing good. Therefore, the free will is the power to want, and the freedom, synonymous with the will, has the power to make” (Câteia, 2007, 114). His conception would profoundly influence the Western theology, which never could come off “the empire of the reason”⁴.

Out of any details, we must consider that while the byzantine theology has been an “organic continuity of the patristic one” (Moș, 2011, *passim*; Taliaferro, Griffiths, 2003, 511), the scholasticism elaborated a doctrine of the freedom of choice (*libertas electionis*) separated by the free will (*libertas indifferentiae*). Among the representatives of the scholasticism we mention just Toma D’Aquino, who states that the free is obedience to the Absolute Truth, which it released a man to death. The opposite is Calvin denies man’s freedom to choose. According to the doctrine of predestination, not every people are saved, some of them are chosen by God for salvation, while some other are incessantly sentenced regardless their merits (Kretzmann, 1988, 70-71; Thijssen, 1998, 90-91; Juan de Ulloa, 1719, p. 32; Massoulié, Thomas (de Aquino), 1692, 337-338)⁵.

Besides these aspects we have to make some important specification. First, the Christian anthropology in contrast to “the theories of the metempsychosis” (Mead, 2002, 144; Gordon, 2006, 307; Edmonds, 2004, 97; Lehtipuu, 2007, 65; van den Broek & Seeger, 1971, 134; Ruderman, 1988, 135; Quinn & Taliaferro, 1999, 575), that include the predestination and the souls pre-existence, both limiting the man’s freedom (Larchet, 2006, 93-94), brings the discussion about “the simultaneous coming to existence of the soul and the body”, through which the person’s identity is kept (Larchet, 2006, 93-94). Second, according to the Christian conception about virtues, man discovers, with the help of the divine grace, “the meaning of the sin”, “the idea of salvation” and of “free will”. More precisely, the virtue brings to this the true freedom, helping him to escape from the slavery of the sin and passions (Țepelea, 2004, 79.). From this perspective we can talk about various forms of the freedom as the ecumenical

¹ Origen, 1981, p. 256. On line at: <http://www.orthoblog.ro/media/books/06-origen.pdf>.

² Through disobedience man “changed the freedom of self-mastery, to slavery to sin and instead chose a fellow-imitators of God by the power transient oppression torment” - Grigorie de Nyssa, On the Lord's Prayer, in PSB, 29, 1982, *passim*. On line at: http://www.orthoblog.ro/2007/08/17/coleca_355_ia_parina_355_i_a_351_i_scrii.

³ See also Augustin, 1985, 225-227. On line at <http://www.orthoblog.ro/media/books/64-augustin.pdf>; St. Augustine, 2004, 204-205, *passim*. On line at: <http://www.scribd.com/doc/4034119/Sfantul-Augustin-De-libero-arbitrio>.

⁴ Grigore-Dinu Moș, 2011. On line at: http://doctorat.ubbcluj.ro/sustinerea_publica/rezumat/2011/teologie/mos_grigore_dinu%20_ro.pdf.

⁵ See also Funkenstein, 1998, 42-43, 45-46, 114-115, *passim*. On line at: http://filosofia.at.ua/_ld/0/12_6712921-Amos-Fu.pdf; Aștelian, 2007, *passim*. On line at: http://www.literatura_comparata.ro/acta_site/articole/acta5/acta5_astelian.pdf; Ioan Mitrofan, 2005, *passim*. On line at: http://istorie.uab.ro/publicatii/colectia_aush/annales_9bis/13%20ioan_mitrofan.pdf.

vocation of the Church, the estrangement – xeniteia (1.the pilgrimage in the world; 2. the isolation in a close space), *the mime of the madness, the sacrifice* („of the intellect and of the heart”), *the faith, the misionarism and the martyrdom* (Câteia, 2007, 7, *passim*)¹. Third, in Church conception, the freedom is the freedom as a „holy people”, while “the *numinous* character” of this imposes “the rediscussion of the report between predestination and free will” (Adriana Claudia Câteia, 2007, 144-145.). More, the Christian freedom appeals to the meekness, meaning its acceptance as a *divine gift* by man, consciously and in close co-operation with the grace (Câteia, 2007, 8). It is not confused with the free will, but it is “the end of a road formed by words-values as *kenosis, hypogramos, apotage, tapeinos, monotropy*, etc., hard to understand, and even harder to assume”(Câteia, 2007, 8).

Considering what we have told till now it results that the freedom is fundametal in the plan of human salvation. The divinity does not infringe man’s right to freedom, but offers him in a disinterested way, all “the instruments” necessary for the salvation. Man himself is the one who restrict man’s access to freedom. Finally, we also consider that “Christ’s freedom as a communion freedom is the base of the Christian’s freedom”²

3. From „Divine Freedom” to “Civil Freedom”

Adriana Câteia states: “ the Christian philosophy redefined the natural right by triple exigency *honeste vivere, neminem laedere, suum cuique tribuere* become divine direction. The classic right “hadn’t attacked the law in the limits of the human spirit, but as an eternal giving, that rules the world. The Roman mentality imposed the utility as a measure of all things, the supreme law being the good of the public (*salus populi, suprema lex*). Christian conception, the idea of public good was replaced by the universal salvation doctrine. The reference system moved from the human citadel to the Divine Citadel” (Câteia, 2007, 31).

For Augustine *the faith* becomes a “characteristic of the state”, and *the right* “the instrument necessary for social peace: *opus justitiae – pax*”, the unjust laws are not part of the last one (“*lex injusta non est lex*”) (Câteia, 2007, 32). “Circumscribing the positive right to the justice, Augustine report it to morals, proving that the right as *lex temporalis* does not punish the sin, but only the non-observance of the order and the peace” (Câteia, 2007, 32). In this context the “eternal right (*lex aeterna*)” has the obligation to save the sou, which “constitutes the base of the morals” (Câteia, 2007, 32). On the other side, “the opposition *lex temporalis – lex aeterna* confers to the Church an severe indirect power to the byzantine state, and to the state a severe direct power to the ecclesiastic institutions” (Câteia, 2007, 32)³. In a different way, the canonical law influences the civil one and conversely.

In Irina Moroianu Zlătescu’s opinion “the ideas of tolerance, charity, equality, mutual assistance, determined a deep revolution of the customs of the people’s entire life and in the same time determined also the desacralization of the state to reduce it to e temporal institution. St. Augustine (354-430), in *De civitate Dei*, the justice with the concord, which, in this way, as we could see, corresponds to the

¹ See the New Testimony texts regarding faith : God’s gift (Romans: 12, 3; Ephesians: 2, 8; Philippians: 1, 29; 2 Peter 1, 1); God’s actions: (Acts: 11, 21; 1 Corinthians: 2, 5; Ephesians: 1, 19; Colossians: 2, 12; 2 Thessalonians: 1, 11; 1 Timothy 1, 14); the Holy Spirit’s gift: (1 Corinthians: 12, 9; Galatians: 5, 22), relation will-faith (Matthew 8, 13; 9, 22; Mark 5, 34; 10, 52; Luke 7, 50; 17, 19; 18, 42; cf. Constantin Aslam, 2006, 92, n. 195.

² See Freedom and responsibility in the Church. The speech of The All-Happy Father Daniel, The Patriarch of The Romanian Orthodox Church, made with the occasion of the ceremony of receiving the title of Doctor Honoris Causa of The Institute of Orthodox Theology Saint Serge from Paris, 9th of July. On line at: http://www.patriarhia.ro/_layouts/images/File/Franta2009/Cuvant%20Saint%20Serge.pd.

³ See also Kuhn, 2007, 74-76. On line at: http://www2.units.it/etica/2007_2/KUHN.pdf.

modern difference between rights from a judicial point of view and rights from a moral point of view. In St. Thomas d'Aquino's *Summa theologiae* (1225-1274), the natural right derives from the reason and the state found the justification of its existence in the fact that it is in people's service; any public authority derives from the people and the laws should be made directly by the people or through its representatives. From here the idea that the justice appears as a social virtue, because human person cannot develop only in its natural place of existence, in society"¹.

Between the XVIIth and XVIIIth centuries the association "between Christianity and rationalism" had been promoted "through the intellectual speech of the Western elite"². The renunciation to "the trinitarian and christological models" became a necessity for the rationalists (Costache, 2002, 219), who hurried to replace them with the human's individual rights doctrine. They pointed out the natural right theory, defined as an "eternal right" and they separated from the divine order (Heidegger, 2005, 1-4; Gearon, 2006, 147; Vile, 2010, 4-5)³. The connection between right and morals disturbs, and Rousseau and Locke hurry to separate them stating that "the citizens will not be forced to be loyal if the state does not respect the pact entered into, which guarantees the citizens' freedom, safety and property"⁴. At the end of this evolution we see as alongside with the renunciation to the above mentioned models, the "Christian ideal of personal perfection in the interpersonal communion, vertically (with God) and horizontally (with the fellow creatures and the world)" (Costache, 2002, 219). Abandoning the "slavery of the grace", the modern man passed with arms and luggage in "the slavery of the state and laws".

The French Revolution has its merit to lay the foundations of the *political humanism*. The acknowledgement of the individual's peculiarities and freedom provoke a changing as part of the collective mind (Ionescu, Turza, 2003, 8)⁵. According to some commentaries "man replaces the nature", meaning that natural laws with the human rights. Governed by reason he becomes "a source of values", fact that "transforms the modern right in a sort of subjective right" (Ionescu, Turza, 2003, 8). This is the moment when it starts the "differentiation between the private, selfish individual, attached to his opinions and especially to his economical statute and the the citizen leveled up to the statute of legislator, who has a concern the common interest, which finally represents each individual's interest" (Ionescu, Turza, 2003, 8). The changing of mentality makes like "tolerance to gain new dimension, after it has been functioning for a long time in the most total hypocrisy" (Ionescu, Turza, 2003, 8). The last statement is surprising and exaggerated, in our opinion, because the hypocrisy, hidden under the pleats of the human rights, manifests also in the revolutionary and post-revolutionary changings era. So, we shall see which the manifestations of the tolerance without hypocrisy are. We will stop only upon one aspect, respectively the limits of the tolerance promoted by occasional ideologies.

¹ Moroianu Zlătescu, 2007, 11. On line at: www.irdo.ro/file.php?fisiere_id=175&fmt=pdf.

² Boca, 2009, 39, passim. On line at: www.litere.usv.ro/anale/anale%202009/literatura/.../03.doc.

³ With this occasion we remind the *Declaration of Independence of the USA* (14th of July 1779), that proclaimed that "it is known the truth that all the people are born equal and the Creator gives them some certain inalienable rights, and that through these are the work for life, freedom and happiness; regarding these rights people institute Governments that gain the legal power by those governed agreement; that, if anytime, any sort of Government endangers these purposes, the people has the power to overturn it and form new one". Still influenced by the theory of the natural right and the theory of the social contract the *Declaration of the human and citizen's rights* (26th of August 1789), was adopted during the French Revolution – Cordos, 2007, passim. On line at: http://www.uab.ro/reviste_recunoscuta/reviste_drept/annales_10_2007/cordos_ro.pdf. Charles Louis de Montesquieu shows that "the political freedom does not consist in doing whatever you want. Within a state, in a society in which there are laws, the freedom consists only in doing what you have to want and not to be constrained to do what you should not want. The freedom is the right to do what the laws permit, and if a citizen could do what they forbid, he wouldn't be free anymore, because the others could do the same". Kant defines the concept of freedom by "freedom to consciously respect the laws, that derives from the reason, or freedom of self-determination" - Albescu, 2010. On line at: <http://www.sferapoliticii.ro/sfera/150/art10-albescu.html>.

⁴ Dănilor, 2009. On line at: <http://drept.ucv.ro/RSJ/Articole/2009/RSJ4/A02DanisorGheorghe.pdf>.

⁵ Ionescu, Turza, 2003, p. 8. On line at: <http://www.scribd.com/doc/8593497/Democratie-Vis-Si-Realitate>.

From the start we agree those who state that the trials of the “modern”, “autonomist” and “secularist” anthropologies to define man „through a function of him – reason (through Descartes and Kant), will (through Marx and Nietzsche), instinct (through Freud)” (Costache, 2002, 222), slid “towards reductionist ideologies, disastrously reverberated in various plans, through the destabilization of the human being, through racism, through social conflicts and through the man’s subjugating towards the economical systems” (Costache, 2002, 222). Despite the obvious failure, these anthropologies “managed to justify all the possible abuses towards the human nature (Costache, 2002, 222). In contrast with the church decrees (Sachelarie, 1996, 108; Trofin, 2005, *passim*)¹ it was accepted with serenity the idea of lucid or rational suicide as a reflex of the individual’s choice freedom², and the eugenics became a way of purification of the race³. Obviously in this last case we confront with a limitation of the human freedom.

Sorin Antohi and Marius Turda, the authors of the article *Eugenism and biopolitics*, consider that the human right, individual, formulated and adopted during the Great French Revolution, were “gradually collectivized, then ‘ethno-nationalized’ according Herder and Nations’ Spring”⁴. They more and more were connected to “a land, to a race (besides the complex historical semantics of the word ‘race’, a so-called racial element, racist in some cases, it is found in all the cases), to a blood” (Antohi, Turda, 2008). It went from “the historical argument of the existence and collective rights” to “the culturalist argument of the equivalence people-culture-state, then to a sort of ‘ontological argument’ (if we parody Anselm from Canterbury, more respectfully than Borges did with his ‘ornithological argument’), to reach finally in the tragic interwar period, to the biological argument” (Antohi, Turda, 2008). Amazingly, “all that couldn’t be demonstrated and explained regarding the collective self, all the unconvincing answers to the question: ‘Comment peut-on être Persan?’, all the doubts and (auto)identitary anguishes, absolutely all these were getting a doubtless replay through serology, craniology and so on” (Antohi, Turda, 2008). While “the ethnic ontologies and political religions were rather occupied with the symbolic corps, glorious, ‘without organs’, of the ethno-nation, the new sciences were occupied with the political corps in its most literal meaning. The Utopia of the perfect ethno-nation, that pre-occupied even those who believed or declared that their people is perfect, could be finally realised through a sort of combination of thaumaturgy, therapy, squaring and clonation” (Antohi, Turda, 2008). Sad but true!

3. The Judicial Value of the Freedom. The Limitation of the Freedom

The freedom is the man’s natural condition, it is given out of the borders of any agreement. People simply receive freedom by birth, without being asked whether they want it or not. But they have to wonder what they shall do with this freedom. We are able to practice this freedom all together or individual, it is necessary to delegate this freedom, to “lease” it to someone regarding its limitation. If I lease my freedom can I trust that this renunciation, meaning the limitation of my freedom, does not return against my freedom?

“So that the liberties not to mutually annul themselves...it is necessary like a part of each of us freedom to be declined. The delegation of the freedom is the gravitational form of the freedom in the field of the crossing of the freedom of the many and the everybody’s freedom” (Liiceanu, 1994, 125).

¹ See also Christian reaction media on suicide - *Judges IX, 54 - 57* – suicide of Abimelec; *1 Kings XXXI, 4- 6* – suicide of Saul; *2 Samuel XVII, 23* – suicide of Ahitofel; *1 Kings XVI, 18* – suicide of Zimri; *Matthew XXVII, 5* and *Acts I, 18* – suicide of Iuda); cf. Victor Mihalachi, *The suicidea – the hopeless road towards the Crying Valley*. On line at: <http://www.ortodoxia.md/piedici-in-calea-mintuirii/1415-sinuciderea-drumul-fara-speranta-catre-valea-plingerii>.

² Cordoş, 2007, *passim*. . On line at: http://www.uab.ro/reviste_recunoscute/reviste_drept/annales_10_2007/cordos_ro.pdf.

³ On line at: http://wwwold.umfiasi.ro/atdoc/bEtica_Eutanasia.pdf.

⁴ Antohi, Turda, 2008. On line at: <http://www.romaniaculturala.ro/articol.php?cod=11317>.

“The delegation of the freedom is made into a resort account, and this resort which takes over the delegated freedom and reaches to decide about us is the law, meaning the right. The law is the limit of each of us” (Liiceanu, 1994, 125).

Every epoch one of the essential elements of the state has to be the limitation of the freedom for the general interest. But the limitation is also an obligation of the state or of the person for not violate the rights and the liberties of another person. The limitation can be interpreted also as a modification of the content or of the volume of the action of the judicial rule, when it appears as a necessity to coordinate the person’s diverging interests with those of the state, of the society in general (Coca, 2009, 196).

According to the modern legislation, the individual’s freedom ends there where the “other’s” freedom starts. This limitation of the freedom is written in The Human and Citizen’s rights Declaration (1789), where it is clearly stipulated that *“the freedom considered to be able to do all that does not injure to another: thus, the exercise of the natural rights of every man has no limit, but those which ensure the use of the same rights to the other members of the society. These limits can only be determined by law”* (Dănișor, 2009; Gearon, 2003, 10-12). The invocation of the law shows that “the limitation of the rights is strictly controlled (by the judge), made on the ground of the law” (Dănișor, 2009). It is interesting the specification according to which “the freedom is independent compared to the arbitrary will of another” (Dănișor, 2009). What means this thing? Starting with the Rousseau’s conception, Gheorghe Dănișor considers that *“the freedom has two acceptations: a negative one, meaning that the freedom presumes the absence of every restriction or constraint from other people and a positive one which presumes our intervention in choosing the circumstances of thinking and action”* (Dănișor, 2009). He continues and show that the limitation of the freedom – coercion -, implies not only the abuse of an individual against another, but also that being part of the political power. Analyzing this aspect of the Declaration, Gheorghe Dănișor states that *“ the two spheres which are in an intrinsic connection are already visible: on one side, the individual with the sphere of his intangible rights, circumscribed in the private sphere and, on the other side, the political power invested with the power to constraint. From this perspective, it is created a contradiction between individual freedom and political power, because the freedom is in a connection of exclusion with the power which limits by constraint this freedom. To live together, it is necessary like the power of coercion to be, also, limited”* (Dănișor, 2009).

The things are clear until now. What do we do when as part of a democratic regime the abusive interpretation of the law interferes? At least in case of the non-democratic regimes the things are clear: the individual is crushed under the burden of the political factor interest, which has the control upon the justice. But what could an individual do in a democratic society, where the justice answers to the political order, and the authorities of the state are in disolution? Does he call the CEDO in his desperate trial to make justice? From this point of view Romania is an eloquent case. We gain a first prize at the category of those who violate the human rights and liberties¹. *The Utopian freedom and no morals is severely damages the society*. It is obvious that we urgently need a moral reclamation of the society, in general, and of the act of justice, in particular.

The one subject’s freedom cannot violate the another’s freedom, each of them can do only what the others can freely do. The limitation can be considered as a civilized way to regulate the person’s freedom in society. In certain extraordinary situations, the limitation can be done depending on the

¹ Romania is on the second place in the top of the countries whose citizens complained for the inobservance of the human rights, according to the European Convention regarding the Human. See also : On line at: <http://www.cdep.ro/pls/steno/steno.stenograma?ids=6840&idm=1&idl=1>; http://www.financiarul.com/articol_54723/romania-locul-3-pe-lista-plangerilor-lacedo-condamnari-de-12-mil-euro-.html.

observation of the way of realization and insurance of the corresponding obligation (Aramă 2006,14-16).

According to the Professor R. Dworkin's opinion (Dworkin, 1998, 189), the state through judicial norm can limit the definition of a right if it could demonstrate:

- That the values protected by that right are not involved in the particular case or if are involved in an attenuated form;
- That when the respective is defined so that includes the particular case, then a certain rival right would be violated;
- That if the right so defined, the cost for the society would not be simply proportional, but it would be bigger than the cost paid to accept the initial right, big enough to justify any touch brought to the dignity or to the equality which could be implied.

The restriction of the man's rights and liberties should not be done by the authorities of the state when it does not clearly serve the general interest, the public good or it is totally disproportionate compared to the served interest. The limit of valuation of the states in restraining the rights can be accepted if:

- The restriction has a legitimate purpose;
- It respects the principle of the proportionality;
- It does not operate so that to undermine the essence of the right itself.

The space of the responsibility co-exists with that of the freedom, and us, as the owners of the freedom, we have to answer towards the other, respectively towards the state, society, etc. We answer in front of the society and of the state, when we use the freedom with bad intentions, receiving a disciplinary, contraventional, civil or penal punishment, depending on the case, by omitting the freedom certain situations. Therefore, within a democratic society, in which the legislation centres on the guarantee and the respecting of the individual's fundamental rights and liberties, the person's judicial protection regarding the insurance of the necessary optimum of the report between the society and the person, the state is forced to regulate the co-report between freedom-limitation-responsibility (Coca, 2009, 198).

In his work *About limit*, Gabriel Liiceanu underlines the fact that freedom has meaning only the conditions of the limit, because it has to depend on something to manifest itself, to circumscribe to some co-ordinates. *The human freedom is interpreted in am bunch of limits which are the condition of its exercise.* (Liiceanu, 1994, 136-137)

The internal and international regulations guarantee the human rights, but they do not exclude the possibility to limit them, because the existence of some unreserved rights cannot be admitted within a democratic constitutional system. If the limit misses, and the conditioning of the exercise stipulated by the law (national and international judicial regulations) in the case of fundamental rights and liberties, then it can be reached the right abuse.

4. Instead of Conclusions...

The exercise of the fundamental rights and liberties must not oppose the existing order in the society. The co-existence of the rights and social protection are two commandments which are base for the limits edicted to the positive right. Actually, the difficulty consists in finding adequate solutions to harmonize the general interest with the particular one and to guarantee all the fundamental rights and liberties in situations that could limit or restrict their exercise.

It is very important like the constitutional and legal provisions to achieve an equilibrium between citizens and public authorities.

This way the limits imposed to the fundamental rights and liberties must be adequate to an legitimate purpose, this being the protection of the society, of the social, economical and political order, of the order of the right or the others' right protection. **The limits must not miss from the content of the rights itself, but to guarantee their exercise in such situations.**

The limitations, the derogations and the restrictions must be proportional and to represent the guarantee to realise an equilibrium between individual interests and public interest or between various private interests which correspond to the subjective fundamental rights constitutionally recognized and guaranteed.

Regarding the man's attitude towards the sacred or the idea of religion, we can state that the issues are more nuanced. Chasing God from the history, modern people did not become better than those who were living under the "grace slavery" and they, at least, had the perspective of Absolute. Their liberation passed under the auspices of the social, political or industrial revolutions did not brought them the most wanted peace and material wellness they languish after. So that, they wished to find in the modern "idols" (reason, science, TV, internet, drugs, etc.) those references once proposed by the divine model which they so easily renounced to. This should be clear: it is not about a return to the religious values, because they implies the man's responsibility to his proper gestures and actions, and this thing wakes or some anxieties, of boredom.

That the results that people gained did not rise to the expentations is an undisputed reality, because they are not part of a natural logic of the society evolution. Then, are they wondering that the "amputation of the sacred memory"¹ generates rather "monsters" than "rescuer"? Would not be easier to renounce to their Utopian ideals and to cultivate the true values? Of course. But for this they should recognize that they were wrong, they failed, and this thing is humiliating and painful. Because of this **the assuming of the responsibilities is further on part of an horizon of expectations.**

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