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**The Foundation of Human Rights according to Roman Catholic Church
Natural law in comparison with the UN Declaration of Human Rights and
the African Charter**

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Abstract

Human rights discourse is a burning issue discussed throughout the world by individuals of differing professions from various tribes, nations, states, religions, organizations, associations, etc. The global community has made a concerted effort to protect and promote human rights in different ways. Thus, human rights commissions and campaigns were established on a regional, national and international plane with the purpose of dealing with the contravention of human rights. Since there are numerous Bills of Human Rights world-wide, this thesis focuses on the official Social Teachings of the Roman Catholic Church on human rights, the UN Declaration of Human Rights, the African Charter and people's rights.

The principal objective of this research paper is to explore the foundation of human rights according to the Social Teachings of the Roman Catholic Church, the UN Declaration of human rights and the African Charter. However, the African Charter reflects the carbon copy of the UN Declaration and they both demonstrate that the origin of human rights is human dignity and the worth of the person. Meanwhile, the Social Teachings of the Catholic Church transcends the foundation of human rights according to the UN Declaration and the African Charter because it sees God as the author of human rights.

In addition, this thesis is composed of an analysis between them. Since the human rights discourse can be traced from the field of philosophy, different philosophers have shown their positions with regard to the foundation of human rights. However, the Catholic Church employs both philosophy and theology to support its teachings on this issue.

This paper also discusses different types of human rights based on the above-mentioned traditions.

Karl Rahner, as one of the famous Catholic theologians, has much to say on human rights. For this reason, this thesis is based on his conceptual framework maintaining God as the giver of these rights. However, different Catholic theologians reiterate the same gospel. It is hopefully learnt from this paper what it means to be created by God and to derive one's rights from God.

SUMMARY

As was the purpose of this thesis, the issue of human rights as laid down in the UN Declaration, the African Charter and the Social Teachings of the Roman Catholic Church were on their own and then analysed. Although the UN Declaration and the Charter see human rights as emanating from the person's dignity and sense of worth, the Roman Catholic Church bring in the further factor indeed these rights are derived from God through natural law. This thesis discussed this from a philosophical and theological point of view.

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CHAPTER ONE

1.0 INTRODUCTION

As the topic of this thesis indicates, its aim is to make a comparative study of the foundation of human rights based on the social teachings of the Roman Catholic Church derived from natural law, the UN Declaration of Human Rights documents and the African Charter documents. The social teachings of the church has developed since the Second Vatican Council, but is still founded on natural law emanating from God. However, the researcher considers it worth considering demonstrating a link between rights and duties.

The most important similarity between the UN Declaration of Human Rights and the African Charter on human rights is that they both put more emphasis on human dignity as the origin of human rights than the social teachings of the Catholic Church, which surpasses both the UN Declaration of human rights and the African Charter with regard to the foundation of human rights because it portrays God as the author of these rights. This chapter will show the motivation for the research project, define terms, and offer a preliminary statement on “rights and duties”, the research methodology and the outline of argument.

1.1 Motivation for Study

From the book of Genesis 1:27 it is learnt that a human being was created in the image of God. He/She, therefore, has the dignity of God. Now, if human rights are founded on the dignity of God, it means that they are God given and ought to be respected and promoted. However, the media also reports on the infringement of human rights on a daily basis, with events such as rape, robbery, child abuse, etc. What does it mean to be a human created by God and to have rights derived from God? It is the desire of the researcher to make people aware of the importance of human rights in concrete, practical, day-to-day life situations. However, in this context, an attempt will be made to explore the meaning of a human being who is naturally endowed with rights. Having indicated the importance of this study, the next section will deal with definitions of terms, which will help to understand their meaning in the context in which they are used, their significance and the role they play throughout the thesis. Since these terms are technically employed in the fields of philosophy and theology, they need to be defined in order to familiarize the readers with the basis of the argument in this thesis.

1.2 Definition of Terms

1. **Efficient Cause** means operating through the instrumentality of God's power, in the context of philosophy.
2. **An Infinite Being** is a philosophical concept meaning the greatest being that called all created beings into existence which transcends the entire nature within the universe. An Infinite Being is the God of the Greek philosophers.
3. **Finality of human existence** refers to God as the primary cause and the fulfilment of human life.
4. **An Ultimate end** refers to God as the source and the end of creation.
5. **Rationality** means natural power inculcated by the creator in a human being that enables him/her to raise arguments, make judgements and analyse different situations surrounding him/her.
6. **Intelligibility** means the capability of the human intellect used as a tool to reach and understand natural phenomena or nature around his/her existence.
7. **Subsistence** means the minimum necessities of life provided and made available for human survival.
8. **Natural sensible beings** are human beings as part of nature created by God.
9. **People are not means but ends in themselves** means that human beings are valuable in their personal nature as God created them to be, with their dignity derived from God.
10. **Intramental reality** is a being in the mind or that which exists only in the mind without being realized in a concrete, practical situation.

11. **Extramental existence** is that which is visible in a concrete practical situation.
12. **Divine law** means the law coming from God.
13. **Supreme Being** is a theological term referring to God as the creator of the universe or the greatest being above nature.
14. **Christological foundation for human dignity** means that human beings are respected because Christ is the basis of their lives.
15. **Eternal glory** is identical to eternal life when a human being is called by God through faith to share and participate with him in heavenly life without end.
16. **Eschatological good** means believing in an invisible being pointing to life after death or hoping for another new mode of life.
17. **Trinitarian/triune God** refers to God the Father, God the Son and God the Holy Spirit, as constituting three persons in one God.
18. **Soul-body Reality means** that a person is called a human being because his/her life is composed of a spiritual/rational spirit and a physical body.
19. **An Encyclical** is a Papal document written for pastoral purposes.
20. **Unmoved mover** refers to God as the 'uncaused cause' or as the primary cause of all things within the universe who is not the product of any cause but his cause is in himself and exists in himself.

It has already been indicated above that these terms are selected as being the most significant in this research because they may enlighten readers to better understand the ideas being put across. The subsequent section will examine rights and duties and their correlation to human existence.

1.3 Preliminary Statements on “Rights and Duties”

Rights are defined as the moral power over what is one's own, or the moral power to have or possess something. To say it more explicitly, it is the inner freedom to do, omit, hold or exact something valuable. However, rights exist in the person possessing them (Calvez1961:106). Rights do not exist in themselves but rather in relation to human beings. They are also the determination, both essential and normative, of a personal relationship meaning that rights are visible in a community where people live together (Calvez 1961:106). Through human intellect, people are able to recognize themselves as being naturally endowed with human rights that ought to be respected, safeguarded and promoted. Having rights presupposes achieving moral functionality as a human person, which includes not interfering with other people's rights. When a person has a right to do something, at the same time, he/she has a duty to exercise his/her right. For instance, if I have a right to be employed as a teacher, I also have a duty to teach. Therefore, rights and duties are correlated.

Duties are defined as a moral necessity that constrain a person to do or not to do something and they bind him/her (Guerry 1961:37). For instance, it is my duty to obey my parents and not to steal, and these are my duties. However, in both cases, that must express some kind of necessity. It is not like the physical necessity for food, but a moral necessity, i.e., one imposed upon free will. When looking at the physical order, the observation is that the movements of stars, the growth of plants, the development of human bodies, etc., are all governed by physical laws. The necessity in these cases arises

from a law, that is, the law of physical nature. Likewise, in the moral order, necessity lays down what a person must do in relation to the law of human nature, although he/she may sometimes fail to comply with it. Further, the necessity imposed on a person by human law does not physically force him/her. He/she may choose happiness and the means to ensure it, or choose the good and conversely avoid evil (Guerry 1961:37). Being engaged in any activity is always a duty for a certain person to do something or not. It has already been indicated above that rights and duties are correlative, so when a person has a certain right, everyone else has a duty to respect this right; thus the term of a right becomes the subject of a duty, or when a person has a duty, someone else has a right to something he/she ought to do or omit. Therefore, when somebody has a duty, he/she also has the right to fulfil that duty and to do all things necessary for its fulfilment, otherwise it would not be authentic (Guerry 1961:37). What Guerry is driving at is that rights do not exist apart from duties or in isolation. Having explained the meaning of rights and duties in human life, the next section will show the kind of methodology employed in this research.

1.4 Research Methodology

This research project is based on an analysis of the UN, the African and the Roman Catholic Church documents on human rights. There are many books written about human rights that deal specifically with the UN Declaration of Human Rights, the African Charter and the social teachings of the Catholic Church as highlighted to be the area of this study and all of them will be reflected in the selected bibliography. Basically, this thesis is not composed of

interviews being conducted because it is only meant to be the study of the work of written documents from various fields such as philosophy, law, theology, sociology, economics and politics. It proceeds by the comparison of terms and an analysis of assumptions. In addition, this research is based on Karl Rahner's conceptual framework of human rights, in accepting that human rights originate from God, the author of creation. However, the approach used during the course of this research project is basically philosophical and theological. This chapter concludes with the outline of the key argument on which the entire thesis is based.

1.5 Outline of Argument

Fundamentally, the UN Declaration on Human Rights and the African Charter claim that the origin of human rights is human dignity and the worth of a person, which mean one and the same thing. The social teachings of the Catholic Church proclaim that human rights emanate from God through natural law, and a similar teaching is maintained by Christian philosophers such as Thomas Hobbes and John Locke who were also influenced by the natural law theory. Logically, it is correct to explore the foundation of human rights before analysing them in concrete situations. People who acknowledge that human rights do exist should also be able to demonstrate their origin because it is impossible to talk of the existence of something without its roots. Therefore, the key argument of this thesis is that human dignity and human rights are derived from God, the creator. However, this issue will be discussed fully in Chapter Four. Chapter One serves as an introduction to the whole

thesis while the subsequent chapter deals specifically with the “secular” roots of rights.

CHAPTER TWO: The “Secular” Roots of Rights

2.0 Introduction

The central concern of this chapter is to make a comparative study between the UN Declaration of Human Rights and the African Charter. An initial attempt to define the term “human rights” has already been undertaken in the preceding chapter. However, different categories of rights are also discussed. This chapter also maintains that human dignity and the worth of a person are the source of human rights. It is worth considering the circumstances that influenced the establishment of the UN Declaration and its impact on world politics and international relations. Since there are various covenants, conventions and treaties established and signed by the United Nations with regard to the protection and promotion of human rights, the researcher wishes to discuss them as follows: the United Nations and human rights; UN Organs for the promotion of human rights; the Universal Declaration of Human Rights; the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural rights; and the Convention Concerning the Status of Refugees. Specifically, the above-mentioned rights appear in this thesis because they are within the confines of the study. In addition, it is the intention of the researcher to demonstrate some similarities and dissimilarities between the UN Declaration of Human Rights and the African Charter. Finally, the purport of this chapter is to indicate explicitly the relationship between the two charters.

2.1 Historical Development of Human Rights

The expression “human rights” is relatively new and came to be used after the Second World War, after the establishment of United Nations in 1945. It replaced the phrase “natural rights” which was no longer preferred because the notion of natural law to which it was basically connected had become a controversial issue and consequently was not universally understood or agreed upon (Goetz 1990:660). Most human rights scholars trace the historical origins of this conception back to ancient Greek and Roman philosophy, proclaimed by Zeno of Citum, maintaining that creation and human nature are controlled by natural law. Later, in the medieval period before the Renaissance, philosophers, such as Aristotle and Thomas Aquinas, closely connected natural law to doctrines with moral political theories about natural rights and taught mainly that duties and rights of man are two distinct realities (Goetz 1990:660).

The Renaissance period around the 17th century began a transition from Feudalism to a new dispensation for socio-political and economic dynamics in which freedom and equality were realized, particularly in relation to the use and ownership of property. This is the foundation on which what today is called human rights, is truly laid. Thus the shift from natural rights to human rights was made (Goetz 1990:660). Subsequent to the Renaissance epoch, the English, American and French revolutions of the 17th and 18th centuries occurred in order to protect and promote human rights (Davidson 1993:2). In order to learn more about human rights it is worthwhile to note the notion of “three generations of human rights” developed by the French jurist, Karel

Vasak (Robertson 1990:8). Vasak was motivated by three normative theories of the French revolution, these being the first generation of civil and political rights (*liberte'*); the second generation of economic, social and cultural rights (*egalite'*); and the third generation of recently called solidarity rights (*fraternite'*) (Robertson 1990:8). First generation rights spring primarily from the 17th and 18th century reformers' theories which are linked with the English, American and French revolutions. The second generation of rights emanate from the socialist tradition practised in France during the early 19th century that was also promoted by revolutionary struggle. These two generations of rights are interdependent although they don't belong to the same nature, meaning that they cannot be enforced or protected exactly in the same way. For instance, second generation rights, like the right to social security, cannot be safeguarded in the same way as first generation rights, like the right to free speech (Robertson 1990:8). Robertson does not articulate reasons why first and second generation rights cannot be protected in the same way. Probably, it is because their nature is different. At the same time, he does not deny that they can both be protected. In addition, Robertson excludes the third generation rights in his comparison, probably because he is specifically dealing with the first and the second generation rights.

Goetz describes third generation rights as a product still in formation being both the rise and the decline of the nation-state in the last half of the 20th century. Most solidarity rights are aspirational in character (Goetz 1990:661). The third generation rights category is a new contemporary development derived from the first and second generation of rights. Contemporary political

scientists, moralists and lawyers are not unanimous about the legitimacy and hierarchy of these three categories of generations of rights. This may be because they use different approaches which definitely influence them differently. For instance, some prioritize certain civil and political rights while others prioritize conditions of material and corporal wellbeing. The legitimacy of diverse human rights and priorities claimed may be viewed in context since people in different parts of the world hold various human rights demands according to many different procedures and practices depending on time, place, setting, level of crisis and other circumstances (Goetz 1990:661). The implication is that different groups, associations, organizations, tribes, nations and states understand human rights differently depending on the period in which they live and the environment and the circumstances surrounding them. In order to prove this point, the next section will deal with how the United Nations perceive human rights.

2.2 The United Nations and Human Rights

From an historical vantage point, the majority of human rights scholars believe that the United Nations has been the pioneer of human rights, at least in terms of the establishment of human rights campaigns and an implementation process since 1948. For instance, they established some international tribunals for prosecuting those who perpetrated gross human rights violations during the Second World War, such as the Nuremberg trials. Most scholars see the UN Charter as a multilateral treaty creating legally binding obligations for all UN member states. The preamble accentuates that the human rights discourse is predicated on the dignity and worth of the

human person, irrespective of gender, sex, color, nationality, ethnicity and religion (Davidson 1993:64). Primarily, the purport of the UN Charter was to encourage the promotion and respect of fundamental human rights, the equal rights of men and women and of big and small nations on the international plane. However, there are two articles in which all members pledge themselves to take joint and separate action in co-operation with the international organizations for the achievement of universal respect for, and fundamental freedom for all without discrimination of race, sex, language, color, and religion (Goetz 1990:661). The UN document, however, does not spell out any legal measures that may be taken against those member-nations who might possibly be disloyal to the commitment of human rights, their protection and promotion, as was the case in the Iraqi annexation of Kuwait in August, 1990.

This does not necessarily mean that the spirit of the UN Charter was not to promote human rights on the national and regional level, but the main attention is directed to the international community. In addition, it is important to bear in mind that the United Nations are all those nations which signed the treaty and had a unified plan to promote the protection of human rights worldwide. Since the United Nations is a body constituted of all concerned member states, it would be interesting to know exactly where the idea of the consolidation of nations comes from in order to give honour to the organizer for uniting the world, but this is not mentioned anywhere in the UN documents. If certain nations of the world were unanimous in consolidating a convergence championing human rights, it means they were challenged by

the situation prevailing at that particular period of time. Does it mean that gross human rights violations occurred on a large scale with regard to world politics and international relations? The United Nations was challenged by a particular situation of World War II legacies in which six million Jews were killed. Consequently, this genocide scenario was deemed to be a crime against humanity and international atrocities of human rights violations. The UN Charter is like the constitution of the United Nations because it gives a command to the member states to do or not to do something as indicated below.

The UN Charter prohibited the United Nations from intervening in matters pertaining to the domestic jurisdiction of any state, and at the same time, maintained that some human rights abuses, like apartheid, perpetrated on a national level, are also international crimes of human rights. The problem is which types of human rights violations can be settled nationally and which ones should be handled on an international level? But nothing daunted, the United Nations were unanimous that an international bill of human rights should be prepared to supplement the human rights provisions of the Charter (Goetz 1990:661). If the United Nations ought not to interfere with national and regional affairs, as the preamble indicates, what, then, is the status of the international human rights law?

According to human rights international law, some of the violations of human rights, such as genocide and apartheid perpetrated on a national plane, may be considered to be crimes against humanity and international human rights

crimes, but at the same time the international law does not take precedence over a national constitution. In this context, the problem is that the international law and the national law may be incompatible and contradict each other in some aspects. For instance, apartheid was legalized during the former South African authoritarian regime, but, at the same time, it was a crime against humanity and international crime as the international human rights law stands (Dugard 1997:279). If the present South African government wanted to grant amnesty to perpetrators of human rights abuses which occurred during the authoritarian regime in accordance with its constitution, simultaneously the international law position demonstrates that amnesties given for gross human rights violations contravene the fundamental principles of international human rights law (Dugard 1997:279). Despite the above-mentioned problem with regard to human rights international law, the United Nations encourages not only member states but all nations of the world to work collectively for universal human rights protection and promotion. In order to facilitate the UN operation, various Organs (see below) were assigned with different responsibilities with regard to their mission of human rights promotion. These will be discussed briefly in the subsequent section.

2.3 UN Organs for the promotion of human rights

The General Assembly, the Economic and Social Council and the Security Council are the UN Organs that developed various activities in order to respect, protect and promote human rights with regard to human dignity according to different responsibilities given to each one of them. For instance, the Security Council could take jurisdiction over human rights issues when

realizing that international peace and security were in danger (Goetz 1990:661). Hypothetically speaking, if a certain country which is not a member of the United Nations invades another country that signed the UN Declaration on Human Rights, would international peace and security be disturbed? In this situation, the point at stake is that the conflict is between two countries of which one is not even a member of the United Nations and subsequently this political dispute engenders some gross human rights violation. When looking at the above-mentioned case critically, can it be affirmed that the international human rights law binds these two countries equally or only the member state? In this kind of situation, what is the position of the international human rights law and how can it remedy this political controversy by administering justice to both parties concerned? By right, the international human rights law should only affect member states and the dispute can be resolved regionally because the other country is not a UN member state.

Moreover, the United Nations specifically established two human rights commissions of which one was particularly responsible for promoting the rights of women on the international plane, while another was established mainly for the defence of human rights from nation to nation (Goetz 1990:661). Advancing women's rights is definitely an international advancement which should inspire all nations of the world to do the same in their respective countries because women are not generally recognized by most societies of the world. For instance, women do not have the opportunity to exercise leadership roles. In addition, the functions of these commissions

were to investigate, to advise, to evaluate and to make some recommendations concerning alleged gross human rights violations. The commissions, together with other UN Organs such as the International Labour Organization (ILO), the UN Educational Scientific and Cultural Organization (UNESCO) and UN Commission of Women's Status, worked hand in hand to prepare a number of international instruments.

Among these instruments, are the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights together with its Optional protocol (1966), the International Covenant on Economic, Social and Cultural Rights (1966), and the Convention concerning the Status of Refugees (1951) and its protocol (1967), collectively known as the International Bill of Rights. These instruments serve as touch-stones for interpreting the human rights provisions of the UN Charter (Edward 1991:719). The UN Organs operate in conformity with the 1948 Universal Declaration of Human Rights which will be discussed in the following section.

2.4 The Universal Declaration of Human Rights (1948)

The 1948 Human Rights Declaration deliberated on the following rights: equality before the law; protection against arbitrary arrest; the right to a fair trial and the freedom from "ex post facto" criminal law; the right to own property; freedom of peaceful assembly and association; freedom of opinion and expression (Goetz 1990:661). In addition to the above-mentioned list of rights, there were also economic, social and cultural rights, such as the right to work and choose one's work freely, the right to equal pay for equal work

and the right to education. This Declaration is silent about political rights probably because it is not dedicated to them. Moreover, the question of education as it stands here is not an international treaty, but was aimed at proclaiming a common standard of achievement as a means of judging how all governments have carried out their obligations under the supervision of the United Nations with respect to human rights protection and promotion (Goetz 1990:661). If the question of education is not an international treaty, why was it included in the Declaration dealing with the international issues? The 1948 Universal Declaration of Human Rights is an international treaty in itself and contains what the United Nations agreed upon. Therefore, the idea of education is also an international treaty.

Fundamentally, the United Nations Human Rights doctrine is that human rights are founded on human dignity and the worth of a person. For this reason, they ought to be respected, protected and promoted. In order to develop this discussion several questions are posed. Why do people have rights? Why should human rights be respected, safeguarded and advanced? Initially, the central issue is to know the basis of human dignity and this is prior to the human rights question. It is not sufficient to claim that human rights are grounded on human dignity as if human dignity has no origin from which human nature is derived. Logically, it is not adequate to postulate that human rights originate from human dignity without mentioning the origin of human dignity because these two realities are interconnected. Nevertheless, the question still hovers: is human dignity the ultimate source of human rights? The issue of human rights is profound and should transcend human dignity as

the basis of human rights because it surpasses human nature and it is still not clear why human dignity could be the foundation. The human rights discourse still needs further discussion and should include a theological approach in which human nature is discussed more thoroughly.

Despite the above-mentioned limitation with the Declaration, the United Nations vigorously encourages individuals, groups, associations, organizations, nations and all states of the world to defend and advance human rights, individually and collectively. This lesson has made an indelible mark on the history of human rights development. It is now an obligation and responsibility of every country to implement strategies advancing human rights and human dignity. In addition, the protection and promotion of human rights is a daily job and it is an everlasting message delivered from generation to generation. Like other human rights instruments, the UN explicitly manifested its role in fostering international development. Similarly, the 1966 International Covenant also indicated its area of interest in contributing towards the protection and promotion of human rights.

2.5 The International Covenant on Civil and Political Rights and the Optional Protocol (1966)

As one of the UN instruments of human rights, the International Covenant focused its attention on civil and political rights in particular. According to this covenant, each was readily determined to defend and promote human rights. However, the main concern of this covenant was to see political rights protected on an individual, regional, national and international basis. Can the Third World countries, especially African countries, offer equal opportunities of

participation in international governance like the First World countries can? The idea of promoting human rights on the international plane is very complex and remains problematic because the Superpowers or the 8 great countries of the world (the G.8 being America, Britain, France, Japan, Germany, Italy, Canada and Russia) may be inclined to advance their own political interests that might possibly inflict political instabilities on small, disadvantaged countries, especially on the African continent because it is economically controlled by the above-mentioned body. A stable economy determines political stability that will bring about peace and prosperity to the entire society.

The issue of the promotion of international political rights is a thorny one mostly because it always involves power relations and subsequently weaker countries will always suffer political consequences of experiencing regional and national conflicts imposed by richer states. Theoretically, the United Nations is connected by common vision in human rights promotion. Nevertheless, in a concrete practical situation, the very same United Nations is controlled by the Superpowers or the G.8 with regard to world politics and international relations, who, at the same time, serve their own interests and promote the development of their own countries. In this type of situation, whose political rights are protected and promoted? And whose rights are not safeguarded and advanced? The one who controls world politics is always the one who benefits the most and whose rights are promoted.

The UN International Human Rights Committee was established and worked hand in hand with the UN member states. It also laboured co-operatively with the UN Commission in resolving matters pertaining to human rights violations. For instance, they worked together making investigations about gross human rights violations. It binds all UN member states to promote human rights in their respective countries irrespective of sex, color, language, nationality, political affiliation and religion (Goetz 1990:661). The subsequent International Covenant on Economic, Social and Cultural rights deals with second generation rights specifically.

2.6 The International Covenant on Economic, Social and Cultural Rights

Just as the International Covenant on Civil and Political Rights address most of the civil and political rights mentioned in the Universal Declaration of Human Rights, similarly the International Covenant on Economic, Social and Cultural Rights draw our attention to the following rights which basically emanate from second generation rights: the right to work; the right to just and favourable conditions of work; trade union rights; the right to social security; rights relating to the protection of family; the right to an adequate standard of living, the right to health; the right to education and rights related to culture and science. Some of the rights mentioned here, in fact, belong to the third generation rights or solidarity rights such as the right to health and education. The researcher questions how, as Africans, the above-mentioned rights are understood in the African context, setting aside the issue of globalization. Africans have learnt most of these rights through the Western system of education which changed their style of life and made them want to be like

White people. Nevertheless, this Covenant intensively encourages all world countries to deploy their concerted efforts to implement strategies promoting the above-mentioned human rights.

In addition, all nations are obliged to eradicate discrimination on the basis of sex, color, religion, ethnicity, race and culture. Finally, all UN members are expected to make some reports indicating the achievements they have reached insofar as the above-mentioned rights are concerned (Edward 1991:720). When looking at the world at large, the question of economy is prioritized because without sufficient economy no country can be stable in all dimensions. For instance, countries are now not on the same level in terms of economic development yet they are at the disposal of the UN human rights organs. The implication is that richer countries focus more attention on the economic development of their own countries than on weaker ones. If the spirit of this Covenant set forth above is to foster economic, social and cultural rights on the international plane, why is it that there is a great disparity between the First World countries and the Third World countries in terms of economic status, especially African countries? In the economic domain, there are certain international institutions such as the IMF, GATT and the World Bank collaborating with the United Nations but may be controlled by the G8 because of the high economic status they have for their own interests. The greater the contribution they make in the world of economy, the more they benefit in their particular countries. Obviously, countries which do not contribute much to the economy of the world, or, in fact do not contribute at all, will not grow that much, economically speaking.

As already claimed earlier, the world economy is more beneficial to the Western countries than the Third World countries, particularly African countries, probably because Africans, as poor as they are, do not have much influence on the world economy. When will the United Nations together with the Superpowers or the G8 promote equal opportunities for all nations of the world in the world economy? This is the acute challenge to the United Nations: to reawaken their mission and justify their standpoint in protecting and promoting equal economic rights regionally, nationally and internationally. It is vividly stated that the above-mentioned covenant also deals with the protection and promotion of cultural rights on all levels. Before being engaged in economic activities, one must first belong to a particular culture. Therefore, there is a link between culture and economy as this covenant points out. Since the world is not culturally homogeneous, how can the United Nations, through its diverse organs, promote cultural rights? The idea of promoting cultural rights cannot easily materialize on an international level as long as people do not share the same culture, otherwise Africans will end up inheriting Western culture and abandon their own, because of being deceived by Western strategies in the name of globalization. Since the International Covenant on Economic, Social and Cultural Rights has already been discussed above, another human rights instrument issued by the United Nations, a convention dealing with the status of refugees, who also have economic, social and cultural rights, will be discussed in the next section.

2.7 The Convention Concerning the Status of Refugees (1951) and the Protocol of (1967)

During the course of time, the United Nations drafted a number of other conventions in an attempt to develop respect for human rights. These conventions widely address various issues such as the prevention and punishment of genocide; the protection of stateless persons; the promotion of political rights of women and the elimination of all forms of discrimination against women, as well as the status of refugees (Goetz 1990:661). This convention includes refugee's rights which includes all of these categories of human rights. Since refugees, like citizens of a country are human beings, they also have human rights derived from human dignity and the worth of a person. Similarly, their rights ought to be respected, safeguarded and promoted, irrespective of sex, color, ethnicity, language, political affiliation, nationality and religion.

In this convention, the main focal point is on the promotion of the status of refugees as far as their rights are concerned. To start with there is a principle forming the basis of the convention of 1951: discrimination between nationals and refugees is utterly condemned and there ought not to be any kind of discrimination based on race, religion or country of origin among refugees (Goetz 1990:661). All states that are members of the covenant have an obligation to offer cordial national treatment to refugees because the rights of refugees should be safeguarded and promoted. In other words, all the rights of refugees ought to be respected and promoted inasfar as their human dignity is concerned. Just to mention a few, the refugees as human beings have the following rights which ought to be recognized: rights to freedom of

religion, access to courts, elementary education, employment and just wages, marriage and public relief (Goetz 1990:661).

Finally, the refugees must be granted compassionate treatment with regard to all aspects of life in general, such as health care, security, education, opportunities to work, and so on (Goetz 1990:661). Why is there a massive flow of refugees seeking political asylum in other countries? The political asylum seekers are almost always those who are devoid of economic and political stability in their home countries. Therefore, it is essential for all nations of the world to take care of refugees' rights because they also have human dignity that is the foundation of human rights according to the UN Declaration of Human Rights. Should refugees be treated in the same way as citizens? The answer is the affirmative as they are also full human beings who share the same humanity even if they do not have the citizenship of the country in which they live.

Besides the instruments already discussed, there are many different Declarations made in the general Assembly of the UN, namely, the Declaration on the Issue of the "Decolonization Process" or the Abolition of Colonialism (1966) and the Declaration on the Rights of the Child. All the countries deemed to be members of the UN are strongly encouraged and expected to respect these declarations. Historically, the background of the preamble originated from the natural law doctrine which was proclaimed by ancient philosophers, like Aristotle, (Edward1991:720) and it will be discussed in Chapter Four when dealing with the foundation of human rights. Besides

various UN organs and human rights instruments proclaiming the same human rights doctrine, there is also an African Charter document on human rights treating human rights discourse in accordance with the international standards. Exactly how the UN Charter and the African Charter relate to and overlap with each other will be discussed next.

2.8 African Charter and People's Rights (1981)

The African Charter proclaims the same human rights doctrine already discussed. The African Charter is sometimes called the Banjul Charter after the capital of Gambia where it was drafted. This Charter was adopted at the Eighteenth Assembly of Heads of State, and Government of the Organization of African Unity (OAU) in Nairobi, Kenya in June, 1981, and came into effect on 21 October, 1986 (Davidson 1993:152). Since the African Charter was established recently, it is obvious that there are numerous human rights declarations and conventions established internationally prior to that. For instance, the U N Declaration, the European Bill of Human Rights and the Inter-American Human Rights Conventions are prior to the African Charter (Davidson 1993:152). In addition, the African Charter would have been inspired by some of the above-mentioned human rights documents, particularly the UN Declaration as they share the same doctrine of human rights. When scrutinising Article 5 of the African Charter in comparison with Article 1 of the U N Declaration, they both mirror the same idea that human rights are founded on human dignity as being portrayed by the teaching of natural law.

The principal objectives of the African Charter are: to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women, to promote social progress and better standards of life on a regional level, and to attain co-operation in promoting and encouraging respect for human rights and fundamental freedom for all, without taking into account sex, language, religion, nationality and ethnicity. The African Charter does not outline what it considers to be the better standards of life it would like to promote with regard to human rights, and that is problematic. What could this measure of better standards of life in the African context be? Westernized Africans and people with Western mentality may think that better standards of life means owning Western technological equipment such as a computer, a telephone or cell phone and a car. In actuality, to an indigenous African, what are better standards of life? What is essential to a real African is sustaining African cultural heritage while still exploring Western technological development. The intention of the African Charter is meant to protect individual, civil, political, economic, social and cultural rights (Davidson 1993:153). Article 2 of both the African Charter and the U N Declaration express the same idea that everyone is entitled to all rights and freedoms mentioned without discrimination of race, sex, color, language, religion, political or any other opinion, national and social origin, birth or other status. Moreover, Article 3 of African Charter echoes Article 7 of the U N. in maintaining that all are equal before the law and are entitled to the protection of the law without any discrimination. The implication is that no one is above the law with regard to his/her social status but that all the legal

subjects, whether rich, poor, woman, man, black, white, Muslim, Zionist, ordinary person or president will be treated equally.

In addition, Article 4 repeats what is already indicated in Article 12 of the U N Declaration, that embraces the issue of the right of human respect, integrity and reputation during the course of one's life. In other words, people are entitled to their dignity and respect either on an individual or social level. For instance, making someone a slave means dehumanizing that person whose status and reputation should be respected and protected at all times. Article 5 corresponds with Articles 1, 4, 5, and 6 of the U N. Here the idea expressed is that all human beings are equal, born free and equal in dignity and rights. They have the same legal status and need the same treatment. All world peoples are brothers and sisters, and must comply with the requirements defused by human nature that reveals human dignity. Article 6 is in conformity with Articles 3, 9 and 13 of the U N. Declaration. Everyone has the right to life, liberty and security. Everyone has a right to freedom of movement and finally no one shall be subjected to arbitrary arrest or detention. Basically, what is meant is that a person ought to be free from unlawful assaults, arrest and many other types of physical restriction such as tampering with one's privacy.

The whole of Article 7 addresses legal rights a person has before the law and the same idea is contained in Articles 10 and 11 of the U N Declaration. Everyone is entitled to full equality and to a fair and public hearing by an independent and impartial tribunal in the determination of his/her rights and

obligations and of any criminal charge against him/her. Everyone charged with a penal offence has the right to be presumed innocent until proven guilty by the court of law, and has a right to choose to be legally represented. Article 7 of the African Charter makes us aware of the importance of the administration of justice in the court of law which is the obligation of judicial officers to settle legal conflicts between the concerned parties. In this case, it is the duty of the magistrate to dispense justice in the court and it is the right of the criminal to appear before the court.

Article 8 reiterates Article 18 of the U N Declaration, portraying that everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change religion or belief, and freedom either alone or in community with others and in public or private, to manifest the religion or belief in teaching, worship and observance. However, respect for religious freedom implies that people have the right to express their way of life through religious activities such as worshipping, theoretical and pragmatic teaching. Article 9 echoes Article 19 of the U N Declaration indicating that everyone has a 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, regardless of frontiers. This means that everyone has the right to keep his/her views secret or to share it with others when necessary. Article 10 is contained in Article 20 of the U N Declaration where there is an indication that everyone has the right to freedom of peaceful assembly and association. The meaning of these articles is that every

individual person has the right to join lawful/legitimate associations in which all their activities are under the full protection of the law.

Moreover, Article 11 of the African Charter brings home the importance of exercising the right to have peaceful gatherings organized by lawful institutions for social welfare of all community members. In Article 12 there is a connection between Articles 13, 14 and 15 of the U N Declaration. Article 13 holds that everyone has the right to freedom of movement and residence within the borders of each state. Article 14 enunciates that everyone has the right to seek and enjoy asylum from persecution in other countries. Article 15 asserts that everyone has the right to nationality. What is actually meant by the above-mentioned articles is that being a citizen of a particular country gives one the mandate to participate fully in government activities and at the same time the right of freedom of movement and asylum seeking since they are acquired through citizenship. Article 13 is in accordance with Articles 21 and 22 of the U N Declaration in which civil, political and social rights are accentuated. Everyone has the right to participate in the government of his/her country, directly or through freely chosen representatives, equal access to public service in his/her country, to social security and to exercise his/her economic, social and cultural rights for human development. However, these articles emphasize personal commitment, the rendering of equal service and the implementation of some certain strategies for social development that involve every citizen.

Article 14 resembles Article 17 of the U N Declaration by mentioning that everyone has the right to own property alone as well as in association with others. The only difference is that the African Charter emphasizes that property ownership should only be granted on the basis of the general interests or needs of the community at large. Article 15 is similar to Article 23(1) and (2) of the U N Declaration. Everyone has the right to work, free choice of employment, just and favourable conditions of work and protection against unemployment. Everyone, without any discrimination, has the right to equal pay for equal work. This is not the case in Africa because the majority of people are unemployed. Subsequently, the question of job creation is still an outstanding feature that needs urgent treatment because unemployed people are not able to exercise their right to work.

Article 16 is in conformity with Article 25 (1) of the U N Declaration that everyone has the right to a standard of living adequate for the health and the well-being of him/herself and of his/her family, including food, clothing, housing and medical care and necessary social services, as well as the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood circumstances beyond his/her control. According to these articles, it is the responsibility of the government to cater for all needs of its citizens especially when they are poor, sick and old. Article 17 spells out what is closely related to the meaning that is also contained in Articles 26 and 27 of the U N Declaration. Everyone has the right to education. Every individual has the right to freely participate in the cultural life

of the community. It is the duty of the state to protect and promote the morals and traditional values recognized by the community.

The issue of moral teaching as the instruction of good morals or human conduct/ behaviour is uniquely found in the African Charter and not mentioned in the UN Declaration because morality is rooted in African culture so much that whatever one does is always associated with morals. In the African context, personal behaviour reflects how a person is brought up in different stages of life and people will be able to distinguish whether one has had good up bringing or not. Furthermore, the question of moral teaching should be associated with the type of education that will emancipate Africans from poverty caused by economic and political factors. In addition, the type of education required for Africans is that which will help them maintain their African traditional-cultural heritage and this treasure ought not to be compromised in the name of Western technology especially as it does not develop their lives as Africans. Articles 16, 18 and 25 of the U N Declaration are similar to Article 18 of the African Charter in asserting that the family is the natural and fundamental unit of society and is entitled to protection by society and the state. However, the African Charter further maintains that it is the government's duty to assist the family as the custodian of morals and traditional values recognized by the community. Articles 19 – 20 of the African Charter address the idea that social rights ought to be protected and promoted by each and every citizen. The most important point contained in these articles is that it is the responsibility of Africans to keep their continent independent in all dimensions, such as economic, political, social, cultural,

etc. Article 21 states explicitly that all African countries should consolidate African Unity and solidarity with the purpose of combating the oppression, domination and exploitation practised by the global village or international community.

In Article 22 the point at stake is that individuals, organizations, groups, and states must converge and collaborate for the development of the African Continent in all aspects of life. Article 23 reaffirms 28 of the U N Charter in connection with the right to international peace and security. Furthermore, the principal purpose of these two charters is to secure the protection of human rights in the national legal systems of states and in the international legal order. The above-mentioned articles make all states of the world aware that it is the obligation of each state to create legal systems in which civil, economic, political, cultural and social rights will be respected and promoted. Why should the African Charter deal with international peace and security which is specifically the task of the United Nations? This is a clear sign that the African Charter is not independent but structured in the light of the UN Declaration of Human Rights. In addition, Article 23 of the African Charter repeats that all states are obliged by the U N Bill of Rights to comply with the international standards protecting and promoting human rights. This has nothing to do with Africans in particular although it is contained in the African Charter and it affirms that the entire document of the African Bill of Rights is a reiteration of the UN Declaration of Human Rights.

Article 24 of the African Charter is not reflected explicitly in the UN Charter. All peoples shall have the right to a generally satisfactory environment favourable to their development. In other words, all state members must unite in solidarity with one another in order to work for the development of Africa. When comparing the African Charter with the UN Declaration, the latter does not mention anything about duties or obligations throughout the charter. Therefore, this is the limitation with the UN Declaration because human rights and duties are correlative and indissoluble. For instance, if I have the right to marry, it is also my duty to bring up my children and cater for all family needs. When a person claims any kind of right, he/she must also claim a duty coupled with that right. There is no right without a duty and there is no duty without a right. If I have a right to employment, I also have a duty to do my work well. I have a right to education and at the same time it is my duty to study. I have a right to freedom of speech and a duty to respect the public.

Another example that proves that rights correspond with duties taken from the public sphere could be that of a politician; that politician has the right to campaign for general elections in that country. After the elections have been won, he/she is inaugurated as the president and from that time has the duty to render service to the whole of that society, irrespective of sex, color, race, religion, ethnicity, etc. All the examples given above prove that rights correspond with duties. Moreover, Articles 25 – 29 of the African Charter deal with duties of individuals, groups, associations, organizations and states regionally, nationally and internationally. In addition, many of the

rights enumerated in the African Charter have correlative duties attached to them.

Furthermore, duties to family, society, and state are established in Articles 27 and 28 of the charter while Article 29 provides for specific duties resting with certain individuals. Finally, the most significant flaw or weakness in the African Charter is that it is fundamentally predicated on Western legal systems and not on African philosophy inspired by 'Ubuntu' which asserts that a person can be recognized as fully human when he/she lives a community life.

2.9 Conclusion

The human rights doctrine is a world discourse addressed by people of diverse groups, associations, organizations, institutions, nationalities, sexes, race, ethnicity, religions, etc. in their different contexts. Since all peoples of the world do not have a homogeneous culture, it is obvious that their conception and perception of human rights may not be the same although they have some common grounds on which their proclamation is based. Moreover, the human rights discourse is ageless in the sense that it was observed in practical situations since ancient times. Although the term "human rights" is modern, it belongs to all centuries, being passed from one generation to the next. Everybody, being conscious of it or not, claims to be endowed with human rights whatever ones colour. In other words, it is difficult if not impossible to know a person without being cognizant of his/her human rights. In addition, human rights reveal human nature in the plenitude in daily

life activities because people cannot live without expressing who they are, and in this process their rights are realized.

Finally, the UN and African Charters as human rights teaching documents have clear objectives requiring implementation programs to encourage the world, that is all nations, to commit themselves entirely on a regional, national and international level. If it were not difficult to join hands in protecting and promoting human rights with common vision, the world would definitely be transformed into a beautiful planet appropriate for human habitation. The contravention of human rights as a world discourse occurs everyday in different contexts and perceptions regionally, nationally and internationally but nothing daunted, it is an obligation for all to faithfully adhere to the human rights proclamation until the world ends. Since this chapter discusses the UN Declaration of Human Rights and the African Charter, the next chapter will treat the same issue according to the social teachings of the Roman Catholic Church.

CHAPTER THREE: Roman Catholic Roots of Rights

3.0 Introduction

The central concern of this chapter is to demonstrate the contribution made by the Roman Catholic Church with regard to human rights protection and promotion. The findings of this dissertation are substantially grounded on the official social teaching of the Church as the theology espoused by the Catholics. It is the desire of the researcher to manifest the understanding of the church on liberty and fundamental rights and how they influence the church itself and the secular world. The motivation and the stance of the church's teaching on civil, political, economic, social and cultural rights will be demonstrated. The distinction between all these rights will be indicated, although cognisance is taken that they are related. Above all, the church claims to be the bridge between humanity and the Creator, and the major instrument commissioned in a special way to preach about human rights until the end of the world (Schuck 1991:54). A link between the church, the society and state will also be shown.

3.1 Concern for Human Rights in the Social Teachings of the Roman Catholic Church

The Catholic Church has a long history manifesting a great many changes that affected the church itself and the secular world. Before these changes, which started around 1891, the Catholic Church prioritized spiritual matters and paid less attention to the material needs of the people, with the understanding that the church specializes in spiritual needs (auret1993:3). That was a backward understanding of the Catholic Church because it missed

that a person is composed of both spirit and body. Therefore, spiritual and material needs are supposed to be answered together. Because of the church's weakness of not caring for social life, the church re-examined itself and developed its teaching. However, there are many documents reflecting the social teachings of the church and its involvement in the rapidly changing world. Many documents drawn up by popes show clearly what the Catholic Church understands by human rights during the course of history

Towards the end of the nineteenth century, Europe experienced a radical social, economic and political change. After the fall of the Roman Empire, the landowners no longer had the power and the church became more involved in the social problems of its people. In Italy, during the mid-nineteenth century, there was political reform which was caused by the exploitation of workers and subsequently poverty grew on a large scale. In response to this situation of poverty, moved by the plight of the people in Italy and concern for the Universal Church, Pope Leo XIII published the encyclical/document containing the workers' charter that addressed the conditions of workers on 15 May, 1891 (Auret 1993:3). This encyclical condemned the evils of capitalist industrialization and the socialist ideologies of the time and encouraged the establishment of workers' trade unions and the protection of the interests of the poor by the state (Walsh 1984:65). Although the Pope's encyclical was rooted in the Italian context, it also became universally recognized as the workers' charter by all those who followed the Catholic teachings (Auret 1993:4). It is interesting to see Pope Leo XIII standing up for workers' rights, because, at the same time, he gave a general lesson to church members to

respect workers' rights as employed by the church and this message of the encyclical not only referred to the Italian state but it was also an appeal to the whole world in ecclesiastical institutions, civil states and international organizations.

The emergence of human rights as a concern of Roman Catholicism is a colossal historical development, because, around the eighteenth century, the Catholic Church, with its doctrine, intensively castigated both the democratic and socialist revolutions which were the principal proponents of the civil and social rights enshrined in the declaration of human rights (Hennelly 1982:9). The implication is that there was a time when the Catholic Church had a different understanding of human rights but after being challenged by the democratic and socialist revolution, the church re-examined itself and developed its teachings supporting the protection and promotion of human rights. On the other hand, the democratic and socialist revolutions contributed to shaping a shift of the Catholic teaching to a new understanding of public life with regard to the proclamation of human rights. After this transition of human rights awareness and importance, the Catholic Church began to be in the forefront in championing human rights. The church conscientized all peoples of the world to work for the well-being of all society members where equal participation and opportunities are realized. Moreover, the church as the custodian of both spiritual and material human life needs for the whole of humanity established many different associations and organizations for human rights development on a global scale (Nessan 1989:10). The Holy See, as the general institutional organ of the Catholic Church adopted the

cause of human rights as the major concern of its ethical teaching and pastoral strategy in the domain of international justice and peace (Hennelly 1982:9). The Catholic Church is now interested in the protection and promotion of human rights on a global level because its mission is to administer justice and make people aware of God's love among them. Its missionary function is to evangelize all parts of the world specifically dealing with the protection and promotion of human rights.

The pontificate of Pope John XXIII during the Second Vatican Council is the continuation of the Catholic teaching which was already preached by Leo XIII as the rapid development of the Catholic understanding of the church's role in the field of human rights that emerged from a major event in the modern history of Catholicism (Holland 1986:17). The majority of Catholics believe that the active participation of the church in public sphere and the implementation of the church's social policies were more observable during the initial operation of Vatican II Council under the pontificate of Pope John XXIII (Hennelly 1982:10). Others believe that Pope Leo XIII is the one who started introducing some fundamental changes within the Catholic Church regarding human rights proclamation. Nevertheless, they both made a considerable contribution to human rights development world-wide.

The Catholics consider Leo XIII's encyclical/document "Rerum Novarum" to be the foundation stone of the modern social teaching of the Catholic Church. It was followed in 1931 by "Quadragesimo Anno" by Pope Pius XI, which

echoed the message of his predecessor while attempting to analyse capitalism and communism more thoroughly. The focal point was that the economy of the society was controlled by the few while the rest of the society had no access to it at all. Like Leo XIII, Pius XI based himself on the social teachings of the church and also wrote an encyclical maintaining that all forms of economic enterprise must be governed by the principles of social justice and charity, and that human purpose must be to achieve social justice, that is a national and judicial order in which all economic activity can be in the interests of the common good (Auret 1993:4). In 1939, Pius XI condemned the Soviet Union for its atheistic communism as being incompatible with the doctrine of the church that liberal capitalism created injustices in society, thus providing a perfect breeding ground for atheistic communism (Auret 1993:4).

In May, 1941, Pius XII, exercised the Church's right to speak out on social issues enunciating the church's teaching on the three fundamental values of social and economic life: the use of material goods, work and the family (Schuck 1991:59). Pius XII, based on the principles of justice and charity, wanted to demonstrate that the economy should be raised for all. Pius XII, however, emphasized that the capitalists ought to stop working for their own personal and selfish interests because it is inhuman (Schuck 1991:59). This lesson is not only delivered to Catholics, but also to all Christians and non-Christian denominations of the world and should be extended to non-believers as well because all of them need the good news of salvation. Furthermore, the key and classical document for the doctrine of human rights in the Roman Catholic tradition is "Pacem in terris" (Peace on Earth) issued by Pope John

XXIII in 1963 (Schuck 1991:59). However, the Catholic Church regards this encyclical as a vigorous contemporary document panoramically portraying the church's active participation in the public arena in daily life challenges throughout the world. "Pacem in terris" together with the decrees of Vatican II, is the resolution of a crucial stage of Roman Catholicism's long struggle with the modernizing and secularizing culture of the west (Curran 1986:110). In other words, the church in the light of Vatican II Council no longer evangelizes through Western culture only but also welcomes all cultures of the world as consolidating one Universal Church of Christ where human dignity and human rights are to be considerably respected and advanced.

The "Pacem in terris" document fundamentally marked the ecclesiastical transition from the traditional regimes to a democratic regime in which the human rights phenomenon is afforded special attention. What motivated the contemporary Catholic Church to prioritise the human rights doctrine in the mid-nineteenth century? The early attitude of the Catholic Church towards the declaration of human rights was negatively influenced by the anticlerical bias of the French revolution, the fear of secularism and its hypertrophic individualism (Curran 1986:110). The church did not have a clear vision of the impact of the French revolution on social life and, at the same time, was afraid that the secular authority could inconvenience its operation by preventing Catholic practices. The church felt that these insecurities traumatized it for a long time and that they were only fully overcome in the second half of the 20th century (Curran 1986:110). Pope John XXIII was the first to use the phrase "human rights" in a papal document, and Vatican II Council endorsed it. The

synod of bishops of 1974 drew up a catalogue of human rights (Peschke 1994:239).

Based on the foundational principle of humanity with regard to its social doctrine, the Catholic Church enunciates that every human being is a person, that is, his/her nature is endowed with intelligence and free will (Wolterstorff 1983:26). By virtue of this, he/she has rights and duties, flowing directly and simultaneously from his/her very nature. These rights are therefore universal, inviolable and inalienable (Curran 1986:110). The Catholic human rights theory is explained in relation to human rationality and freedom as derived from Greek philosophical-theological thought (Walsh 1984:18). The human rights theory in Catholicism is viewed from an anthropological perspective which is fundamentally realistic in its account of human knowledge and human moral endeavour and which emphasizes both the unity of the human person as a being in the world and the necessary orientation of the person to society and community (Curran 1986:111). This theory depicts a person as a substance of a rational nature existing independently and as a social being living in the community, and in all these different levels of situations, he/she ought to live as a human person, exercising his/her rights to the plenitude because they reflect human nature (Irwin 1995:76).

The Catholic Church professes that human rights are to be protected by law and special programs to ensure the rights of the less fortunate members of the community who are not able to safeguard their rights are highly encouraged (Schuck 1991:60). In particular, "pacem in terris" draws our

attention to focus more profoundly on the participation of women in public sphere as human beings endowed with human dignity, rights and duties derived from human nature (Wolterstorff 1983:26). Moreover, the church considers it as its prophetic mission to defend justice and rights in the social, national and international domain and to condemn injustices where fundamental rights require human salvation (Walsh 1984:59). In addition, it is worthwhile for the church to examine itself as to what extent the basic human rights are respected and applied by it (Peschke 1994:241). The church is always judged by its own practice. Its prophetic protection of human rights can only be meaningful and credible if it itself is reckoned by others to be just and merciful (Walsh 1984:60). On the other hand, the church's service in promoting human rights binds it to a constant examination of conscience and continuous purification and renewal of its own life, its own laws, institutions and conduct (Peshke 1994:242). The church's realization of human rights should not only consist in verbal teaching but, above all, also in setting an example itself by doing right.

Since the Catholic Church has been preaching the human rights doctrine, it still continues accomplishing its vocation by encouraging people to be the agents of human rights advancement. There are two questions characterizing the Church's role in society: the theological and constitutional questions (Corrado 1986:90). The theological question is the manner in which the Church articulates the content of its social teaching. When the USA Catholic conference addressed the question of EL Salvador, or the impact of the budget cuts on the poor, when bishops speak, when Catholics either

individually or collectively oppose abortion or capital punishment in defending the sanctity of life, then it must be clear that these actions are rooted in, directed by, and in fulfilment of a theologically grounded conception of the Church's ministry (Corrado 1986:90). This ministry, in the social or political order, is characterized by religious convictions about the dignity of a human person and a spectrum of obligations and rights by which human dignity is preserved and promoted in the political process (Corrado 1986:91). These concepts have been key ideas in the Catholic tradition from Leo XIII's first social encyclical "Rerum Novarum" (On the Condition of Labour), up to John Paul II "Laborem Exercens" (On Human Worth). Each of these social encyclicals has protected human dignity and human rights (Corrado 1986:91).

Moreover, the article entitled "The Pastoral Constitution on the Church in the Modern World" which is contained in the Vatican II documents deals particularly with the protection of human dignity and the promotion of human rights as a proper ecclesial task – an integral part of the church's ministry (Schuck 1991:60). The role of the church in the political order is to stand as a sign and safeguard of human dignity (Corrado 1986:92). It is also the responsibility of the church to debate publicly when policies are shaped, programs developed, and decisions made which directly treat human rights regionally, nationally and internationally (Corrado 1986:92). When addressing American Catholics in his homily at the Yankee stadium, Pope John Paul II affirmed that the Catholic Church should be involved in public life by playing a leading role in directing people to God (Corrado 1986:92).

The church as an institution in society is officially involved in diverse types of activities such as promoting justice and peace wherever conflicts and injustices are encountered. Some people may believe that working for justice and peace is a political transaction in which the church as an institution should not be involved (Byrne 1988:22). However, it should be clear that for the church to remain silent about grave injustices in society is itself a political action (Byrne 1988:22). When the church does not respond to inhuman treatment inflicted and imposed on the society, it gives support to those who perpetrate crimes of injustices: such a silence can be easily interpreted as consent by the church, demonstrating a strong political position and seconding the oppressors or unjust governments (Byrne 1988:22). In order to substantiate the position of the Catholic Church in the public arena, some political leaders who do not understand the role of the church in the social sphere claim that the church should not be involved in social issues especially pertaining to justice and peace, because they are convinced that there should be a separation between the church and the state/government. When the church preaches justice and peace in society, these particular leaders claim that the church interferes with the rights of the state (Nessan 1989:82). The separation of the church from the state is not the same as the separation of the church from the society because the church is also part of the society it is meant to serve and therefore it can never be separated from it. On the other hand, the state is not society in itself and is only that part of it elected to render service to the same society (Nessan1989: 82). When the church promotes justice and peace, it acts within its rights. Since the church is part of

society, it has a right to speak about matters that affect society (Byrne 1988:25).

In addition, the Vatican II Council reiterated that the mission of the Church is primarily religious in society and without society, religion cannot exist meaningfully because by its very nature, it is not a private affair without any social dimension (Wolterstorff 1983:57). In 1971 the Catholic bishops of the world met in Rome in order to discuss the church's work in society especially pertaining to justice and peace in the world (Schuck 1991:55). According to the bishop's statement in the Synod, which was a discussion of justice and peace in the Catholic context, pointed out that the mission of the church is to preach the gospel dictates at the present and that leaders of the church, together with the laity, ought to dedicate themselves entirely to the liberation of people even in their present existence in this world (Byrne 1988:26). The message of love and justice should be proclaimed through actions while advancing justice in the world or else people will lose their faith (Byrne 1988:26). In addition, the statement goes further maintaining that action on behalf of justice and participation in the transformation of the world fully appears before the church as a constitutive dimension of the preaching of the human race and its liberation from oppressive situation (Byrne 1988:26).

It is difficult or even impossible to preach the gospel without taking an action on behalf of justice because preaching the gospel is equivalent to delivering the message of justice and standing up for it. The essential dimension of the church's ministry is proclaiming the gospel truth about every dimension of

existence be it personal, social, public and private with regard to individual and institutional issues (Walsh 1984:76). There is no contradiction between the Church active participation in the social arena and the civil political traditions that provide religious associations with opportunities to take part in the transformation of society for the common good. In the above-mentioned documents, the social teaching of the Catholic Church has already indicated how Catholics participate in social matters with regard to the protection and promotion of human rights. The next section will deal with the social teachings of the church and the subsequent section deals specifically with liberty and fundamental rights.

3.2 Liberty and Fundamental Rights

As already indicated in the preceding section, the Catholic Church incorporates the human rights doctrine in its social teachings, and it is wise to outline its convictions on human rights. Being aware that the social order is directed towards the good of a person, that the human being is and must be the source, subject and goal of all social institutions, the church affirms that:

- (a) all people are equal in nobility, dignity and nature, without any discrimination of race, sex, or religion (Roy 1975:20). To be realistic in terms of what happens in a concrete practical situation in day to day life, is there any equality of nobility, dignity and nature? The proof and evidence can only be drawn from daily life experience.
- (b) everyone has the same fundamental rights and duties (Roy 1975:20). How can human beings share the same fundamental rights since they exist independently with different personalities, characters, birth origins,

racial backgrounds and interests? What determines the similar fundamental human rights is human dignity derived from the Supernatural reality. For this reason, human beings have the same humanity that consists in human nature emanating from that which is above human existence.

(c) the rights of a human are inviolable, inalienable and universal (Roy 1975:20). Here, three aspects in which human rights consist of are set forth, that is, inalienability, inviolability and universalibility. Human rights are deemed to be inviolable, inalienable and universal because they originate from human nature.

(d) everyone has the right to existence, to bodily integrity and well-being, to everything necessary to maintain a decent standard of living such as food, clothing and shelter; means of subsistence and any other service indispensable to social security (Roy 1975:20). The right to life is prior to all these other types of rights and the basic needs are determined by this right. In other words, without human existence, there is no point in talking about fundamental human needs because they all depend on the life of a person. For instance, when a person is dead, there is no need for food supply.

(e) everyone has the right to a good reputation and respect, to promotion of privacy and to honest representation (Roy 1975:20). To take this further, supposing that a person of high profile-social status like the president is

found regrettably drunk at the Cape Town taxi-bus station, is he/she the ideal of a good or bad reputation in the world's historical records? For this reason, it is unusual to see people respecting someone who does not respect him/herself because people treat him/her according to the mode in which he/she presents him/herself to them, although he/she may claim to have the right to a good reputation and respect. The right to a good reputation and respect can be viewed from a moral perspective and it is intrinsically rooted in the person concerned.

(f) everyone has the right to act in accordance with the right dictates of his/her own conscience and to follow the truth shaping the entire life of a person within the society at large (Roy 1975:20). How will a person distinguish the right dictates of his/her conscience from the bad ones? For instance, someone may believe that committing homicide is right according to the dictates of his/her conscience while the other one thinks that the act in itself is intrinsically evil. Who follows the right conscience between these two and what criteria can be used for judging this matter? This is a really difficult situation because everybody is convinced that she/he is correct.

(g) everyone has the right to express her/his ideas and opinions freely and to be correctly informed about public events (Roy 1975:20). Even though a person has the right to express his/her views freely, his/her right to receive correct information about public events may be limited by environmental circumstances. For instance, on April 11 2001 43 people

died in a soccer stampede at Ellis Park Stadium in Johannesburg and many were anxious to know who the victims were, but on the other hand, it is not wise to announce the names of the deceased before privately informing their respective families in order to avoid instant traumas from the concerned members.

- (h) everyone has the right to worship God in accordance with the right norm of his/her own conscience, to practise his/her religion both in private and in public, and to enjoy religious liberty (Roy 1975:20). Since there are many different religions and Christian denominations, people must be given freedom to express various religious beliefs, according to the culture and tradition of their own choice.

- (i) the person's fundamental right is to have all his/her rights safeguarded by law, namely to protection that is impartial, inspired by the true norm of justice, and at the same time effective. This means that all are equal before the law and any judicial procedures should give the accused the right to know his/her accusers, and also the right to a proper defence (Roy 1975:20). It is not clear whether the fundamental rights are to be protected under national or regional or international law. Another problem of fundamental rights being protected by law may be that: supposing that a certain country legislates the law indicating that the poor may take whatever they like from the rich even without their permission so as to earn their living as well, because they do not have any other means. Is this law just or unjust? Whose rights are defended by this law? If the law

is unjust, can it protect human rights and how? The just law will always cater for the needs of all and can defend human rights without siding with the interests of a certain influential group in society. Still under human rights' discussion, the Catholic Church in the ecclesiastical documents deals with civil, political, economic, social and cultural rights, and that is visible in the subsequent section.

3.3 Civil, Political, Economic, Social and Cultural Rights

In the context of civil, political, economic, social and cultural rights, also, the Catholic Church 's teachings shed light on some other fundamental liberties – rights of association, marriage and family: participation in public affairs, work, private property, education, and the development of people which constitute the key sectors of all individual or collective action (Schuck 1991:69). Moreover, the church always teaches the world that all peoples have the right to free assembly and association, as also the right to structure organizations according to the will of their members in order to achieve their desired objectives. This also applies to the Catholic Church family. Supposing that there are situations when organizations have some objectives that contradict the country's constitution. For instance, non-governmental organizations may want to represent the society in public policy making decisions for social development. At the same time, it may happen that the government in power made the national constitution to suit its own selfish interests which does not allow non-governmental organizations to represent the society in public policy making decisions because of the fear that they will challenge the government when it does not work for the good of the society at large. In this type of a

situation, the NGO's (Non-Governmental Organisations) are denied their right to participate freely in representing society.

The social teachings of the church continue to make a claim that every human being has the right to freedom of movement and of residence within the confines of his/her own country, and also the right to emigrate to other countries and to take up residence there: special consideration and assistance should be extended to exiles and refugees in conformity with the humanitarian principle of the right to asylum (Schuck 1991:70). Here, the essential point is that the church wants to see everyone free to move from one country to another in order to explore what is good for human life and to participate in the evangelization mission more easily. Moreover, the official teaching of the church continues to point out that every individual has the right to choose freely the state of life he/she would like to live, e.g. conjugal/marriage religious, priestly life, etc. (Schuck 1991:70). This freedom of choice of life is incompatible with the African traditional culture in which the elders were the only ones who had a mandate to choose for their children the state of life they would like them to engage in. According to the church's teachings, parents have the right to beget children, and prior rights in their support and education within the family (Wolterstorff 1983:26). On the other hand, children and young people also have a special right to education and to morally correct conditions of life and communication media (Walsh 1984:65). Here, the church accentuates the rights and duties of parents towards their children. It also demonstrates that children have the right to education without mentioning anything about the duties of children towards their parents. For

instance, it is the duty of children to obey their parents because parents may know better what is appropriate for their wellbeing.

In addition, the church does not hesitate to assert that women are entitled to the respect due to the dignity of the human person and ought to be afforded equality with men in order to participate in the educational, cultural, economic, social and political life of the state and the church (Nessan 1989:79). Some of the documents that are very significant in developing the church's teachings on women in society are the Declaration on Religious Freedom and "Gaudium et spes". Both clearly outline forms of discrimination against basic human rights which must be eliminated as being contrary to God's plan, and first place is given to discrimination based on gender (Corrado 1986:146). Pope Paul VI drew their attention to the recognition of the civil rights of women as fully equal to men and the need for laws that will support women to participate in the same professional, social and political roles as men.

Moreover, Paul VI spoke about the promotion of the special prerogative of women in marriage, family, education, and society and of the maintenance and defence of the dignity of women as persons, unmarried women, wives, and widows; and the help they need, especially when the husband cannot fulfil his function in the family (Corrado 1986:147). The world today, through national and international organizations, is busy launching campaigns that promote the equality of men with women in various dimensions. Now, it is a tremendous challenge to all those who do not accept women as fully human to work with them properly because they also have the same qualities as

men. When moving a step further, the social teachings of the church enunciate that women have a special right to working conditions in conformity with their needs and duties as wives and mothers; everyone must be offered an opportunity to exercise her rights to a reasonable amount of free time and necessary recreation (Gremillon 1984:75). Taking an example of the expecting mother mirrors a clear picture of how she must be treated at work. Such a mother really needs not to work hard and must be given maternity leave. The church not only promotes the rights of women but also cares for the rights of old people, orphans, the sick and those who are marginalized. All these above-mentioned groups of people have contact with women on a daily basis.

The church goes on to state that old people, orphans, the sick, and those who are rejected have the right to be cared for and assisted as may be required. From the dignity of a person is derived everyone's right to take an active part in public life and to contribute personally to the common good, as well as having the right to vote and to have a vote in social decisions (Blaser 1988:43). Old people and the sick may not be expected to contribute that much to social progress probably because they are physically weak, but this is a misconception because these people have experience and wisdom and they can be approached as consultants even if they are not able to demonstrate practically. That is how they can participate in social development, and the government must care for them and be ready to respond to their needs. Apart from the old and the sick, there are also orphans who are future assets to society because they can participate in the

development of their country. For this reason, the church and the state should join hands in bringing up these orphans properly because they need them for social development. In addition, the church's teachings go on maintaining that every person has the right to develop his/her own personality and talents in the exercise of his/her profession and also the right exercised with due responsibility, to free initiative in the economic field. However, these rights imply the right to working conditions in which physical health is not endangered, morals are safeguarded and young people's normal development is not impaired (Gremillon 1984:76). Giving opportunities to professionals to show their capabilities in relation to the talents they have is important for social development because all people are needed. The Church and the government must avail different opportunities to talented people in order to develop their talents as workers for social welfare.

Every person working physically or intellectually is entitled to receive just wages corresponding with human dignity and be able to maintain the standard of living in his/her family with all the available resources. In the mean time, workers also have the right to legal strike as an ultimate means of defence of their rights (Peschke 1994:733). What can legalize the workers' strike? Obviously, the workers must take the proper legal procedure to express their grievances against their employers, otherwise they can invalidate their strikes. Most of the time, whether legal or illegal, strikes occur in a situation in which the employers' rights interfere with those of employees. The right to work and the right to development go side by side with each other and they concern both the employer and the employee.

The teachings of the Catholic Church address the right to development and regard it as a dynamic interpretation of all those fundamental human rights on which the aspirations of individuals and nations are based. This includes the right to equal opportunities in the cultural, civil, social political and economic spheres and to an equitable distribution of national resources (Gremillon 1984: 76). Although this book was written about twenty-five years ago, its message still stands because the teachings of the church have not changed in this regard. However, the right to development can be viewed within diverse perspectives such as personal, local, regional, national and international development. Nevertheless, all that people want to experience in their lives are daily changes and those new experiences are development because they bring progress to human life. The right to equal opportunities and equitable distribution of national resources as mentioned above is always a problem, especially in developing countries, because the governments in power accumulate more for themselves and forget the rest of the society. It also takes into consideration that every person has the right to share in the benefits of a culture, the right to a basic education, to technical and professional training corresponding with the level of educational development of the country to which he/she belongs.

In addition, everyone has the right to carry on with higher studies so that he/she may be able to hold the portfolio that conforms to his/her natural gifts and be able to acquire some skills (Peschke 1994:734). Since people have various talents, these should be developed not only for personal aggrandizement but, especially, for the benefit of all. Moreover, the church

makes the world aware that economic life, like political life, should reflect human nature, providing for bodily needs that will facilitate the salvation of mankind as the will of God. In addition, wages must be determined not by economic considerations alone but by taking into account the basic needs of the individual. Property, as part of the economy, is subject to social and moral restraints whilst there is the right to use that property without reference to the needs of neighbours and of the community (Nolan 1987:43). It should be clear that the common good of the community takes precedence over individual benefits in determining economic policy without, however, necessarily infringing on legitimate rights (Peschke 1994:734). This teaching encourages communal life and disapproves of an individualistic life. The church's teachings firmly hold that the national economic policy should be a decision made by the organizations of workers and employers on the basis of the law of justice inspired by a sense of social responsibility and Christian charity (Peschke 1994:734). The teachings of the Catholic Church addressed numerous documents with regard to human rights in the light of Vatican II Council.

Since Vatican II nine substantial social documents have been published which proclaim the same teachings of the Catholic Church as followed even today, and they are: "populorum progressio" (1967), "Octagesimo Adveniens" (1968), "Justice in the world" (1968), "Evangelii Nuntiandi" (1975), "Redemptoris Hominis" (1978), "Dives in misericordia" (1980), "Laborem Exercens" (1981), "Sollicitudo Rei socialis"(social concern) (1987) and "Gaudium et spes" (1987). All of these encyclicals deal with human rights and are considered as a

response to the Declarations of Vatican II (Auret 1992:6). In "The Church in the Modern World" ("Gaudium et spes") the Council points out that the joy and hopes, the griefs and anxieties, the poverty and underdevelopment in which millions of human beings live, are the joy and hopes, the griefs and anxieties of the followers of Christ. In a rapidly changing world, the church has tried to read the sign of the times and interpret them in the light of the Gospel (Auret 1992:6). "Popularum progressio" by Pope Paul VI dated 26 March, 1967, deals primarily with the issue of development and the disparity of wealth among nations. Here, the Pope condemns the evils of colonialism and the notion of totally free trade. For him, based on the teachings of the church, Paul VI asserts that in fair trade all the concerned parties must enjoy equal status and share equally whatever is gained (Shaul 1985:28). "Octagesimo Adveniens" as the subsequent papal document addresses the very concrete problems of urbanization, industrialization and environmental issues. "Justice in the World" deals particularly with the continuing poverty of the underdeveloped nations and this situation is a challenge to the pastoral aspects of the Catholic bishops.

Being aware that national economic growth alone did not bring enough equitable distribution of wealth in nations of the world during the mid-1960's, the Catholic bishops emphasized the necessity for development to be based on the fundamental principle of participation so that all may share in the economic and social progress of the nation (Schillebeeckx 1985:71). This message is not new in the face of the church because it had already been proclaimed by the modern-contemporary popes. The encyclical on justice in

the world further epitomizes that participation in the social, economic and political fields is a fundamental right (Gremillon 1984:120). The bishops, on behalf of the entire universal Church, declared that its mission is to support the poor and to stand for justice, it itself should practise poverty and become an example of the justice it preaches (Auret 1992:27).

The "Evangelli Numinandi" reiterated the 1971 synod appeal that preached action on behalf of justice and participation in the transformation of the world as the church's mission for the redemption of the human race and its liberation from every oppressive situation (Gremillon 1984:121). The present Pope John Paul II published two encyclicals, that is, "Redemptoris Homilis" and "Dives in Misericordia". The former document deals with the social teaching of the Church with regard to protection and promotion of human rights (Auret 1992:27). John Paul II enunciated that love is the basis of justice. His second encyclical focuses specifically on the individual and his/her relationship with the society, and also addresses the issue of work which had already been treated by his predecessors (Auret1992:27). However, the Pope once again accentuates the priority of labour over capital, and the necessity for workers to have a share in the ownership of the means of production. The encyclical further condemns both marxist and capitalist approaches to the issue of labour, it deals with the rights of workers, remuneration as a measure of the justice of a socio-economic system, and emphasizes the right of association for workers in order to protect their own interests (Auret 1992:8).

This second encyclical of John Paul II addressed what genuine development for the world and individuals is. However, the pope dealt with the following issues: the hungry, the needy, the homeless, those without medical care, and those without hope (Shaull 1985:16). The pope's reflection manifested the contemporary problems facing the world such as the huge gap between the developed North and the developing South; the denial of the basic human rights, due to underdevelopment and discrimination; and the inability of Third World nations to determine their own economic, social, political and cultural life (Peschke 1994:734). The rich nations have become richer and the poor, poorer; that debt, homelessness and unemployment are responsible for the subhuman conditions in which most people live (Gremillon 1984:119). Finally, John Paul II humbly requested all the Christians of the world to commit themselves to solidarity as a way of peace, and justice will ultimately give all human beings the freedom they always aspire to (Auret 1992:8). Pope John Paul II in his pastoral documents covers almost all aspects required by human life such as social, political, economic, cultural and religious. What is unique to John Paul II is that he has travelled more internationally than his predecessors with regard to the proclamation of the Gospel of human rights.

3.4 Conclusion

In the modern period, the social teachings of the Catholic Church was challenged by particular circumstances that emerged at the time. During the eighteenth and nineteenth centuries basic social, economic and political changes in Western Europe undermined the whole system of Christian culture and civilization on which traditional religious identification depended (Boff

1985:15). Secularization was a strong force that had influenced the Catholic Church most severely, which in the aftermath of the reformation linked its fortunes closely with the old order. Because of the tremendous growth of urban, industrial society that created a new era, the Western Europe considered the Church to be irrelevant and meaningless (Shaul 1985:34).

Why was the Catholic Church regarded as no longer relevant in that particular period? The problem with the secular world is that it did not understand the importance of the church in human life, especially its social dimension. Since that time, the rapid social changes that occurred challenged the church to re-examine itself and think profoundly about its mission in the world. After its reflection, the church pledged that it was being called by God to lead the whole of humanity towards salvation especially in demonstrating love, justice and peace to the world. Had the above-mentioned social changes not happened, maybe the Church would not have learned the importance of respecting, protecting and promoting human rights. From the modern up until the present contemporary period with regard to the proclamation of human rights, the Catholic Church was led by Popes Leo XIII, Pius XI, Pius XII, John XXIII, Paul VI and John Paul II (Auret 1992:9). These Popes made a considerable contribution to the growth of the Catholic Church throughout the world. During their pontificate, the church always worked hard and it is still working hard to address problems confronting the world today and profoundly reflecting about skilful problem solution mechanisms. This chapter demonstrates the position of the Catholic Church in the human rights

discourse. Chapter Four will deal specifically with the foundation of human rights from the philosophical perspective and Catholic theology.

CHAPTER FOUR : THE FOUNDATION OF HUMAN RIGHTS

4.1 INTRODUCTION

This chapter deals specifically with the foundation of human rights, which is the core concept of the thesis. The purpose of this chapter is to explore the origin of human rights according to Roman Catholic Church natural law. Since the social teachings of the Catholic Church is based on both philosophy and theology, the position of the Church will be demonstrated with regard to what it teaches about the source of human rights. Different philosophers and theologians have shown their positions with regard to what they think the foundation of human rights is. However, the lesson in this chapter will be manifested by the similarities and dissimilarities found between the philosophers' and theologians' viewpoint. Human rights origins can be interpreted both philosophically and theologically according to different traditions and different periods of time. In this chapter natural rights and human rights are seen as synonymous and both derived from natural law (Miller 1995:108). One ancient moral-political philosopher who dealt with natural rights as natural law is Aristotle. Plato differs from Aristotle in the sense that human rights are founded on legal or social conventions. Hobbes and Locke, as representing modern moral-political philosophers, also treated human rights from a Christian perspective which transcends the law of nature and portrays the Infinite Being /God as the author of human rights through natural law (Miller 1995:108). Emmanuel Kant brings another version demonstrating that human rights are based on law with human dignity and autonomy (Annas 1981:176). Bentham thinks that rights come from the law

(Miller 1995:108) while Mill's conception of rights is based on that of utility (Berger 1984:230). The human rights discourse is not only philosophical but also theological. In the Catholic tradition, philosophy and theology work hand in hand when explaining the position of the Church (Schillebeeckx 1985:53). The theological basis of human rights in the Roman Catholic tradition is God and Jesus Christ (Principle 1984:338). The official social teachings of the Catholic Church and Catholic theologians conceptualises the notion of the foundation of human rights in the same way and their agreement symbolizes the global unity and universality of the Catholic Church. The Catholic Church's teachings manifest how the rights of the poor are safeguarded and secured by Church members world wide, in the name of the common good and social development (Shaul 1985:35). Finally, the Catholic Church demonstrates how the rights of the poor were perceived in the Old Testament and how the New Testament supports and fosters their rights (Adriance 1986:2). Since Catholic theology is derived from the Bible, all that the Church preaches about the origin of human rights is premised on the Gospel message (Schillebeeckx 1985:70).

4.2 Philosophical Arguments

The issue of discussion in this section is the foundation of human rights. Philosophers of diverse backgrounds and traditions argue about the origin of human rights, and this section deals specifically with their different theories. The purpose of this section is to explore the various approaches of philosophers with regard to the origin of human rights such as natural law,

legal, social convention principle of humanity and utility. A number of moral-political philosophers discuss the primary principle of natural rights being equivalent to human rights under the theory of natural law (Miller 1995:104). One can not deny that the phrase “human rights” was born during the modern history of philosophy (Miller 1995:106) but the meaning contained in it is as old as ancient Greek philosophy. During the ancient Greek period, the prominent moral-political philosophers were Aristotle and Plato who have influenced the world socio-politically and economically since that time and even until today. Hohfeld, following Aristotle's philosophy of natural rights, spells out that the expression “to dikaion” is equivalent to a ‘claim right’ (Miller 1995:107). In this context, a ‘claim right’ or a ‘just claim right’ means a right that a person has by virtue of his/her personal ability or virtue and these phrases were used by Aristotle in his theory of aristocratic governance. Aristotle maintained that the concept of authority is connected with that of a just-claim right, in defence of the aristocratic principle of justice that persons should receive political authority commensurate with their virtue. If there is a person who is more competent than those already in power in terms of governance, she/he must be given authority based on the same just-claim right. This dictum of Aristotle is based on nature (Miller 1995:108). According to Aristotle, a right to governance must be based on personal capabilities and competence. The implication is that people without leadership qualities cannot be good rulers because this work in itself demands more than their abilities.

Aristotle's theory of rights manifests a clear distinction between rights based on nature and rights which exist according to law or convention. For him, the

enslavement and the servitude of a particular person can be based on law (Miller 1995:106). It is not clear whether he refers to conventional law or natural law. Kant's principle of humanity that maintains that a person should not be used as a mere means but rather treated as an end in her/himself does not register in Aristotle's mind (Jones 1971:127). When he goes further, Aristotle specifically demonstrates that there is a distinction between political rights based on nature and those which are merely conventional or based on law although he does not show where the difference is. For him, members of society have the equal political rights in terms of governance although they don't have equal opportunities to exercise them (Miller 1995:110). What Aristotle means is that although members of society are eligible candidates to political authority they cannot be all elected because they are competing for power. Out of the many, the best few will be elected to represent the entire nation. Obviously, the more educated and wealthy are in an advantageous position as the less advantaged don't have much influence on a social level to participate in political governance. MacIntyre objects to Aristotle's conception of human rights and his reasons are articulated within Aristotle's theory in that he doubts their authenticity (Miller 1995:110).

MacIntyre challenges Aristotle's concept of rights claiming that it is anachronistic to ancient and medieval periods because the human rights discourse is a peculiarly modern European development and therefore did not exist in the vocabulary of those times (Miller 1995:110). For him, human rights such as the right to life, liberty and happiness emerged in the eighteenth century as natural rights or as the rights of man. Therefore, the

idea of rights does not appear in Aristotle's theory (Miller 1995:111). MacIntyre has the opinion that Aristotle, in his theory of rights, should have used exactly the same words for human rights as those used in modern times, because he seems to believe in words and not in content. Since the researcher cannot read Greek, basically, the researcher has been limited to read only the English translation. Fundamentally, what is important is not necessarily the words employed in a theory but rather the context (Miller 1995:9). The evidence authenticating Aristotle's theory of human rights is already mentioned above. This reveals his understanding of rights during the ancient epoch as being based on natural law and social convention (Miller 1995:8). Meanwhile, MacIntyre maintains that the original Greek concepts found in Aristotle's theory are not well translated into English because they have nothing to do with rights per se. Unfortunately he fails to give a proper translation of those words as they are employed in the context of Aristotle's theory. Plato agrees with Aristotle that rights may be based on convention and law (Annas 1981:176). On the other hand, Plato, unlike Aristotle, does not have a conception of the natural law based rights. However, since they both belong to the ancient period, Plato's theory of human rights can be studied in order to understand his idea of the foundation of human rights in comparison to that of Aristotle's. Plato and Aristotle share some common elements and also differ in some areas although they both address the foundation of human rights.

Plato also treats the foundational institution of rights in the theme "equality and rights" (Annas 1981:176). According to Plato, if a person is entitled to

have a right to something, then she/he is protected in having it, or exercising it by some moral or legal sanction: no one should interfere with his/her freedom to do or have it, even if such interference would promote some desirable end. For him, some rights are uncontroversially created by legal or social convention. Rights must be supported by existing sanctions coming from the people and such rights are typically connected with equality: they belong equally to all, unlike rights created by legal or social convention which apply only to those recognizing that convention (Annas 1981:176). According to Plato, some rights are derived from the society as a whole shared by all members of the society while other rights come from the law or social convention and these rights concern only those who acknowledge this convention excluding people who disregard it.

The remarkable point in Plato's claims is that the basis of human rights is the law or society. The problem with Plato is that his statement that some rights originate from the legal convention of the society is obscure without his demonstrating those rights (Annas 1981:1776). In addition, Plato does not manifest any correlation between legal and social convention as the basis of human rights. Does Plato mean that some rights stem from the legal system of society or from the moral principles of that society? This is not clear. Legal convention and social convention can mean two distinct realities. The former can mean the agreement of the authority imposed on the society while the latter can mean the agreement between the grass root members and the political authority of the society. What is really meant by rights originating from the legal or social convention? Plato does not clarify this distinction. In his theory of state, Plato also claims that people have equal rights solely because

they belong to a particular society (Annas 1981:176). Existing uniquely as a human being is prior to societal membership. Society consists of individual persons. Therefore, there is no society without the existence of a person. Before joining the society, a person already has rights based on human nature which determines human dignity and worth. The weakness of Plato's theory of rights is that it does not recognize human dignity as the primary source of human rights because without being human there is no place for human rights. This is because Plato's theory is not based on natural law, like that of Aristotle, but rather on his political philosophy of the state. The gist of Plato's theory is that human beings must be ruled by Divine Intelligence because it is superior to that of human nature (Jones 1971:120). Unlike Plato, Thomas Hobbes follows in the footsteps of Aristotle because his conception of human rights is based on natural law.

Thomas Hobbes, as one of the influential modern political theorists of natural rights, has made an exponential contribution to the socio-political world. Hobbes uses the term 'rights' with two distinct meanings: (1) as that to which one is entitled; (2) as that which one cannot be obliged to renounce (Warrender 1957:18). Hobbes, in his Theory of Obligation maintains that a system of obligation culminates in an obligation to obey natural law coming from God, and a system of motives culminating in the opinion of the individual as to what constitutes his self-preservation (Warrender 1957:18). This proposition reveals that Hobbes is a Christian moral-political philosopher who was influenced by Greek philosophical tradition which combines philosophy with theology to explain the human rights discourse. The implication contained

in Hobbes's proposition is that human beings derive their rights for self-subsistence from the natural law coming from the Infinite Being. The natural law forces a person to abide by it whether she/he likes it or not. For instance, a person is by nature corruptible. On the other hand, the natural law prohibits a person from destroying human nature. For instance, a male person cannot be changed into a female person, and vice-versa. The above-mentioned examples are provided in order to prove the gravity and the impact of natural law on human existence. Natural law is a Divine legislation theologically inculcating human rights. According to Hobbes, a person is naturally imbued with a right to self-preservation which should also be recognized by the civil society (Warrender 1957:265). The essential idea expressed is that a person ought to secure his/her right to life for the finality of his/her existence which is tending towards the ultimate end, meaning that a person receives a right to life from God and is called to work for God as the author of creation until she/he goes back to Him at the end of human life.

For Hobbes, each person has the liberty to use his/her own power in order to secure human life. Above all, the law of nature endowed him/her with reason and judgement (Miller 1995:117). Since a person is a rational animal, she/he has the capacity to choose what is right from what is wrong and what is acceptable according to human standards, although sometimes she/he may degrade her/himself by acting irrationally. For instance, it is human for a person to live in a community and inhuman to live in the forest with irrational animals although it is not considered bad. In addition, the right to liberty, which Hobbes talks about, is a constant reminder that a person does not by

nature have the freedom to cease being free because his/her nature constrains him/her to do so. The characteristic features of Hobbes's theory are as follows: according to the principles of nature, human persons are ruled by laws of nature, which are rules of morals imposing obligations upon them, and the same people also have natural rights (Miller 1995:117). As it is mentioned earlier, Aristotle and Thomas Hobbes base their human rights theories on natural law, and John Locke also has a similar approach of natural law being the basis of human rights.

John Locke is widely known as one of the modern philosophers of natural rights. He argues that the state of nature has a law to govern it and that law applies to everybody. Through reason that is derived from the same law of nature, human beings must be able to discern that they are all equal and independent and no-one ought to harm another in terms of his/her life, health, liberty, or possession (Miller 1995:119). Basically, Locke's natural rights theory is not different from that of Hobbes although they may differ in their focal point of emphasis. Locke emphasizes self-ownership and extends this into property rights, while Hobbes emphasizes liberty rights and self-preservation. Both Hobbes and Locke, however, have the same basis of natural rights being the natural law stemming from God. In the world all inferior creatures are common to all peoples in terms of creation, yet every person has a property determined by the law of nature of which the subhuman animals do not have. Hence, the natural rights of individuals are derived from the law of nature coupled with the right to enforce any violations of those rights (Miller 1995:120). Both Locke and Hobbes recognize rationality as the

measure of humanity, meaning that with the use of intelligence a person is able to reason out and judge him/herself as different from infra-human animals. Intellectual knowledge, as it characterizes human nature, moulds a person into discerning that she/he is naturally endowed with the gift of intelligibility through the law of nature which is the work of God.

Locke further points out that the law of nature is that measure God has set to direct human beings for their mutual security (Chappell 1994:239). When trying to comprehend this proposition in relation to the influence of natural law on human behaviour Locke asks if the natural law binds everybody to abide by it. If so, how? Where does this law direct people? Some people, as seen in the instrument of natural law, are deemed to be mentally defective and consequently, they jeopardize the security of the community and at the end of the day they don't make any positive contribution. Locke contends that as members of one community, every person's actions must be in keeping with the principles of natural law, that is, with God's will. It is God's command and the fundamental law of nature is the preservation of mankind (Chappell 1994:239). In short, the point that Locke endeavours to make is that everybody receives her/his conscience from God through the law of nature, and therefore she/he must act responsibly and humanly. For Locke, through natural law, moral law is inculcated into a person through God as the principle of human existence.

According to Locke, in this state of nature, people must strive for the common good although he does not emphasize that point. Bring this a step further, he

points out that economic resources must be used for the good of all, especially for the subsistence of the poor. In Locke's theory, the following natural rights are of central importance: the right to freedom, the right to inherit goods from either one's brother or father, the right to own property and the right to subsistence (Chappell 1994:245). According to the natural rights theory, can a person continue to be as such without possessing natural rights? This theory does not demonstrate whether people become human only because of having natural rights. As this theory holds that God is the author of natural law out of which natural rights are derived (Chappell 1994:245), does God amend his law of nature according to the different times in which people live? Is there any possibility that one day God will amend natural law? This is not mentioned anywhere and natural rights philosophers still need to do further research because the world requires more knowledge and new developments from time to time. Generally, Locke and Hobbes's natural rights theories are grounded in theology because they believe that God is the author of natural law (Chappell 1994:230). But Emmanuel Kant brings another version of human rights with a different approach based on the principle of humanity /personality.

Emmanuel Kant, as one of the moral philosophers bases his philosophy on his principle of humanity/ personality asserting that human dignity is the key issue that distinguishes a person from other natural sensible beings. For him, human beings have a value which is absolute, or unconditional. The particular worth of their character is linked to their status as ends in themselves. Human value makes the person the object of the moral law and provides the

essential foundation for a “categorical imperative” (Jones 1971:127). Kant is not interested in the origin of human dignity but rather in the value of a person as a person. Other moral philosophers, like Locke and Hobbes, trace human dignity from its origin. For human life, what is essential is his/her dignity and that should be prioritised, as Kant’s theory points out (Jones 1971:127). In order to substantiate his claim that people have intrinsic value and they are ends in themselves, Kant demonstrates that they ought not to be treated as mere means (Chapell 1994:127). In one word, Kant emphasises that human beings should be respected. Why? Should people be respected only because of their dignity when it is not even stated where this comes from? Theologians explain vividly that human beings derive their dignity from God and this is the main reason for respecting them (Faconer 1987:901). Does Kant address the idea of human rights in the light of this theory? Yes, because he deals with human dignity and value, and that people are naturally ends in themselves. All these elements characteristically embrace the postulate of human rights.

Kant further maintains that nothing can have value other than that determined for it by the law. But the law which determines all value must for this reason include dignity, which is, an unconditioned, incomparable worth of the appreciation which was given of necessity to a rational being. Hence, autonomy is therefore the basis of the dignity of human nature (Jones 1971:129). According to Kant, the foundation of human dignity lies in the law incorporating human dignity and autonomy. This is basically a repetition of one and the same thing because human dignity and autonomy are both characteristics of a person. In other words, a person makes the law for

him/herself and at the same time he/she is the basis of his/her dignity. Logically, human dignity must have been derived from something that brought a person into being which is superior to a person. A person did not create him/herself, therefore it is impossible for a person to derive dignity from him/herself.

For Kant, to treat a person merely as a means is also a way of treating one person as more important than another, of subordinating one individual to the welfare or interests of someone else. As such, it is a violation of the fundamental principles of fair treatment. It is a contravention of the principles that people ought to be treated equally. In a word, it is a violation of human rights (Jones 1971:145). Obviously, people cannot have dignity without being endowed with human rights. If we try to comprehend human life in a deep sense, human dignity and human rights are correlative concepts. Henrich, as a disciple of Kant, affirms that when people look at structures of their conscious lives still see themselves as the original source of rights in a sense that is indispensable to the formulation of a precise concept of human rights. In a strict sense, they would remain the origin of human rights entitlements. (Henrich 1992:79). Kant's understanding of human dignity is already articulated above. Bentham is another philosopher who thinks that the foundation of human rights is law following on Plato and Aristotle, although he does not include the element of social convention. Bentham's theory of human rights is discussed here because it demonstrates the origin of human rights in the same way as the above-mentioned philosophers, although they may differ in some aspects and this is the point of discussion of this chapter.

Bentham, one of the fathers of utilitarianism and a nonbeliever, maintains that “rights” is the child of law, the real rights come from the real law, but the imaginary law begets imaginary rights (Flannery 1975:149). Bentham demonstrates that rights originate from law but it is not clear whether he is referring to the human made laws or natural law. In addition, he does not indicate how and why he holds that rights emanate from the law. He even fails to illustrate the relation between a person, rights and the law. John Stuart Mill, being a philosopher, brings in another factor of human rights and that is utility.

John Stuart Mill’s conception of rights and justice are grounded on utility, which plays a major role in his reasoning about social, political, and economic issues. Mill holds that someone has a right to act in a certain way or be treated by others in a certain way if and only if society has a duty, specified by rule, to protect the person’s interest in so acting or being so treated. What Mill means is that if a person has a right to do something, his/her right is controlled and limited by the constitution of the society which is simultaneously meant to protect and promote his/her wellbeing. When moving a step further, Mill’s stance on the right to freedom is that people have an interest in freedom that should be protected as a matter of rule. It would follow that everyone has a right to freedom (Berger 1984:230). The utility based rights are one-sided in the sense that the state protects only the rights of certain members of the society who appear better off and side-steps the disadvantaged because they are not well recognized within that particular

society. Utility is interested in how much society members contribute to the development of social, political and economic life. What about the physically handicapped who cannot do much for social development? These people are also human beings with human dignity and rights, and therefore they have a right to protection which is not based on what they have or do but rather based on human nature.

Mill explicitly indicates that the rule that defines “wrongful” interference with liberty is a rule of justice that confers a right on individuals. He considers utility as the ultimate appeal to all ethical questions, but it must be utility in the largest sense, grounded in the permanent interests of a person as a progressive being (Berger 1984:231). When the right to freedom is being infringed, the dispensation of justice must protect it. Mill coupled freedom with justice in his theory because he regards it as the source which resolves conflicts. Mill thinks that utility can serve as an antidote to all ethical situations especially when a person is able to read the signs of the times. But Mill’s expectations of his utility system are highly exaggerated because he claims that all human ethical problems can be solved. Hopefully, Mill talks about intramental reality/being of reason or that which exists only in the mind which can never be transferred to extramental existence, a concrete, practical situation. Besides Mill’s utility based rights, there is another view holding that rights are cultural and environmental realities. The German jurist, Friedrich Karl Von Savigny, England’s Sir Henny Maine, and other historians emphasize that rights are a function of cultural and environmental variables unique to particular communities (Land 1972:45). According to these people,

there are no international rights because rights are culturally and environmentally grounded on particular communities. Which are these communities? Unfortunately, it is not mentioned. As can be seen, there are some similarities but also dissimilarities among philosophers with regard to the origin of human rights. The next section will treat the same issue in a theological context. The subsequent section will show that the Social Teachings of the Catholic Church proclaim God as the foundation of human rights and the same message is contained in Hobbes and Locke's theories of the origin of human rights when they maintain that God gives human rights through natural law.

4.3 Theological Arguments

In the preceding section, different philosophers with different approaches demonstrated what they considered to be the origin of human rights in as far as they are concerned. In this section, the Catholic Church makes her own claim preaching about what or who the foundation of human rights is. The purpose of this section is to explore the understanding of the Catholic Church with regard to the origin of human rights. According to the Roman Catholic Church, based on the theology of creation as it appears in the sacred scriptures, a person was created by God in the image or likeness of God. From the moment of creation, he/she was given the responsibility over all earthly creatures and was expected by God to utilize them for his glory (Gen.1:26). In other words, God's work of creation endowed a human being with human rights. A person was created good and for sharing and participating in God's kingdom. But unfortunately, he/she fell in sin which

destroyed the relationship existing between God and her/himself; and consequently became separated from Divine love (Gen.3:6-7) or lost the privilege by disobeying God (Falconer 1987:902). Here, there are three points to be taken into account. Firstly, God is the primary author of human existence. Secondly, the purpose of human existence. Thirdly, the disobedience of God by a person. God created a person with human dignity and human rights and he created him/her for a special purpose so that he/she may serve God's glory. The implication is that a person as a bearer of human dignity and human rights is naturally created for God and ought to continue serving God for the rest of his/her life in the community in which he/she lives. Serving God does not necessarily mean having a direct physical encounter with God but symbolically means an appreciation of enjoying co-operative experiences with other human beings on a daily basis.

Human rights are grounded on God's act of creating, reconciling and redeeming creation. This act is called God's righteousness and power to make God's creatures alive against the power of death (Hennelly 1982). Here, the implication is that human rights can be viewed from three dimensions. Firstly, God's act of creating human existence which has already been indicated. Secondly, human rights incorporate an element of reconciliation between God and a person as a sign of restitution after he/she has disobeyed God the creator. Thirdly, within human rights, there is a realization of God's redemptive love manifested for the human race. In other words, after human disobedience, God took the initiative by sending his only son, Jesus Christ, to save humankind. As a creator of everything good, God

has a claim on the whole creation. God appears before human beings in the person of Christ to judge, to forgive, to restore, and to justify humanity or to make it good in God's sight (Hennelly 1982:154). In addition, human rights are promises and commands of God to make and keep God's creatures abundantly alive. Thus human rights are not grounded on static realities such as legal creatures or the nature of things but rather based on the kind of relationships existing between God and a person. This relationship of God to creation gives all human beings their inalienable human rights (Hennelly 1982:154). In one word, human rights emanate from God alone because all creation is God's work.

The belief that all persons are created in the image of God, that they are redeemed by Jesus Christ, and that they are summoned by God to a destiny beyond history serves both to support and to interpret the fundamental significance of human existence (Curran 1986:376). One may ask him/herself how the idea of Christ's redemption of humanity fits into the human rights foundations and what it means in this context. According to the Catholic Church, Jesus Christ is deemed to be God's son having equal status with his Father and was sent by God to save humankind after the fall of human nature (Falconer 1987:901). Since Jesus Christ is the son of God by a supernatural generation who was already there operating with God from the beginning of creation, the implication is that the foundation of human rights consists in his messianic activity of saving human nature from the sin committed by Adam and Eve (Jn.1:1-10).

The righteousness that God expresses in creation, reconciliation and redemption is the basis of God's covenant. However, human rights can be realized in this covenant context, they are alive in actual historical relationships in which God accepts human beings and they too appreciate one another. For this reason, rights must not only be declared and codified, but must also be cared for, fostered and embodied in covenant relationships between persons, groups, nations, and between human beings and nature (Hennelly 1982:154). Since human rights originate from God, they should be exercised in proportion to the purpose for which God created human beings which is for knowing, loving and serving Him and maintaining good, friendly relationships between individuals, organisations, nations and states.

The Catholic Church maintains that all human beings have equal rights by virtue of their being created in the image of God. Because of God's claim upon all creatures, human rights have to do with the basic answerability or responsibility of being a human creature (Hennelly 1982:154). Being created in the image of God means a vocation to be God's representative to creation and to be called to care for it in accordance with his intention. Therefore, the fundamental human right which gives the human being his/her dignity is also an obligation: to serve and to help in the creation of the conditions for life in the whole of creation (Shaul 1985:60). The fundamental human right is the right to be responsible to God. Human rights and human duties are two sides of the same coin. In view of God's claim on human creatures, rights are given by God as the means for all human beings to fulfil their duties before his righteousness (Hennelly 1982:155). According to this doctrine, if God had not

created human beings in his image or likeness, it would be difficult if not impossible to have what is termed 'human rights' and 'duties' today. Here, human rights and duties are addressed jointly because they are twin brothers and sisters coexisting as God's products.

Thus human rights are what people need in order to fulfil their fundamental task of becoming human beings, that is, fulfilling their vocation coming from the image of God. No person, organization or state has the right to violate the right and dignity of being human. To do so is a sin against God: it is an attempt to frustrate God's will for the life of his creation (Gremillon 1984:18). As a function of God's righteousness human beings shape history. They give structure and form to human relations that serve the systems of life as opposed to the systems of death. They are instructions and form the conditions of life, and where they are not taken into consideration, there is always a lack of peace (Hennelly 1982 155). This teaching strongly emphasizes that God inculcated rights only in human beings not in infra-human creatures such as dogs, cats, pigs and others of a similar nature because they don't possess human nature and were not created in the image of God. Since a human being is created to live humanitarily with other human beings, the violation of God given rights is the condemnation of God's dignity emanating from Divine law.

The conditions of life that God created through his own suffering love are freedom, justice, equality, peace and recognition of God's glory which are in the mean time values realized under human rights. Thus human rights are

grounded in God's new creation. God the Holy Spirit manifests the presence of the liberating power of the messianic mission of Christ and the new creation of God's future. Because of God's mission, as realized in Jesus Christ's saving activity, it is the obligation of the Catholic Church to struggle and work for the realization of human rights (Peachay 1986:14). According to Catholic tradition, human dignity is gained by virtue of being created in God's image and likeness. The social character, that image and that likeness, and the dignity it finds, can be marked out in at least two reflective considerations, in the spirit of the Catholic theology, upon this story of human origins: God's inner life, communicated as image and likeness, is one which the revelation of God as Trinity affirms to be intrinsically social; the judgement expressed in the words of Genesis 2:18, "it is not good for man to be alone", can be justifiably given the gloss: "for a man alone fails to be human" (Hennelly 1982:178). If the logic of human creation in the image of God is followed correctly, it does not necessarily mean that a person shares equal status with God but portrays that a human being is a creature of God inherently endowed with self-determination, freedom and rationality unlike subhuman creatures which do not have all the above-mentioned human characteristics. There is no objection that even infra-human animals are created by God but not in his image or likeness, therefore they absolutely do not have rights, because rights emanate from the image of God which is only human endowment.

Human rights are the gift and demand of God. They have their source in what God has done and is still doing in creation, in Jesus Christ, and through the Holy Spirit. In every generation God calls upon people to proclaim the

righteousness and justice in the world. God creates, reconciles and redeems everything that is. Thus human rights are universal demands. No-one is free from recognizing the claim that other human beings must be treated justly and that all societies ought to be governed on the basis of freedom and equality (Verstraele 1985:84). Here, the implication is that whatever human moral activity one is engaged in, whether one is aware or not, God expects him/her to be an authentic advocate of human rights proclamation. Thus failure to be this means the abuse of freedom as one of the fundamental human rights.

Different societies have diverse perceptions of human rights although they have a universal aspect. All persons and all civil orders are under a moral obligation to develop policies, programs and politics which respect basic human rights (Hennelly 1982:155). When endeavouring to read Hennelly's mind or to interpret him, all what he means is that societies of the world commonly understand the notion of human rights as a moral issue because most of them connect it with ethical behaviour. The moral aspect of human nature emanates from God during the moment of creation. For this reason, whatever a person does in any human activity epitomizes his/her uniqueness and difference with subhuman animals. Furthermore, if a person is created in the image of God as has previously been mentioned, one may be sure that every person has the moral sense imprinted on his/her conscience and this moves him/her to act according to the laws laid down by the creator. From the Catholic tradition standpoint, the need to affirm human rights arises because of human sin prompted by the abuse of freedom. Human rights emerge from the matrix of a situation where persons are being controlled or opposed by

other persons (Falconer 1987:903). It is obvious that where people live together in a particular society, they are obliged by natural order to submit themselves to leadership in order to keep order and respond to the needs of all members, taking the recognition of their rights into account. However, their rights clash from time to time because it is not easy for them to experience life free from conflicts.

In principle, human rights are basically protective devices and affirmations in law and morality which are designed to shield human beings from random violence and neglect, and from systematic exercises of destructive power (Byrme 1988:32). Human rights are a mechanism to control the mode of the exercise of power which dehumanizes persons. Therefore, if power was always exercised in a positive and constructive mode, there would be no necessity for human rights legislation (Falconer 1987:903). What Falconer means is that if there was no possibility for human rights infringement between individual, groups, associations, organizations, nations, and states, people would not talk about human rights much and there would be no necessity for this discussion. In other words, the fact that there are always reports about human rights violations occurring in daily life activities should conscientize people to pay more attention to the human rights phenomenon. Probably, if people were perfect, they would relate peacefully to one another. Therefore there would be no necessity to make a noise about their rights because peace promotes good, friendly human relations and reduces conflicts interfering with human rights. What may make people recognize human rights more could be the fact that their rights are contravened from time to time and

consequently they may react against this situation by trying to protect and promote their rights.

Catholic morality, with regard to the idea of human rights, emphasizes not only the dignity and social nature of humanity but also the fact that dignity and social relationships are constantly violated through a failure to accept the “otherness” of the other and a desire to exercise power only in one’s interest (Falconer 1987:903). The implication is that people in their daily life of social acquaintances and interaction mostly work hard to promote high profile prestigious status and prioritize selfish interests. Consequently they pay less attention to the common good and social welfare of the entire community or society. In addition, people do not care much about the unity and sociability of human nature which was imposed by God from the outset of human existence.

After the fall of the person which destroyed the relationship between God and humanity, as mentioned earlier, God sent his only son, Jesus Christ, to redeem the whole world from the darkness of sin (Mt. 1:2122). In this context, Jesus is reckoned as the messenger of God sent to restore and rediscover human dignity which was devastated by the fall of human nature according to the book of Genesis 1:35. The Catholic Church strongly believes that Adam and Eve are the first parents who disagreed with God’s laws and in this disobedience scenario, they represented the entire humanity. This is a theological statement which may not be easily understood. The relationship existing between God and human beings is quite distinct from that of human

beings between themselves because God is the author of creation while a human being is an instrument of God in procreation. For this reason, the disobedience of Adam and Eve as the first parents of humanity is theologically interpreted as the beginning of human sin which affects every human being regardless of race, sex, nation, ethnicity, religion, and so forth (Gn. 1:35). Theologically, it is a sin to challenge God because he is a supernatural reality who is far beyond human understanding. But people can humanly challenge one another because they share the same-equal human status. Besides the sin committed by the first parents, people also commit their personal sins. For these reasons, the coming of Jesus Christ as the saviour of the world was divinely planned to atone for all human sins.

Incarnation, however, throws a new light on the concept of a person and of his/her dignity suggested by natural reason. The incarnation reveals a person to himself, in that Jesus is the perfect man. Jesus is reckoned as the one who sanctified all humanity through his life, death, and resurrection, directing humankind to the love of the neighbour (Principle 1984:398). The truths revealed by Christ about humankind are both the foundation of the Church's teachings on human nature and promote human dignity and human rights throughout the world (Principle 1984:398). If the mission of Christ was to bring perfection to the world, why do some people continue to do nefarious deeds? Does it mean that the mission of Christ has failed when other people do not stop robbing their brothers and sisters of their properties? It does not necessarily mean that Christ's mission is a failure because human beings are not perfect and therefore whatever they may do is prone to human frailty or

weakness. What they have to do is to seek perfection for the rest of their lives.

Today, in a new dispensation, a vast majority of Catholic theologians believe that Christ's saving work is certainly the foundation of human dignity and human rights. This is envisioned as the sole basis for human dignity and human rights. Now, in the world of human rights in which the writer lives, Walter Principle, still following the Catholic teachings, laid down the principle regarding human rights in a theological context and it is as follows: "The dignity and rights of a human person as saved by Christ, as being saved by Christ as to be saved by Christ" (Principle 1984:398). When reading this phrase intelligently and critically, it is a repetition of what is already indicated earlier although Principle attempts to problematize it. What does Principle mean by as saved, as being saved and as to be saved by Christ? The implication is that Christ as the foundation of human dignity and human rights saved humankind in the past, at the present he continues to save it and in the future he will do the same. In other words, Christ's redemptive mission is not referred to as at a particular time but it is rather eternal because it was predestined by God as the Supernatural reality. Since Christ gave human dignity and human rights by his incarnation, he respected, protected and promoted them through his saving activity.

Christ's Pascal mystery culminates in his death and resurrection. His presence among the world's peoples as the risen Lord brings the message of faith, hope and love to the rest of humanity (Principle 1984:398). Christ's

death and resurrection characteristically signifies Eternal life where human dignity and human rights will attain the ultimate fulfilment through God in Jesus Christ. The message of faith, hope and love achieved through the life, death and resurrection of Christ serves as an ideal for humanity, reminding us how human dignity and rights came into being. Inaugurating a new covenant in spirit, Christ's saving work effects a new relationship between every human being and the Father as well as with himself. This new relationship constitutes the proper Christological foundation or basis for enhanced personal dignity (Principle 1984:398). This type of relationship existing between God and man originates from the Trinitarian God, that is, God the Father, God the Son and God the Holy Spirit who constitute one God. Jesus Christ being God the Son reveals human dignity more fully than philosophy and theology because he is a perfect model of Christianity. Thus, Christ enables human beings to live their dignity to the fullest (Principle 1984:398). Christ transforms human life by influencing his followers with his earthly ministry such as performing healing miracles.

The teaching of Christ as the saviour of human nature enlightens the world to realize the fundamental equality of all people. We are all brothers and sisters with one Father (God) Mt. 23:9. In addition, Paul illustrates that in Christ, there is no discrimination based on sex, race and social conditions (Gal.3:27-28). However, Christ's earthly ministry manifests the true dignity of a person as being found in the spirit liberated from evil and renewed by his redeeming grace. A person is redeemed in the blood of Jesus Christ. For this reason, she/he is, by grace, a child and a friend of God, and an heir of eternal glory.

Nevertheless, the Gospel portrays Christ as the one who fought and who continues fighting against injustice, hypocrisy, abuses of power, the greed for profit of the rich who are indifferent to the sufferings of the poor, and vividly reminded all of the final account to be made when he will return in glory to judge the living and the dead. Consequently, this is how Christ respected, protected and promoted the dignity of a person and human rights (Principle 1984:398). All those who follow in the footsteps of Christ identify themselves as the adopted sons and daughters of God through Christ by natural generation, who derive their inner beings and Christian vocation from Christ as the ever-living God.

Christ affirms and proclaims an essential equality of dignity among all human beings, men and women, whatever the ethnic origin, nation or race, culture, political membership or social condition. From this fundamental equality of dignity among all men and women and from their intrinsic social nature there arises the need that relationships in social life be established according to the criteria of an operative and humane solidarity, that is, according to the criteria of justice, vivified and integrated by love (Guerly 1961:149). Another dimension of Christ's mission in the world was to reconcile and unite the human race with God and facilitate the maintenance of friendly relations among people themselves.

Being rooted in his/her spiritual nature, human rights aid human development: body, mind, heart, the will, emotions, the whole of human personality. Human institutions are in God's plan of creation, and protective agencies,

representing the sacredness of natural rights, are obliged to be their guardian and defender (Guerly 1961:149). The implication is that God sanctified human life even before existence and therefore human beings are duty-bound to preserve the value of their dignity and their rights. Because human rights are rooted in the dignity of God, it follows that God established intimate relationships. For this reason, a person ought to be responsible for his/her actions, destiny and be able to govern him/herself through Divine assistance. The idea that a person was created in the image of God promotes human beings from the outset as the masters: they dominate the things of creation and inferior beings such as animals, plants, etc. (Guerly 1961:149). Even if a person is superior to other creatures, he/she can only control them up to a certain limited point because he/she does not have the supernatural powers belonging to God.

In addition, God being the ruler of the world gave humans the earth and a share of his Divine government so that, depending on his/her creator, he/she could fulfil creation and the universe (Crain 1992:48). When saying that a person participates in God's governance, it does not necessarily mean that he/she shares the same powers with God but it simply means exercising authority within human jurisdiction, which is still controlled by God the giver of life. For instance, it is beyond human nature to change another human being into a pig. But then why does a person have the power to dominate other created things? It is because he/she is a rational being who is free while subhuman creatures are not. For this reason, he/she is the master of him/herself responsible for his/her life that leads to an eschatological good

(Gremillon 1984:17). Human life does not end in this world but it is rather a kind of transition from one state of life to another, sometimes referred to as 'life after death'.

Human freedom and responsibility spring from his/her immortal soul given by God the Creator. However, a human being is a personal being endowed with prudential judgement and who is able to decide what to do and what not to do. The supreme dignity and true freedom of a person is found in the realization and loving acceptance of his/her final dependence. If this dependence on God constitutes the greatness of a person, it is because the dignity is based on a Supreme Being. Thus, a human being is not subject to earthly things and nothing is attainable without God's power over human existence (Calvez 1961:78). The disadvantage of human freedom is that even when one abuses his/her freedom by engaging in evil actions like treating another human being as a slave, God does not interfere with that freedom although He is the giver of human dignity and human rights. God is not in favour of interfering with people's freedom because it is his great desire that they may mature and be good as He created them.

Pope Leo XIII in his encyclical on the rights of workers maintains the principle of human dignity. For him, no one has a right to violate with impunity human dignity that God himself treats with great respect. There is a striking contrast between God's respect for human dignity and the attitude of too many human beings towards their subordinates (Nolan 1987:31). The majority of those who bear the heavy responsibility of authority still do not realize that the most

important thing for the servant, the agricultural or industrial worker, the employer, or the client is to be respected as a human. This principle has been applied on the group level by John XXIII who explicitly points out that the true form of a community can only be achieved if the individual members are considered and treated as human beings (Calvez 1961:79). Here, the Pope tries to conscientize the employers and the employees into acknowledging that they are humanly equal as they come from one and the same source. Above all, both parties must respect each other, as God their creator respects them for what and who they are.

Leo XIII continues maintaining that a worker must not be treated as a slave but their human dignity be respected and enhanced by the dignity of a Christian. The life, death and resurrection of Christ clearly demonstrates that God has a special purpose for human beings and people are to be honoured and treated as sacred. Human dignity is based on the image of God in each person and the purpose of God is realized in Jesus Christ. For this reason, men and women are to be treated as God intends them to be. It is unbecoming, shameful and inhuman to use people as mere tools without human dignity (Quade 1982:73). From the theoretical point of view, what Leo XIII asserts is clear that he is in favour of the protection and promotion of workers' rights although he does not illustrate explicitly the implementation strategies that can be devised in order to improve fair treatment between employers and employees.

When addressing the workers on a certain occasion, Pius XII reiterated what his predecessors had already pointed out, that the social reforms advocated by the church are inspired by the principle of the human being and this is similar to Kant's philosophy of humanity. According to Pius XII, the Church in the social teachings does not cease to insist on due regard for the innate dignity of a person (Fallon 1986:62). The Church also demands a just wage for the worker in the contract of employment. The Church exacts adequate assistance for the worker in his/her spiritual and material needs. Surely the reason is that the worker is a human being and his/her capacity for work should not therefore be considered as mere merchandise (Calvez 1961:78). Still basing his work on the principle of the dignity of a human, Leo XIII enunciates that all human beings have the same, equal and innate human dignity originating from the same God who is the ultimate end of the human race. In addition, being redeemed by Jesus Christ raised human beings to the dignity of the children of God (Schillebeeckx 1985: 45). Similar ideas that have been set out earlier are brought back by this message.

The Catholic Church also maintains that the fundamental rights of women are equal to those of men in as far as their personal dignity is concerned and as children of God, men and women are absolutely equal (Calvez 1961:80). These statements have already been stated in the preceding chapter but now they are viewed under a new topic, although related to the former one. The issue of discussion is the origin of human rights means that this thesis should deal with the equality of people regardless of gender, race, nationality, and so forth. When considering people's different personalities, the Church's

teachings continue enunciating that they are entitled to equal honour, dignity, worth and respect. The Church is the principal emancipator of women from their degrading and unnatural slavery. Although the natural order obliges people to distinguish natural diversity of gifts, characters and temperaments in men and women; some of these things are proper only to men and others only to women, or they are unequally distributed, some being more developed in men and others in women, because nature has given each of them a different sphere of activity and a distinct role to play (Calvez 1961:81). Although people have the same-equal dignity and rights, they have different capacities, characters, talents and interests which shape their daily life activities. For instance, women are emotionally stronger than men and men are physically stronger than women or two men differ in intellectual capabilities. Consequently, all these values are determined by nature not by personal inclinations.

The particular characteristics which distinguish sexes have repercussions in the family and community life. It is not possible to reverse this natural order without nature always intervening to re-establish it. A person transcends the whole of creation and dominates nature because of dignity. However, a person is by nature endowed with all human qualities so that he/she may be able to live humanely. From the moment of human existence, a person is created for a particular purpose: that he/she may know, love and serve the only triune God (Gremillon 1984:18). Knowing, loving and serving God are visible in people's relations because whatever one does to his/her fellow person symbolizes the kind of relationship he/she has with God. Going

further, the social teachings of the Catholic Church affirm that a person is also created in order to participate in the life of God and he/she is an heir to eternal life with Jesus Christ (Fallon 1986:63).

Human laws which contradict natural laws are simultaneously combating human dignity. The worth and dignity of human nature, ransomed and raised to a higher order by the blood of Jesus Christ and destined for heaven by Divine goodness, are continually present in the vision of the Church and of its members, who are always the allies and movers of whatever is according to nature (*secondo natura*). The Divine law, which is the Church's specific mission to teach as derived from revelation, is often not different in its content from the natural law, even though that can be known by means of reason. The son of God-made man is the uniquely solid ground for humanity, even in social life, and that in assuming a human nature he has confined its dignity as the foundation and rule of moral order (Schillebeeckx 1985:72). Supposing the South African parliament makes a legislation that dangerous criminals should be killed, definitely this kind of law does not tally with God's will and therefore, it does not respect human dignity and human rights.

Whatever Christ did during his earthly ministry elevates human dignity and enhances human rights as well. In creation God establishes human dignity while through Christ and his saving works, he refashions and reforms this human dignity more marvellously (Principle 1984:399). The Catholic Church has become aware of the urgent need to protect and defend these rights and considers it a part of her own saving mission following the examples of Christ,

who proves himself as always attentive to the needs of the people especially the poor. The assertion of human rights arose in the Church more as a concrete service to humanity than as something abstract and theoretical. By reflecting on them, however, the Church recognized their philosophical and theological foundations and their juridical, social, political and ethical implications, as can be seen in the documents of the social teachings. The Church did so, though, not in the context of a revolutionary opposition of the rights of the person against traditional authority, but on the basis of the law written into human nature by the creator. The Church as the promoter of respect for and defence of human rights, whether personal or social, maintains that in particular, the right to religious freedom, in as much as it touches the intimate sphere of the spirit, reveals a point of reference and in a certain sense, becomes the measure of the other fundamental rights (Calvez 1961:82). The implication is that the Catholic Church re-examines itself each time in order to see how relevant it is with regard to responding to the present needs of the world. When reading the signs of the times, the Church is always flexible in developing its teachings for the proclamation of God's kingdom.

It was indicated earlier that the dignity of the human being is based on the fact that he/she was created in the image and likeness of God and elevated to a supernatural destiny transcending earthly life. However, a person as an intelligent and free being, a subject of rights and duties, is the efficient cause (L'oservatore Romano 1989:9). According to the almost unanimous opinion of believers and nonbelievers alike, all things on earth should be related to a person as their centre and crown. It is a principle that in its anthropological

import constitutes the source of other principles which are part of the corpus of social doctrine. In its structures, organizations and function this corpus serves the creation and continues the adjustment of conditions both economical and cultural which allow the greatest possible numbers of people the development of the capacities and the satisfaction of their legitimate exigencies of perfection and happiness (L'oservatore Ronano 1989:9). God put all other natural resources at the disposal of a person for life sustenance and human development while still on an earthly journey hoping for eternal happiness existing in God Himself.

Since then, it is still the intention of the Church to insist on the dignity of a person against all slavery, exploitation and manipulation perpetrated to harm people, not only in the field of politics and economics, but also in the cultural, ideological and medical field. Later, in deepening this reflection, Pope John Paul II bases human rights simultaneously on the three dimensions of the complete truth about a person: on the dignity of a human being as such; on man created in the image of God; on a person being inserted into the mystery of Christ. The saving mission of the Church is based on this dignity seen in the light of Christ's redeeming task. For this reason, the Church cannot be silent when the inviolable rights of people are violated (L'osservatore Romano 1989:9). What John Paul II proclaims is not new, it has been echoed many times by his predecessors because it is the core of the Catholic teachings with regard to the origin of human rights. The Catholic Church also expresses a great concern for the rights of the poor, since they are the children of God

who are the most neglected in the world. This will be discussed in the subsequent section.

4.4 The Catholic Church and The Rights of the Poor

The preceding section dealt with the origin of human rights according to the social teachings of the Catholic Church and different Catholic theologians have already confirmed this doctrine. Now it is the responsibility of the Catholic Church to put into practice what it teaches - that God is the author of human rights. The Catholic Church in Latin America gives a good example demonstrating how the Church was involved in public life, protecting the rights of the poor and impacting on social changes. The Catholic Church as the Church of Christ has a great concern for the life of the poor and thus claims to be its mission to proclaim God's kingdom to all peoples of the world, especially the poor. However, the Church reminds the international community or the global village of Article 25 of the UN Declaration on human rights that explicitly states that everybody has the right to a standard of living conducive to health and well-being for him/her and his/her family, including food, clothing, housing, medical care and necessary social services; as well as the right to security in the event of unemployment, sickness, disability, widowhood, old age, and other lack of livelihood in circumstances beyond one's control (Peschke 1994:732). It is the responsibility of the government to cater for the basic needs of the poor such as food, housing, clothes and so forth. What is meant is that the government as the pivot or mainstay of the

nation is responsible for creating various jobs and providing some means of answering the needs of the poor and emancipating poverty roots within the society as a whole. Since poverty can be observable and affect the majority of societies of the world, if not all, it is the duty of individuals, groups, associations, organizations, nations and states to jointly fight against the eradication of poverty world-wide (Peschke 1994:732). If organizations, nations, and states join hands regionally, nationally and internationally in the emancipation of poverty, the rights of the poor can be significantly promoted.

In addition, the Catholic Church points out that people can be poor for various reasons such as unemployment, low wages or salaries, lack of education, physical handicap and so on. The first task in the battle against poverty therefore must be to build and sustain a heavenly economy that provides employment opportunities at just wages for all adults who are able to work. At the same time, all of society must make a strong commitment to education of the poor. Lack of adequate education prohibits many poor people from evading poverty, and working to improve education is an investment in the future of any nation (Peschke 1994:733). Poverty is a global issue and it is always connected with unemployment and low wages or salaries. Some people may be poor because they are lazy to work and subsequently, they freely choose not to exercise their right to work as if it is the duty of some else to labour for them. In this kind of a situation, it does not necessarily mean that the lazy person's rights are being contravened but he/she irresponsibly deprives him/herself of the right to work, which is his/her intrinsic moral value and opts for self-degradation of human status.

In Latin America, Brazil was the first country to establish the involvement of lay people in matters pertaining to religious, political, social and economic activities that transformed social structures in order to accommodate almost all categories of people irrespective of race, political affiliation and social status. For these reasons, it would seem that to trace the development of the preferential option of the poor in Brazil, Catholicism would provide a fountain for understanding related religious phenomena in other parts of Latin America and of the Third World, such as the political activism of nuns and priests in Central America and the courageous human rights positions taken by bishops in the Phillipines (Adriance 1986:2). The Catholic Church in Brazil challenged the universal church to re-examine itself with regard to how far it cares for the marginalized and how it can be the voice of the voiceless. For this reason, all these social changes contributed towards the establishment of Vatican II Council in which the Catholic Church developed the social teachings. The option for the poor is manifested in different levels within the Catholic Church. Among intellectuals it takes the form of liberation theology, that is, the articulation of the belief that people's eternal salvation is inseparable from their involvement in the struggle towards the radical transformation of social structures that perpetuate poverty and repression. Although the writings of liberation theologians indicate the Biblical roots of their beliefs, it is apparent that their emphasis on the prophetic cry for justice has developed in interaction with the Latin American social context (Adriance 1986:3). The essential point is that the Church's vocation is to cater for both the spiritual and material life of a person since he/she is a soul-body reality

and a substance of a rational nature. On the level of church policy-making, the option for the poor is reflected in the official statements at national bishop's conferences (such as the National Conference of the Brazilian Bishops or UNBB), and in the document resulting from the meetings of the Latin American Bishops Conference (CELAM). In addition to statements on human rights, these documents include specific recommendations about economic development and the social empowerment of peasants, factory workers and indigenous peoples (Adriance 1986:3). The Latin American Catholic Church is the pioneer playing a leading role in demonstrating to all Christians and non-Christians of the world what it means to work for the common good.

The most concrete level of the implementation of the church's option for the poor is that of the basic ecclesial communities of lay groups of people who come together for prayer, scriptural reflection and social action. It is there that the religious and political implications of the preferential option for the poor come to life. It is through Christian communities that poor people are encouraged to organize religious activities with the assistance of lay leaders, suggesting some kind of change in the traditional domination of Catholic congregations by the clergy. This religious participation of church members is often transferred to an increase in their political participation as well. The Roman Catholic Church, by contrast, has traditionally been oriented towards the overall influencing of society, for the purpose of creating a social climate that encouraged people to observe Catholic ethics and ritual practices with the intention of promoting the spirit of unity and co-operation among society members, and social institutions, such as military, political, religious,

government officials and land owners and of the well-being of the country at large. In addition to encouraging piety among wealthy people, the Catholic Church leaders relied on them to organize and contribute financial support for the church's various charities in order to help the poor (Adriance 1986:6). The Latin American Church is the model for the universal Church bringing about justice for God's kingdom by its involvement in social transformation. The pastoral ministry of the Church deals with social dynamics in fulfilment of the salvation of humankind, having dealt with the rights of the poor with regard to the involvement of the Catholic Church in public life especially when protecting the rights of the poor in Latin America. Catholic theology is derived from the Bible and the Bible is the basis of the Social Teachings of the Catholic Church because the Church itself supports the proclamation of human rights with Biblical texts and that will be discussed in the subsequent section which will be specifically dealing with the rights of the poor in the light of the Old Testament.

4.5 The Old Testament and Human Rights

The purpose of this section is to show that the Catholic Church uses the Old Testament to support its Social Teachings on human rights especially of the poor. There are some texts taken from the Old Testament which deal specifically with the rights of the poor and from this, the meaning of these rights can be learnt. The Old Testament prioritizes the rights of the poor and pays less attention to the rights of other categories of people. In the Old Testament context, the word "poor" has several meanings and six different terms were identified. 1. *Rash* simply means destitute, without money. 2. *Dal*

reflects the weak social position of those who are destitute. These are the “marginalized” of the world. 3. *Ebyon* designates the needy, those who do not have adequate opportunities to receive a reasonable share of life’s resources. 4. *Ani* and 5. *Anaw* refer to the oppressed, the powerless, those who are wrongfully impoverished by the rich and powerful. 6. *Mishken* indicates a dependent person (Scott 1980:150). Since the Bible is basically dealing with the rights of the poor, it is pointless to ask who the poor are because they are explicitly stated in the above-mentioned categories in which the term “poor” is being employed. In addition, the word “poor” can also mean poverty of the spirit which means not acknowledging God’s presence within one’s life and turning away from the immensity of his infinite love.

Since the poor person is a slave to others, the concept of being poor can also mean someone who is like a slave before God, obeying God as a servant obeys his master. Simultaneously it means waiting patiently for the Lord’s salvation, for the weak are so utterly dependent upon God (Psalm 40:1). This is a very complex scriptural statement which can be interpreted differently by biblical scholars. What is essential is to know how God teaches us to treat the poor as bearers of human dignity and human rights. God always identifies himself with the poor of the earth especially with the poorest of the poor, the so-called Fourth World (Scott 1980:148). This may not be sufficiently convincing to people who either have little or no personal experience of God. God always stands on the side of the poor when they labour under the oppressions of the powerful (Ecclesiastes 4:10). The implication is that God always consoles the weak because they need Divine support and condemns

all sort of evil actions practised by the oppressor (Scott 1980:148). Yahweh sent Moses to deliver his elect people of Israel from bondage in Egypt because their life was not worthy of human habitation but rather it had dehumanized human dignity and human rights (Exodus5:7-8). God took the initiative by sending Moses to lead his chosen nation out of slavery in Egypt because he found it appropriate to provide justice for the oppressed. Anyone who oppresses the poor insults God the creator who created a person in his own image and in this process human dignity and human rights emerged (Proverbs 14:34).

Amos, as one of the prophets, was sent by God to announce the sad news that the northern kingdom of Israel would be destroyed because of the terrible oppression of the poor where the rich trampled the head of the poor into the dust of the earth (Amos 2:7). And the affluent lifestyle of the rich was built on oppression of the poor (Amos 6:1-7). Even in the courts of law the poor had no hope because the rich bribed the judicial officers (Amos 5:11,17). God destroyed the Northern Kingdom because he intended to protect the rights of the poor who were mistreated by the political authority. Jeremiah, in one of his prophetic writings, also proclaimed that the rich were often rich because of indulging themselves in an oppression mechanism (Jer.5:26-29) (Scott 1980:148). Hosea and Micah made similar comments (Hosea 12:7-8; Micah 6:9-12). God declared that the rulers of Judah were rich because they had cheated the poor. Because the rich oppress the poor and the weak, the Lord of history is at work pulling down their houses and kingdoms (Isaiah 3:14) with

righteousness God shall judge the poor and decide with equity for the meek of the earth (Isaiah 11:9) (Scott 1980:148).

One of the important reasons why God destroyed Sodom was because the “haves” were not willing to share with the “have nots” (Ezekiel 16:49-50). Basically, God punished the Sodomites because those who had sufficient resources completely refused to assist the needy. Before God, the poor are very special and important people with whom God constitutes his kingdom for eternal happiness (Scott 1980:1489). The poor are always despised and rejected in any society (Sirach 13:21-22). How do nations of the world deal with the poor today in the 20th century? This is an enormous problem which still faces the world- that the advantaged pay less attention to the needy and consequently they are getting increasingly poorer. God loves the poor as He loves everybody created by him in his likeness and their rights originate from the nature governed by Divine law (Gn. 1:27) The poor have human dignity from which fundamental human rights emanate. Those who are rich must freely give to the poor so as to respect and protect their basic rights as human beings (Dt. 15:11). The scriptures assert that the laws of Israel protect the poor and give them rights to counter the power of those accumulating riches and the inequality that different possessions generate (Scott 1980:149). In order to substantiate this statement, it is explicitly stated that every seven years the law of Israel condemned the remission of all debts, every fifteenth jubilee year the freeing of slaves as well and every seven years in the case of where a poor man has sold himself to a rich man (Lv.25:1-7); Dt. 15:1-3;

Jer.34:8-17). Even today these types of slavery still exist in different societies although it may occur in many developed forms (Romans 2: 7)

In Israelite society, there was a law regulating loans with great concern for the protection of the poor. This loan functions as a relief measure and not as an investment: the law prohibited lending at interest (Scott 1980:149). Anyone who lends money to a poor person shall not get back interest from him/her (Exodus 22:25). Meanwhile this law also limited pawning. For instance, if the pawned object was a coat, the broker had to return it to the poor person on cold nights until morning came (Exodus 22:26-27; Dt.24:10-13). This law was considerate in meeting the needs of the poor halfway and it is a good lesson to all people today. If I have a piece of bread, it is my duty to share it with someone who absolutely has nothing to eat (Luke 2:15) In addition, Deuteronomy also forbids taking security articles that are necessary for survival. Specifically it protects widows whose clothing may not be taken as security (Lk.24:17). In brief, God humanizes and contravenes the law of money and profit. Why? Because He wants to provide everybody with sufficient means for life (Luke 2: 18). When it goes further, the law did not provide for the imprisonment of an insolvent debtor. On the contrary, it prescribes death for everyone who tries to take an Israelite prisoner by force, either in order to make him his servant or sell him as a slave (Ex.21:16; Dt. 24:7). Finally, the law urged people not to refuse a poor person who wishes to borrow and urges people to lend generously (Dt. 15:7-8; Ps. 37:26; Sir. 29:2, 8-9) "lend your neighbour in his/her time of need".

The law of the Israelites protected a person from lifetime servitude (Dt.15:; Jer.34:4-9; cf. Dt. 5:14). It also protected the fugitive slave (Dt. 23:15-16). Further, this law protected a poor person from losing his family lands and against the accumulation of possessions by the rich (Micah 2:1-2; Dt.23:25; Lv.25:10b,13b). This law did not allow people to be used as means but preferably opted for treating them as ends. On the one hand, the law secured property rights and on the other hand advanced family rights. The law of the Israelites protected the poor from being exploited by the rich (Ex.22:22-23; Dt.24:14-15; Lv.19:13; Amos 2:6-7; 5:11; 8:4-6; Jer. 22:13-17; Ezek. 18:7-8; 45:9-10; Sir.34:22; 31:8-9; Tobit 4:6-12; 15-18). This law insisted that a poor person must be able to obtain justice against the rich one (Ex.23:3; Dt.27:19,25; cf. Job 34:19; 2Ch.19:17; 1:23;10:1-2; 11:4; Micah 3:9b).

Finally, the Old Testament mirrors the assured subsistence of the poor by reserving certain privileges for them: (a) the right to pick grapes and standing grain by hand in the fields (Dt.23:25); a custom practised by the disciples of Jesus (Mt.12:1; Lk. 6:1). (b) The right to a corner of the field which the owner may not harvest. (c) The right to gleaning the sheaves left behind in the field. This right is limited to orphans and widows in Dt.24:19; but it is more generalised in Lv. For all the poor. (d) The right to whatever grows spontaneously in the fallow fields in the seventh year (Ex.23:10-11). (e) The right of the poor to the tittle once every three years (Dt.14:28-29;26;12). For this reason, a poor person has the right to the necessities of life; he/she does not steal when he/she takes from someone else who is rich for survival, because that need is a fundamental right (Scott 1980:150). The position of the

Old Testament is clear with regard to the rights of the poor. The New Testament, as the fulfilment of the Old Testament, is our focus in the last section. The Social Teachings of the Catholic Church is founded on Christ as the central figure of the New Testament and the fulfilment of the Old Testament. For this reason, the church also derives its teaching on the rights of the poor from the New Testament. The purpose of this section is to show how the New Testament protects and promotes the rights of the poor in its context.

4.6 The New Testament and Human Rights

Like the Old Testament, the New Testament also proclaims the gospel of the rights of the poor and this proclamation will be bolstered with some texts. The proclamation of God's kingdom is central throughout the Bible although it is addressed in different contexts. For this reason, it may not be surprising to identify the same message in both Testaments. In the Old Testament, God spoke through the prophets while in the New Testament, Christians claim that He continues to speak through his only son, Jesus Christ. The New Testament is centred around the earthly ministry of Christ as realized in his life, death and resurrection for the salvation of humanity. The Hebrew words are already indicated in the preceding section and these words were developed and employed in the New Testament context. Among Synoptic gospels, Luke's gospel is particularly dedicated to the poor. The gospel message portrays the poor as significantly high profile people not in the sense of the daily socio-political context, but rather in a theological perspective (Luke 1:42-46).

As already mentioned above, the New Testament continues the Old Testament tradition with regard to the poor and the powerless. Mary, the mother of Jesus, sang, "my soul magnifies the Lord, and my spirit rejoices in God my saviour, for... he has put down the mighty from their thrones and exalted those of low degree; he has filled the hungry with good things, and the rich he has sent empty away" (Luke 1:46-47,52-53). The above citation embraces two distinct classes of people, that is, the poor and the rich. God is being portrayed as defending and advancing the rights of the poor while the rich are disfavoured because of the misuse of their wealth which is absolutely not beneficial to the poor (Shaull 1985: 25). Throughout the scriptures there is not even a single text where the rights of the rich are proclaimed either implicitly or explicitly. God of the Bible was always, is always and will always stand alongside the poor as their saviour, deliverer and avenger because his kingdom belongs to them (Curran 1986). Does that mean the rich have no rights according to the Bible? No, it does not necessarily mean that, but the implication is that the rich must serve the poor and relinquish their wealth and power for the sake of the poor (Luke 1:49-50). This is the criterion used to discern the right candidates worthy for God's kingdom. In human terms, it is difficult to qualify for God's kingdom because it demands more than human nature achievements (Schillebeeckx 1985: 86).

Committing evil is to oppress the poor as it is already mentioned earlier but doing good is to love one's neighbour as oneself, and the neighbour, as Jesus's story of the Good Samaritan clarifies, is the victim of injustice

(Lk.10:25-37). In the Bible, the poor are blessed and elevated, and the message of God's word carries with it the hope of justice and liberation for the poor (Corrado 1986:54). The gospel is preached to the poor, and the rich are commanded to sell what they have and give to the poor for the sake of the kingdom (Shaul 1985:28). If that is the case, the standard of the Bible is too high for human living because it is essentially based on Divine law. On the other hand, it does not necessarily mean that it is impossible for a person to comply with the gospel message but all he/she can do is measured by his/her human endowments based on God's will (Mt. 4:15). The gospel message encourages people not to invite their friends, relatives or rich neighbours who are able to invite them back for dinner, but they should rather invite the poor, the crippled, the lame and the blind because they will be rewarded in the resurrection of the just (14:12-14). Another example giving a lesson is the parable of the rich man and Lazarus where the rich man is depicted as inconsiderate about catering for the needs of the poor man, Lazarus (16:19-31). In addition, the best offer appearing in the synoptic narrative is that of the poor widow because she gave all she had, in the face of the wealthy, who had resources in abundance (21:1-4) (Boff 1985:38).

Zachaeus, being a member of a socially undesirable group as a tax collector, represents the wealthy group in material possessions (Dennis 1986). What is important and special about this man is that he gave half of his wealth to the poor for sustenance (19:1-10). There is nothing wrong with the accumulation of wealth for good purposes but the problem is the improper attitudes towards them (Curran 1986:56). For instance, a person having lots of flats may

provide housing for someone without a place to stay. The teaching of the gospel about wealth is that they may prompt a tremendous spiritual disaster if they are misused (Shaul 1985:54). The possession of wealth twists and distorts people's priorities and values, and may be stumbling blocks in their sensitivity to God. For this reason, good wealths are those utilized to insure and foster the needy (Boff 1985:25). Meanwhile, the disciples of Christ are encouraged to sell what they possess for the poor in order to gain treasure in heaven (12:33-34). In a Christian community, there ought not to be any distinction between the rich and the poor, between the powerful and the powerless, important and the less important (Corrado 1986:78). In addition, Jesus calls poor people happy because the kingdom of God is theirs. For this reason, God expresses his great concern for humanity, and in particular is in pursuit of people in distress, the weak, the lonely, the insignificant members of society, and the marginalized people (Schillebeeckx 1985: 73). In one word, God promotes both material and spiritual life of a person entailed in all dimensions of human living.

In the gospel of Matthew, John the Baptist sent messengers to Jesus to inquire whether he was really the Messiah. Jesus told them to "Go and tell John what you hear and see: the blind receive their sight and the lame walk, lepers are cleansed and the deaf hear, and the dead are raised up, and the poor have good news preached to them" (Mt.11:4-5). This teaching of Christ symbolizes that his ministry on earth is to mediate between God and a human person, to reconcile people with one another, to bring about justice and peace between persons and above all to perfect the entire human life to a heavenly

state where human dignity and human rights will be fully fulfilled (Shaull 1985:21). On judgement day, Jesus will judge every person in proportion to how he/she responded to the hungry, the poor, the naked, the imprisoned, the sick and the stranger (Mt.25:31-33,41-46). What has judgement day got to do with human rights and what is its significance? God, through his son Jesus Christ, knows how each and every person relates to others and how considerate people may be when approaching their brothers and sisters but people will try to justify all that they did even if it means gross violations of human rights (Mt. 24:19). It is the responsibility of people to eradicate their selfish interests and learn how to care for one another in a human manner irrespective of gender, color, race, ethnicity, religion, nationality and political affiliation. The parable of the Good Samaritan demonstrates that people's responsibility is to respond to the needs of those who need help and leap over the human barriers of race and class at the personal cost of time, money and danger (Gremillon 1884:29).

The apostle, John, also cannot conceive of a love for God that does not express itself in distributive justice. "But if anyone has the world's goods and sees his brother in need, yet close his heart against him, how does God's love abide in him? ... Let us not love in words or speech, but in deed and in truth" (1John 3:17-18). Love, as the constitutional law of Christ, is the basis of all human virtues and qualities ever seen in the world and its function is to conscientize people and give them a clear direction about how justice can be administered squarely to all community members (John 3:20). Jesus called the poor twelve men who were fishermen and made them his apostles for the

proclamation of God's kingdom (John 3:22). These people were not socially recognized by the society in which they lived because they were non-professionals in a strict sense but Jesus elevated them for God's service and they became strenuous human rights activists who vowed to operate in all parts of the world. Jesus, being the greatest human rights professor and activist of the New Testament, commissioned the twelve apostles to go out into the world and preach the message of reconciliation, love, justice and peace which is all about human rights protection and promotion (Mark 5: 23). Even today in the 20th century, Jesus still continues his proclamation mission through Christians, believers and non-believers which is realized in his life, death and resurrection as he is the saviour of the world whether one believes in him or not (Verstraele 1985:10). Christ lived for all, Christ died for all and rose from the dead for all humanity. Through his redemptive love, Christ continues to save the world (Shillebeeckx 1985:73). Human rights infringements are realized where people relate to one another and live together, or else the language of human rights would not be known.

4.7 Conclusion

The human rights doctrine has been the issue of over-riding importance since Aristotle's ancient period of time up until Walter Principle's contemporary era of Vatican II Council. Undoubtedly, philosophers like Thomas Hobbes and John Locke were influenced by that of Aristotle, the ancient philosopher. The philosophers espousing natural law based rights reiterate Aristotle's theory but in different words which unfold the same content. Aristotle asserts that natural rights or human rights are derived from the unmoved mover which is

the primary cause of human existence. Aristotle is interested in the administration of justice in political rights. Hobbes and Locke, being Christian philosophers, put more emphasis on the Infinite Being as the source of human rights. Kant in his principle of humanity/personality does not transcend human nature like Aristotle, Hobbes and Locke. Plato, like Kant, does not trace the human rights foundation beyond human nature but his conception of human rights is society based. Bentham's theory of human rights is based on law while that of Mill is utility based. Basically, the natural law based human rights philosophers are unanimous in endorsing God-given rights.

The official social teachings of the Roman Catholic Church have also been influenced by Greek philosophy tradition and its human rights proclamation is not distinct from that of Aristotle, Hobbes and Locke. The Catholic Church also believes that God as the Supreme Being is the source of human rights. The teachings of the Church on human rights are based on both Catholic philosophy and theology. Thus, the Catholic teachings are derived from Biblical theology which is based on Hebrew and Greek tradition. Since Biblical theology is a collection of manifold books of the Old and New Testaments, the Catholic Church uses them as substantial instruments to defend its social teachings on human rights. The Catholic Church preaches that human rights are grounded on the Trinitarian God who is God the Father, God the Son and God the Holy Spirit: all these are three persons constituting one God. The central tenet of the church's faith is that Jesus Christ is the greatest protector and promoter of human rights; that is realized through his life, death and resurrection. In expressing its faith, the Catholic Church does

not only preach that God operates through and with Jesus Christ but also instrumentalizes the human race in the proclamation of His human rights kingdom. In other words, each and every person is called by God to live the gospel of the human rights proclamation for the rest of his/her life while awaiting an eschatological reality which means life after death. Since the purpose of this chapter is to explore the foundations of human rights from the philosophical and theological perspectives, different philosophers and the social teachings of the Catholic Church and Catholic theologians have already illustrated their standpoint. Having explored the origins of human rights, the Catholic Church uses both the Old and New Testaments as the basic instruments to defend its social teaching on human rights believing that God is the author of creation. However, this chapter also portrays how the Catholic Church is involved in championing human rights, especially the rights of the poor. The claims of the Catholic Church with regard to the origin of human rights and human rights in general have already been discussed.