

# Pope Benedict speaks to German parliament against majority rule and “ungodly” laws

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It was said to have been “great and humane, an impressive speech on the philosophy of law” by a “learned old man” (journalist Heribert Prantl in the *Süddeutsche Zeitung*). Not only “pointedly smart, and not without humour”, but also “very socially critical, but also advanced in a philosophical manner” (Evelyn Finger in *Die Zeit*). “The pope could have put all his critics to shame” (editorial by Joachim Frank in the *Frankfurter Rundschau*). *Freitag* publisher Jakob Augstein said on *Spiegel Online* that to protest against the pope was certainly “adolescent”.

What had occurred to make all the leading liberal German media organs so enthusiastic about the most conservative pope since the Second World War?

The fact that Benedict XVI addressed the Bundestag (German federal parliament) was itself an affront to basic democratic principles. Until now, such a right of address had only been afforded to the political leaders of various countries, but never to a religious figure. The head of the Catholic Church was not only allowed to speak in parliament, but was also given a platform on public television, where he delivered a Sunday sermon on the occasion of his visit to Germany. He did not face any critical questions. No debate followed his speech in the Bundestag, nor did he hold a press conference.

To preserve a minimum of formal appearances, the pope spoke officially as the head of state of the Vatican City—a “state” with a population the size of a village (some 800 people), in the form of a theocracy, and with the pope as its absolute monarch, elected for life by a handful of cardinals whom his predecessor had appointed.

The representative of God on earth, according to Catholic teaching, was accorded the highest state honours: he was received on a red carpet, given a 21-gun salute and an army honour guard, and was met by the highest representatives of the German state—the federal president, the chancellor and president of the Bundestag.

At the beginning of his speech to the Bundestag, the former Joseph Ratzinger made clear who had been invited and why, as he told the deputies: “The invitation to give this address was extended to me as pope, as the Bishop of Rome, who bears the highest responsibility for Catholic Christianity. In issuing this invitation, you are acknowledging the role that the Holy See plays as a partner within the community of peoples and states.”

He then talked not merely about politics, but about nothing less than “the foundations of law [Recht]”. Because politics should be subordinated to “the criterion of justice, and to the understanding of what is right”. He cited the biblical King Solomon, who had asked God for an understanding heart to distinguish between good and evil.

In Hitler’s Third Reich, Pope Benedict continued, we experienced how “power became divorced from right, how power opposed right and crushed it”. That is so broadly worded as to be clearly untrue: even the Nazi regime operated mostly through legal forms to legitimize the exercise of power, including many of its greatest crimes.

But the pope soon made clear to what he was referring. From the

injustice of the Nazis, he quickly came to the universal, to distinguishing “between good and evil, between what is truly right and what may appear right.” He made it unmistakably clear that in his view, politicians should not concern themselves with democratic principles when power is devolved to them, but that they have to choose between good and evil.

The pope said explicitly that in the basic questions of law, “the majority principle is not enough”. It was obvious, he said, that when it came to the dignity of man and mankind, all those with responsibility should look to lawmaking to find his or her orientation. More simply put: a “responsible” politician should not be dependent on the will of the majority in deciding truly important matters, but should impose his or her convictions, if necessary, against the majority.

On the other hand, law “contrary to the divine law”, Pope Benedict said, quoting the early Christian theologian Origen, must be fought; it was even “right” to fight against it on behalf of the “true law” (i.e. God’s law). In totalitarian regimes, the law in force was actually unlawful, and resistance was therefore legitimate, he continued.

Here the pope employed several deceptions at the same time. He suggested, subliminally, that the Catholic Church had resisted the Nazis and other totalitarian regimes. In reality, the Vatican immediately recognized Hitler’s regime and the Church worked together with many other fascist dictatorships, especially those in Italy under Mussolini, Spain under Franco and in Croatia under Pavelic.

The Nazis themselves often referred positively to Christianity. The belt buckles of the Wehrmacht (German armed forces) continued to bear the motto “God be with us”, as the latter fell upon Europe and North Africa. Regimes such as the Nazis’ had nothing to do with the majority principle; on the contrary, they were opposed to the will of the majority, suppressing all opposition parties.

The pope, however, was not concerned with accurately presenting history. His concern was to make clear that the decisions of “democratic leaders” on important issues should not be dependent upon majorities, i.e. what the public wants, but upon insights into what is good and evil. In bourgeois politics and the media these days, this is called having the “courage to make unpopular decisions”.

Pope Benedict then claimed: “Unlike other great religions, Christianity has never proposed a revealed law to the State and to society, that is to say a juridical order derived from revelation. Instead, it has pointed to nature and reason as the true sources of law—and to the harmony of objective and subjective reason, which naturally presupposes that both spheres are rooted in the creative reason of God.”

When Prantl writes in the *Süddeutsche Zeitung* that this was “not historically tenable”, this is a euphemistic understatement. The Christian churches, especially the Roman Catholic, have intervened aggressively from the start in the affairs of state and society.

This began in the Roman Empire. When Christianity became the state religion, this resulted in the death penalty for homosexuality and adultery. In the Middle Ages, the ecclesiastical courts had a major influence,

competing in the field of private law with the secular courts, and also dominating family law and inheritance matters. This lasted well into modern times. Especially in family law, the shift away from patriarchal conceptions was only achieved against the opposition of church groups.

In the early post-war years of West Germany, Christian natural law played a particularly pernicious role. Its most influential representatives included Hermann Weinkauff, the first president of the Federal Court, who had worked at the Reich Court under Hitler. He asserted, among other things, that German judges under the Third Reich, educated in legal positivism—that is, the strict ties to positive legal rights—were powerless before the Nazis, being blinded by their very positivistic sense of duty in applying Hitler's laws.

In fact, the views of most jurists were strongly anti-democratic, anti-Communist and anti-Semitic; many enthusiastically welcomed Hitler's takeover. The renaissance of natural law in the 1950s provided them an alibi, which they gave each other, enabling them to stay in their judges' and prosecutors' chairs and professorial positions. Even the enemies remained the same: everything suspected of being left-wing or Marxist was persecuted.

In the area of matrimonial law, the representatives of Christian natural law vehemently defended patriarchy, because in their opinion, the natural order of creation, according to the Bible, regards the man as head of the family. Pre- and extramarital sex, which also contradicted the natural order of the family, however, should be prosecuted.

At the state level, the secular and ecclesiastical powers fought a long and fierce battle for supremacy over the course of a thousand years, which was settled in favour of the secular princes in the 16th and 17th centuries, after the Peasant Wars and the Thirty Years War.

How far the Catholic Church went when it felt strong enough, is illustrated by the "Dictates Papae" of Gregory VII in the 11th century, which, among other things, said: "That of the pope alone all princes shall kiss the feet. That he alone may use the imperial insignia. That it may be permitted to him to depose emperors. That a sentence passed by him may be retracted by no one; and that he himself, alone of all, may retract it."

What Pope Benedict said about the Christian natural law is not new. Basically, it is a rehash of the nearly thousand-year-old doctrines of Thomas Aquinas, who is revered in the Catholic Church as a saint and teacher of the Church, and who, to this day, is taught systematically.

In fact, Christian natural law is the form in which Christianity has "proposed a revealed law". According to Aquinas, there is the divine law, the natural law and positive/human law. Divine law appears in natural law, as natural law comes from the natural order created by God and is accessible to God-given human reason.

Positive law is set by men and should correspond to the natural law. Reason is united with faith in so far as it strives naturally for the better, i.e. for God, recognizing in the God-given natural order what is reasonable and right, and converts this into positive law. Or as Benedict formulated it in his speech, creative reason (God) is revealed in the objective reason of nature.

The task of divine law is to bind the people to God, according to medieval Church teaching. And since some people are not inclined inwardly to follow the law voluntarily, they must be compelled by external force to fulfil the law.

In practice, this meant that Aquinas, for example, spoke in favour of the death penalty for heretics. In his famous parable of the forger, he recommended that heresy be punishable at least as strictly as counterfeiting, for which those found guilty faced the death penalty: "For it is a much graver matter to corrupt the faith which quickens the soul, than to forge money, which supports temporal life."

There is no straight line between these teachings and the human rights of today, with the Enlightenment as an intermediate station, as the pope suggests. On the contrary, the notion of a natural, God-given order stands

in contrast to the Enlightenment and democracy. The latter assume that humanity determines its own fate, and that society is formed in accordance with human reason, without any "divine" rules.

In contrast to Pope Benedict's view, human rights and the concept of the equality of all people did not develop out of the conviction of a creator God, but were imposed against the Christian churches.

The current pope opposes the Enlightenment, democracy, self-determination and emancipation when he declares that man has "a nature that he must respect", and espouses "listening to nature". Behind this stands nothing other than the defence of the supposed natural order of creation against what is technically feasible and is desired or accepted by the majority of society.

In this context, Pope Benedict specifically praised "the emergence of the ecological movement in German politics since the 1970s", and called it "a cry for fresh air". For her part, Green Party leader Claudia Roth praised the pope's speech, which had been "fairly green". "Some parts of his speech are similar to our basic programme", Roth said.

Green Party leader Renate Künast said that in pointing to the ecological movement of the 1970s, the pope had "honoured" the environmental movement, which included the Greens. Prantl praised Pope Benedict's reactionary conceptions as "green and Christian, even worthy of consideration for liberals and socialists."

Gregor Gysi, leader of the Left Party, also spoke benevolently. *Tagesschau.de* noted: "Perhaps the really surprising thing about the speech by the head of the highly controversial Catholic Church in the German parliament was that he has indeed triggered in advance, but not *in situ*, protest and resistance. There was no heckling, no posters, no unexpected actions—which one would have anticipated most from the Left Party, which is critical of the church". Instead, there was applause for the pope from the representatives present from the Left Party.

In an interview with the Phoenix television station, Social Democratic Party (SPD) General Secretary Andrea Nahles revealed she was "very impressed" by the pope's performance. She spoke of a "wise and good speech", which in a beneficial manner, led "into a deeper region of thought". The lecture was suited to the pope, according to Nahles. SPD party chief Frank-Walter Steinmeier spoke similarly on n-tv. He hoped that during the trip, Benedict XVI would be even more specific on political issues, such as the future of Europe.

And the pope did so, at least in principle. He defined Europe's identity as arising from "Israel's monotheism, the philosophical reason of the Greeks and Roman law". That is a euphemism for Europe as a bastion of the Judeo-Christian West.

Simultaneously, Pope Benedict presented the Catholic Church as a bulwark against other cultures and leftist opposition from below, when he warned that "reducing all the other insights and values of our culture to the level of subculture, with the result that Europe vis-à-vis other world cultures is left in a state of culturelessness and at the same time extremist and radical movements emerge to fill the vacuum."



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