



FACULDADE DE DIREITO DA UNIVERSIDADE DE COIMBRA

Luís António Malheiro Meneses do Vale

THE PHILOSOPHY OF HUMAN RIGHTS



Summer School in Human Rights

“(In)Equality: may the world still have a dream?”

elsa

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«I have a dream that one day this nation will rise up and live out the true meaning of its creed: “We hold these truths to be self-evident, that all men are created equal.(...)»

I have a dream today ... I have a dream that one day every valley shall be exalted, every hill and mountain shall be made low. The rough places will be made plain, and the crooked Places will be made straight. And the Glory of the Lord shall be revealed, and all flesh shall see it together. This is our hope. This is the faith that I go back to the South with. With this faith we will be able to hew out of the mountain of despair a stone of hope. With this faith we will be able to transform the jangling discords of our nation into a beautiful symphony of brotherhood. With this faith we will be able to work together, to pray together, to struggle together, to go to jail together, to stand up for freedom together, knowing that we will be free one day».

Speech by the Rev. Martin Luther King, At the "March on Washington"

SUMMARY

I. INTRODUCTION

0. Greetings

It is always a pleasure to somehow speak on behalf of my Faculty especially when joyously welcoming new students – intellectual and personal satisfaction only outshined (or shadowed in this sunny afternoon of late July) by the immense privilege and tremendous responsibility that such a curious, eager and qualified audience thereby conveys.

So as not to tire you excessively – I have learned that presentations should be as girls skirts (sufficiently long to cover the subject, but short enough to keep one's interest alive) -, allow me to improvise a little bit upon the script I prepared as a kind of roadmap for this journey. *Impromptus* have always had the aim of embracing the audience, taking it in a journey along the route merely sketched on the paper. Let's believe the exercise doesn't wind up as an *unhappy performance*, troubled by unwanted *happenings*...

1. Taking the *title* as seriously as possible

What is in question or in demand here, is a *Philosophy of Human Rights* with a view to the landscape of *an unequal* world – notice the negation of equality (in brackets) and the reference to the lasting or remaining possibility of a dream. To these important points of reference, I will dare to add the idea of *commensality* (as a meridional version of the hospitality). In such a perspective, one accuses the influence of recent *Phenomenologies of strangeness* conceived as *universal singularity*, on the grounds that, through this internal fracture or fissure (common to us all) – the best side of our fragile (vulnerable) incarnate reality – one seeks to find the paradoxical secrets of our *in der Welt Mitdasein* our *being in the world among others*, as self-transcending subjects in more or less complex emergent and *Super-addictive* collectives of *projecting communities*. From this corner, the title sends us also to inequality, while opening an *imaginary* horizon, by questioning the possibility – the viability, potential and the power - of dreams.

It is almost as if an instant photo of equality could only be revealed through its negative, the feeling or *pathos* of inequality and injustice, progressively acknowledged through the senses and contra-factually retro- and *pro-jected* as meaning-direction and e-motion: it is the *archeoteleological* emergence of justice as responsibility, oriented to con or trans-formation, according to con or trans-figurations – *id est* – as retrospective or prospective. A view I have been trying to forge after Benjamin and Bloch. Let us call it the *rearviewmirror* or *double crossing janus* thesis.

Like the *Angel of History* from Paul Klee, we have to walk backwards, looking at the obfuscating future through the mediation of a mirror. We were expected unto this land, to honour those who died in need of justice. But the tribute consists, above all, in the continuous development and reinvention of their dreams, the constant reopening of the door that their death seemed to have closed. A door opened to constant new knocks. This revolutionary conservatism, starts by facing the past and retro-projecting its unfulfilled desires, its silenced voices, its aborted marginal roads and experiences backwards into the future. To wait and hope appears only as to advance cautiously claiming for the yet-not, producing indirectly the architecture of our life, the roads of our steps. This allows us to develop an unveiled *Janus-face*. While the one looking to the past produces the future, the other waits for its becoming, expects in responsivity and hospitality *praxeologically* actualizing in the present, through its liminal preparation, the production and irruption of the future provoked by our taking response to the past. The immense potential for critique and transformation of the present is found in the encounter between projections to the future coming from the past, and the attention to the

adventurus, prepared as responsiveness, on that basis. To the point that the latter becomes a tension of attraction of the yet to come, negotiating it with the unpredictable event, while the former rediscover the alternative potential of the forgotten pasts, as a source of future, through actions starting now.

The incomplete theory of Bloch is in need of a complementary weak eschatology of justice (specular to Benjamin *weak messianism*) stemming from the heideggerian analytical ontology of possibility, as human modality. Something only attempted by the progressive theologian Richard Kearney, following phenomenological conceptions we have tend to subscribe.

The dream of equality requires an adequate *right-ing* or transformative institutionalization of society, at different levels, in the name of justice, unthinkable without some objective and partially subjectivied normativity of worldwide universal scope, despite its peculiar local instantiations. In such a dream begin the responsibilities to understand and realize human rights as a peculiar expression of justice - the *suum* of each one of us, as persons, sharing the same world, by means of horizontal or diagonal interactions that relativize our importance with reference to the values and the social problems vertically related in a dialectical form. And therefore constrained to reflect upon ourselves, individually and collectively, cognitively and normatively, so as to discover and imagine/invent accurate representations and just projections to assume and live by among each other.

Now that values cannot be considered without a reference to individual conscience, it's the space between subjects the root of any trans-subjective emergences, and these self-supposed conditions of action, autonomously construed but only partially at our disposal at any moment, the basis for any cultural understanding, between different cultures - as *meta-* or *pseud-subjects* (collectives) - through them, and later - beyond, behind, and under them. Human rights should be inscribed in this dark region of hidden matter, obscured by the lights drawn to political, legal and ethical arenas, but partially underlapping them all along with some objective principles, materially constitutive of democratic and law-abiding political *respublicae*: freedom, equality and responsibility as safety and solidarity.

When some authors, like Samuel Moyn speak of human rights *as the last utopia*, we will discuss the meaning and significance of philosophising about them, thus entwining what some would call philosophy and meta-philosophy about or on human rights. The peculiar characteristics of these cultural realities of particular normative content makes them especially prone to philosophy as a radical, meta-discursively, reflexive, problematizing, but also consequent or not indifferent to human life activity or disposition of spirit. They are *Wahlverwandtschaften*, that is to say, they have elective affinities to the ultimate inquisitive curiosity and thinking, for they put in question what we owe to each other and to the different groups we take part in, as co-creators and creatures of a common world of natural, technical and cultural things, and with respect to our relative positions *a propós de ce monde*.

Therefore, this friendly approach should not hide its contextual instantiation nor the circumstances of its efficient cause. Human rights can be spoken of in very different manners, and are talked about in various places.

2. Defining an approach

My proposal here does not conjure the *spirit of the times and the spectres of this the place*, nor ignores the *silent knowledge* of this ancient walls. It strives, as much as possible, to remain reflexively aware of the location where it takes place, the position it holds in this summer course, the peculiar *ethos* of the *rhetor* and the *problematic* and *normative intentionalities*, the noetic and *noematic* convolutions which entwine us always phenomenologically or hermeneutically us with reality, hopefully in a critical, dialectical or analogical way.

Thus said, in a classic university compromised with the multiple tasks assigned to this old institutions - namely the mission of devising and developing singular ways and means of access to the universality of knowledge and wisdom – this enterprise should lend us an opportunity to pay tribute to our peculiar contributions to the history of *philosophy of law* and *proto-human rights*, as well as to specific conceptions of social justice and constitutionality nurtured in southern-European cultures¹.

Secondly, for clarifying purposes, one should distinguish the *philosophy of law of the jurists*, hereby subscribed, from the *philosophy of law of the philosophers*. From such an angle, our perspective acquires a clear problematizing intentionality, with regards to our practically relevant social normativities.

Notwithstanding, due to the academic intonation mainly privileged, that should not diminish the *philosophizing* concerns of the lecture; nor the consideration given to law should distract us from the connections between social, political and legal philosophy.

As a matter of fact, concerning the latter aspect, the personal input I intend to display stems from a constitutional reinvention of our faculty's tradition of philosophy of law and constitutional law: the idea of a common transcultural constitutionality as the *nomos* of decent politically organized communities of people in a certain territory or space, reinterpreted and practiced in dialogue with different individuals and other cultural systems, *normativities*, and *Lifeworlds*. In what regards the former point, consideration will be properly granted to the meta-problematical, reflexive, radical and original nature of philosophical elucubrations, by questioning the need, essence, and nature of philosophy in its possible relation(s) to human rights. As an *intensification of thought and action*, in the line of G. Agamben proposals, such a philosophy will reflect not only upon itself but also on the meaning of its object: rights with a human reference. Only then a taxonomy of the doctrinal literature's main *topoi* of discussion with respect to the subject will be exposed.

Finally, it is worth mentioning that, with the purpose of living up to the expectations incited by the title of the course, we will try to keep in our horizon the (e)utopian aspiration to an equal world, focusing on the positive relation between the endeavours motivated and guided by that longing and human rights warrants and means of enforcement. The idea is to conceive of human rights practical and reflexive permanent institutionalization as a constitutive media of social transformation towards equality. An accurate response to such a challenge requires a strong investment on human rights active and positive dimensions – besides mere protective and non-interfering ones - and the institutional guarantees their realization necessarily implies.

II. LOCATION

Du siehst mein Sohn, zum Raum wird hier die Zeit

(Gurnemanz to Parsifal),
in Wagner's *Parsifal*

1. Point of order: the university *eco-system* and her peculiar *atmosphere*

2. A classic public university...

¹ Me and my colleague Mariana Canotilho have been put in charge of a particular *Southern Europe* (and possibly Northern African) *subgroup* inside the *Social Rights Group* of the International Association of Constitutional Law. More than simply attaining European economic objectives – deemed legitimate – the meridional countries should also assume their responsibility in the enrichment and enlargement of the European political, legal, economic and social imaginary, concurring with ideas, strategies, organic models, procedural designs, and several empirical experiences, to a positive dialectics of cultural models.

3. ...From a Southern European and Atlantic country...

3.1. The *scholastic stronghold* and the *Ville refuge* for writers²

3.1.1. The *Conimbricenses*³

3.1.2. *Derrida a Coimbra*

3.2. The *world heritage site* is not enough...⁴

4. ...And her 'global' Faculty of Law:

4.1. 2017: a special year

4.1.1. 150 years over the abolition of the death penalty

4.1.2. 400 years over Francisco Suarez death

4.2. Our human rights tradition(s)

a). Orlando de Carvalho – Catholic Marxism and the concrete person

b). Baptista Machado – *Existentialism, hermeneutic phenomenology and discourse theory*

c). Figueiredo Dias - *Wertphilosophie* from Scheller and Hartmann, combined with political liberalism and some *systemic social functionalism*

d). Castanheira Neves *Jurisprudentialism*

e). Gomes Canotilho – from Marxist structuralism, open to several disciplinary dialogues, to a sophisticated culturalism.

f). Vital Moreira and Jónatas Machado – The *Ius Gentium*

g). Mário Reis Marques – Law and Human Rights

h). Miguel Régio de Almeida – The *Critical Theory* of Human Rights

III. PERSPECTIVE

1. *Humour* and Human Rights

² The Faculty of Letters has turned into an important centre for the study of Levinasian ethics and deconstruction - side by side with its already prestigious ancient, medievalist, Hegelian and phenomenological traditions - hosting authors like Derrida, Marc Richir or Jean-Luc Nancy. Professor Fernanda Bernardo held relevant positions in relation to the network of refuge cities, by the time Derrida was granted the *Honoris Causa* Doctorate – see: Fernanda Bernardo, “A ética da hospitalidade, segundo J. Derrida, ou o porvir do cosmopolitismo por vir. A propósito das cidades refúgio, re-inventar a cidadania (II)”, in *Revista Filosófica de Coimbra*, n.º 22, 2002, pp. 421-446.

³ The *Conimbricenses* were a group of Jesuits (among them Luís de Molina and Francisco Suarez) who took over the intellectual leadership of the Roman Catholic world from the Dominicans at the end of the 16th century. They became widely known thanks to their commentaries to Aristotle, a collection of works written in a transition period that was to dictate their strange posterity. After a quick diffusion, which made these commentaries the main vademecum to scholastic teaching, they were even more quickly forgotten with the emergence of the modern protestant world and the shift of powers from the Atlantic South to North and the Mediterranean to the North of Europe.

The Coimbra Commentaries also known synecdochally as the *Conimbricenses*, are a group of 11 books on Aristotle, written in Latin and supplemented by reliable explanations of the text and an exhaustive discussion of the Aristotelian system. From the late 16th to the early 17th centuries, the university produced voluminous commentaries on the philosopher's writings. The commentaries were originally dictated to the students by the professors and so were not intended for publication. The names of 200 Jesuits, both professors and students, appeared repeatedly on the college registries. After they were published anyway, to interpret and disown incorrect and unauthorized editions, Claudio Acquaviva, the General of the Society of Jesus, assigned Pedro da Fonseca, the provincial of the Portuguese province, the task of supervising the revision of the commentaries for authorized publication. Fonseca was called "the Aristotle of Portugal" by Charles George Herbermann in his *Catholic Encyclopedia*.

The last treatise was prepared for printing by Father Sebastian Couto. The eight parts formed five quarto volumes in wide circulation and appeared in many editions. The best known were those of Lyon, Lisbon and Cologne.

⁴ There is a music from songwriter and composer Sérgio Godinho, named “Aguenta aí?” (Hold on), and included in his album *Domingo no mundo* (Sunday in the world), which contains the following passage: «Património mundial, / é orgulho, com certeza, / falta pôr no pedestal / "aquí não entra a pobreza"» (World heritage is a pride, surely, but we still have to put on the pedestal "poverty does not enter here").

*As an outside observer, what do you think of the human race?*⁵

2. 'Fremdlichkeit' and its declinations

3. Searching for the *inbetweenness* (S. Lash) of the *broken middle* (G. Rose)

- 3.1. Cross-roads, in general
- 3.2. Inter and trans-*subjectivity*
- 3.3. Inter and trans-*culturalism*
- 3.4. Immanence – Emergence – Transcendence
- 3.5. Politics, Ethics and Law

4. The situation in this summer course

- 4.1. *Theory* – epistemology – and *dogmatics*?
- 4.2. *History*
 - 4.2.0. Aristotle *vs* Simplicius *History of Philosophers*
 - 4.2.1. Kants *denken lernen* and other advices
 - 4.2.2. Hegel's *Philosophy of History*
 - 4.2.3. The *Historical affirmation of Human Rights* (F. Konder Comparato)
 - a). Generations (substitutions)
 - b). Stratifications (cumulations)
 - c). Emergences (densifications and fusions)
 - d). Disruptions
 - i. A. Pollmann and C. Mencke – the catastrophic event
 - ii. S. Moyn – the recent history (after the cold war)
 - 4.2.4. Heuristic, critical and grounding uses
 - a). *Dia-crony, Dia-topic, Dia-lectic* (The past as a *strange country*)
 - b). Dogmatic and critic: the invention of tradition and the reflexivity of praxis.
 - c). The Past as a repository of alternative futures
- 4.3. The Philosophy of Human Rights: *escaping the canon*?
 - 4.3.1. A *theory of philosophy*, a *dogmatic of philosophy* (or both, or none)?
 - 4.3.2. *Paradortodoxy* without *heresy*: re-reading (subverting) Chesterton

5. Philosophy of human rights: *the problem of a problem of...*

- 5.1. *Was, Wozu?* From Jaspers to Adorno
- 5.2. Philosophy
 - 5.2.1. *Dasein* - the openness to being as the work of thinking.
 - 5.2.2. Transcendence, emergence, and trans-immanence.
 - 5.2.3. Heidegger and the fracture of the world
 - Reality and Thought
 - Reality and Language
 - Thought and Language
 - Thought and Action
 - Reality and Norm
- 5.3. *Die Unterwegs zur Sprache* – Heidegger, Wittgenstein and Deleuze
We are always under the spell of words, trapped in our own strange internal loops, similar to Gödel's theorem, Escher Drawings and Bach's music⁶.

⁵ It is worth noting that Wittgenstein once said that a serious and good philosophical work could be written that would consist entirely of jokes.

⁶ Besides Hofstaedter, remember, for example, the well-known passages from Heidegger (*Die Sprache ist das Haus des Seins*) and Wittgenstein (*Die Grenzen meiner Sprache bedeuten die Grenzen meiner Welt.*). Concerning Philosophy not exactly as hermeneutics or language analysis (syntactic or pragmatic), but as conceptualization

IV. THE PROBLEM

1. Philosophy + of + human + rights

1.1. *Philosophy*

1.1.1. Why? What? For What?

- a). *Why the Why?* (These are not some lame lyrics...): radicality and originality.
- b). Philosophy as *meta-philosophy*: *meta-reflexivity*; *meta-theory*.
- c). Pascal and the *love boat* – thinking always *in media res*⁷
- d). The grammar of *friendliness to wisdom* and the *wisdom of friendliness*

1.1.2. The intrinsic *aretological nature* of philosophy?: *Wisdom* as a virtue – *areté* (ἀρετή) - or, at least, the *love for it*?

a). Characteristics:

- i. *Wisdom* as 'virtual' virtue?
 - ἔξις/*Diatheisis*⁸
 - Substantive/adjective (subject/internal) aspect
 - Meta-physics?
- ii. *Wisdom* as *effective practice* (actualization)

(*invention and construction of ideas/concepts*), the reference is, obviously, Gilles Deleuze: «Peut-être ne peut-on poser la question *Qu'est-ce que la philosophie ? que tard, quand vient la vieillesse, et l'heure de parler concrètement. En fait, la bibliographie est très mince. C'est une question qu'on pose dans une agitation discrète, à minuit, quand on n'a plus rien à demander. Auparavant on la posait, on ne cessait pas de la poser, mais c'était trop indirect ou oblique, trop artificiel, trop abstrait, et on l'exposait, on la dominait en passant plus qu'on n'était happé par elle. On n'était pas assez sobre. On avait trop envie de faire de la philosophie, on ne se demandait pas ce qu'elle était, sauf par exercice de style; on n'avait pas atteint à ce point de non-style où l'on peut dire enfin : mais qu'est-ce que c'était, ce que j'ai fait toute ma vie ? Il y a des cas où la vieillesse donne, non pas une éternelle jeunesse, mais au contraire une souveraine liberté, une nécessité pure où l'on jouit d'un moment de grâce entre la vie et la mort, et où toutes les pièces de la machine se combinent pour envoyer dans l'avenir un trait qui traverse les âges : Le Titien, Turner, Monet (...). Simplement l'heure est venue pour nous de demander ce que c'est que la philosophie. Et nous n'avions pas cessé de la faire précédemment, et nous avons déjà la réponse qui n'a pas varié : la philosophie est l'art de former, d'inventer, de fabriquer des concepts. Mais il ne fallait pas seulement que la réponse recueille la question, il fallait aussi qu'elle détermine une heure, une occasion, des circonstances, des paysages et des personnages, des conditions et des inconnues de la question. Il fallait pouvoir la poser « entre amis », comme une confidence ou une confiance, ou bien face à l'ennemi comme un défi, et tout à la fois atteindre à cette heure, entre chien et loup, où l'on se méfie même de l'ami. C'est l'heure où l'on dit: «c'était ça, mais je ne sais pas si je l'ai bien dit, ni si j'ai été assez convaincant ». Et l'on s'aperçoit qu'il importe peu d'avoir bien dit ou d'avoir été convaincant, puisque de toute manière c'est ça maintenant. Les concepts, nous le verrons, ont besoin de personnages conceptuels qui contribuent à leur définition. Ami est un tel personnage, dont on dit même qu'il témoigne pour une origine grecque de la philosophie : les autres civilisations avaient des Sages, mais les Grecs présentent ces «amis» qui ne sont pas simplement des sages plus modestes. Ce serait les Grecs qui auraient entériné la mort du Sage, et l'auraient remplacé par les philosophes, les amis de la sagesse, ceux qui cherchent la sagesse, mais ne la possèdent pas formellement. Mais il n'y aurait pas seulement différence de degré, comme sur une échelle, entre le philosophe et le sage : le vieux sage venu d'Orient pense peut-être par Figure, tandis que le philosophe invente et pense le Concept. La sagesse a beaucoup changé. Il est d'autant plus difficile de savoir ce que signifie « ami », même et surtout chez les Grecs. Ami désignerait-il une certaine intimité compétente, une sorte de goût matériel et une potentialité, comme celle du menuisier avec le bois : le bon menuisier est en puissance du bois, il est l'ami du bois? La question est importante, puisque l'ami tel qu'il apparaît dans la philosophie ne désigne plus un personnage extrinsèque, un exemple ou une circonstance empirique, mais une présence intrinsèque à la pensée, une condition de possibilité de la pensée même, une catégorie vivante, un vécu transcendantal. Avec la philosophie, les Grecs font subir un coup de force à l'ami qui n'est plus en rapport avec un autre, mais avec une Entité, une Objectité, une Essence. Ami de Platon, mais plus encore ami de la sagesse, du vrai ou du concept, Philalèthe et Théophile... Le philosophe s'y connaît en concepts, et en manque de concepts, il sait lesquels sont inviables, arbitraires ou inconsistants, ne tiennent pas un instant, lesquels au contraire sont bien faits et témoignent d'une création même inquiète-tante ou dangereuse».*

⁷ We have all just arrived – in the words of Kurt Vonnegut.

⁸ To be more rigorous, according to Aristotle, a *bexis* is a type of *disposition* (*diathesis*); a disposition, in its turn is described as an *arrangement (taxis) of that which has parts, either in space (topos) or in potentiality (dunamis) or in form (eidos). It must be a kind of position (tbesis), as indeed is clear from the word, "disposition" (diathesis).*

- *Praxein/ poiein* (what about legein and nemein?)
 - Verbal aspect
 - Application to oneself (object/ exteriorized)
 - Physics?
- b). Distinctions
- i. Phronesis (φρόνησις)/prudence
 - ii. Techné (τέχνη)/Ars
- 1.1.3. Classic *References*: the *good*, the *true* and the *beautiful*
[The real, the human, the just]
- 1.1.4. Problems (as said above)
- 1.1.4.1. Michel Meyer and *problematology*
 - 1.1.4.2. Questions as the *form* of problems.
 - 1.1.4.3. Problems as *frustrations* – normative and cognitive
 - a). Simon Critchley – the constitutive nature of *deception*
 - b). Douzinas and Gearty on *Injustice* – from Antigone to Michael Kohlaas.
 - c). The *unfolding* of justice (L. M. Vale): injustice as indignity – indignation – rage/vengeance – revolt/revolution/reform – response-responsibility – adequation/proportion: justice
 - 1.1.4.4. The *practicality* of Philosophy⁹: opening space for *practical philosophy*
 - a). The classical model
 - b). Kant: practical dimensions of pure reason and Urteilkraft
 - c). Philosophy as praxis – Marxist teachings
 - d). The economical praxeology of the Austrian school: Ludwig von Mises
 - e). The phenomenological institutionalism of Naples legal praxeology.
- 1.1.5. Two challenges
- 1.1.5.1. *Post-philosophy* (between the incredibly *tiny* and the incommensurably *huge*)¹⁰
 - 1.1.5.2. *Philosophy divided* - The *laboratory* and the *field-trip*
 - 1.1.5.3. Against over-simplicity and suspensions – The circle and the line, the movie and the photo (Ricoeur and the Münchhausen Trilemma)
- 1.2. Philosophy of: prepositional dwellings
- 1.2.0. Philosophy of,
 - a). To philosophy *on, about, in...*
 - b). G. Agamben – *philosophy as intensity*¹¹
 - 1.2.1. The hypothesis of *practical philosophy*

⁹ See, for instance, A. Enrique Perez Luño, “La filosofía del derecho como tarea: cuestiones y trayectorias de investigación”, in *Anales de la Cátedra Francisco Suárez*, 44, 2010, pp. 547-570.

¹⁰ V. The Italian Magazine *post filosofie – Rivista di Pratica Filosofica e di Scienze Umane* (a cura del Seminario Permanente di Filosofia della Università degli Studi di Bari). In the presentation, it is possible to read: «Riteniamo che oggi la pratica della filosofia non possa ridursi ad una “ruminazione” storiografica fine a se stessa, ma debba incontrare sul suo stesso terreno gli archivi e le sfide del tempo. Sotto questo profilo, il prefisso “post-”, per quanto inflazionato, allude da un lato al pluralismo degli orientamenti e delle prospettive filosofiche come un dato di fatto incontestabile della nostra attualità, dall’altro ad un movimento di torsione interna alla tradizione filosofica nella ricerca di nuovi linguaggi e di nuove categorie in grado di pensare e comprendere il nostro presente. Su questo punto siamo d’accordo con Deleuze e Guattari quando affermano che “non si può ridurre la filosofia alla propria storia, perché la filosofia non smette di divincolarsene per creare nuovi concetti che pur ricadendovi non ne derivano».

¹¹ «È mia convinzione che la filosofia non sia una disciplina, di cui sia possibile definire l’oggetto e i confini (come provò a fare Deleuze) o, come avviene nelle università, pretendere di tracciare la storia lineare e magari progressiva. La filosofia non è una sostanza, ma un’intensità che può di colpo animare qualunque ambito: l’arte, la religione, l’economia, la poesia, il desiderio, l’amore, persino la noia. Assomiglia più a qualcosa come il vento o le nuvole o una tempesta: come queste, si produce all’improvviso, scuote, trasforma e perfino distrugge il luogo in cui si è prodotta, ma altrettanto imprevedibilmente passa e scompare».

- 1.2.1.1. References
 - a). Goods
 - b). Actions
 - c). Rationalities (reasons and relations)
 - d). Holders/bearers
- 1.2.1.2. The practical problems, in general
 - a). Pure, practical and aesthetic problems
 - b). The practical problem
 - being in the world
 - being with others
 - being unique
 - c). Levels of *problematization* and response
 - d). Gravitational model
 - e). Conditions of emergence (position) and response to the problem
- 1.2.1.3. Practical problems differentiation
 - a). The ethical
 - b). The legal
 - c). The political
 - d). The economical
 - e). The moral
- 1.2.1.4. The elusive praxis and its surviving remnants/remains
 - a). The history of *Vernunft*
 - b). Rationalities, systems and communications
 - c). *The remains*
 - Political Philosophy
 - Social Philosophy
 - Legal Philosophy
 - Practical philosophy as ethics and metaethics
 - d). The *phenomenological institutionalism* of praxeology
- 1.2.2. In search of *a friend*: Global transcultural normativity and human rights.
- 1.3. *Human?*
 - 1.3.1. Man, Men and the human
 - 1.3.1.1. Nature, condition, qualities – polymorphisms and metamorphosis
 - 1.3.1.2. The humans and sociality – the *humanity*
 - 1.3.1.3. The humans and culture/history – the *humanities*
 - 1.3.2. The post-human and the trans-human: promise or omen.
 - 1.3.2.1. *Homo Deus*
 - a). *Faber*
 - b). *Natura*
 - Dissolution/absorption
 - Fragmentation
 - 1.3.2.2. *Homo Frankenstein*
- 1.4. *Rights?*
 - 1.4.1. Rome: The civil origin of law (despite *ius honorarium*)
 - 1.4.1.1. *Ius, action, dominium*;
 - 1.4.1.2. *The oblivium of imperium*;
 - 1.4.1.3. *The ambiguity of ius gentium*;
 - 1.4.1.4. The republic (as implicit de facto polis and normative *politeia*)
 - 1.4.2. The Middle Ages – theosophical and juridical (canonical) evolutions

- a). The right *to* the thing (not only *in* the thing) – *pro rem* or *ad rem* - in Bologna
- b). From Accursio to Bártolo – *dominium directum*, *dominium utile* and *the right to act*
- c). The Franciscans debate and John XXII naturalis *dominio of ius possessionis* in the *qua vir reprobus* bull
- d). Ockham's role
 - i. According to Villey
 - ii. According to Tuck
- e). Jean Gerson – *lex vs ius* (as power derived from the will of god)
- 1.4.3. Alciato – *ius naturale and ius gentium*
- 1.4.4. The Spanish school – Vitoria, Las Casas, Suarez
(Men have the natural domain of their freedom – *ius* is a moral faculty)
- 1.4.5. Maquiavel, Bodin and Hobbes
- 1.4.6. Grotius and John Selden
- 1.4.7. Puffendorf and the *jusrationalism*
- 1.4.8. Locke
- 1.4.9. The revolutions, the declarations and their critics
 - a). Burke, Hume and Bentham
 - b). Paine
 - c). Tocqueville
- 1.4.10. The juridical evolution and the marriage with philosophy and politics
 - a). The codification
 - b). German doctrine
 - Rights as powers of the will
 - Rights as means to realize interests
 - c). Public rights in Jellinek
 - d). Generations of rights
- 1.4.11. The XXth Century – *l'étá dei diritti?*
 - a). Juridical critiques of rights
 - Normativist
 - Functionalist
 - Realist-pragmatist
 - Axiological
 - b). Consagrator of rights
- 1.4.12. Darkness, attention, movie! - *Philosophenweg*

2. Constitutive Struggles

- 2.1. A story of ideas
- 2.2. A story of battles
 - 2.2.1. Poverty (Franciscans)
 - 2.2.2. Slavery (Bartolomé de las Casas and Vieira)
 - 2.2.3. *Mare Clausum* (Grotius and Senger)
 - 2.2.4. Legitimacy of Monarchy and the powers of Parliament (England, America)
 - 2.2.5. Representation and democracy (France)
 - 2.2.6. Social Question (Germany)
 - 2.2.7. Powers of states and organizations (IIWW and new century)
 - 2.2.8. Status of men

3. The critics

- 3.1. Conservatives anti-rationalism and voluntarism (Burke)

- 3.2. Marxists anti-idealism (since the Jewish question)
- 3.3. Communitarians anti-universalism and individualism
- 3.4. Perfectionists anti-moralism
- 3.5. Post-structuralists anti-subjectivism
- 3.6. Post-colonialists anti-western-centrism
- 3.7. Trans-humanists anti-humanism
- 3.8. Anarchist anti-normativism and anti juridicism

4. Diagnoses

- 4.1. The *End(times)*¹²
- 4.2. A *continuing Invention*¹³
- 4.3. The *Last utopia*
- 4.4. The need for radicalization (Douzinas)

5. Analysis and system (not synthesis) – the (*t*)axis of nomos

- 5.1. Term, concept and conceptions (supra other conference)
- 5.2. Confining/Neighbouring and influencing theories
 - 5.2.1. Theories of the good (ethical)
 - 5.2.2. Theories of justice (moral, political, juridical)
 - 5.2.3. Theories of correctness/righteousness/rectitude
 - 5.2.4. Theories of Law
 - 5.2.5. Theories of Duties
- 5.3. Axis of discussion
 - 5.3.1. Nature (moral, political, legal, etc.)
 - 5.3.2. Substance/essence and accidents (modalities)
 - 5.3.3. References
 - 5.3.4. Foundations/Grounds
 - Explanation and Justification
 - Foundations and Functions
 - Grounds and Ends/Goals
 - Causes (formal, material, final)
 - 5.3.5. *Contents (deontic meaning – action implied): models*
 - Hohfeld (Types of jural relations and deontic positions)
 - Windscheid/Ihering (Types of legal relations and subjective rights)
 - Jellinek (Stautses)
 - Asbjorn Eide (Types of Duties)
 - 5.3.6. Subjects/holders
 - Individuals
 - Collectives
 - 5.3.7. Objects
 - Actions
 - Things
 - Dimensions of personality
 - 5.3.8. Scope (subjective and material)
 - Universal - commonality

¹² Douthie Lettinga & Lars van Troost (Eds.), *Debating the Endtimes of Human Rights. Activism and Institutions in a Neo-Westphalian World*, Strategic Studies Project (SSP), Amnesty International Netherlands, 2014.

¹³ Lynn Hunt, *Inventing Human Rights: A History*, W. W. Norton & Company, 2008.

- General
- Individual
- Exceptionality
- Global
- Geo-Regional
- National
- Sub-national Regional
- Local

5.3.9. Means and effects

5.10. Warrants, sanctions, guarantees

6. From Concepts to conceptions (and back again): an example

The Italian schools of human rights

- Neo-iluminist - Camerino (Ferrajoli)
- Humanist – Palermo (Viola)
- Analytical – Genoa (Guastini)
- Neo-regionalist – Pisa (Eugenio Ripepe)
- Realist and Conflictualist – Florence (Danilo Zolo)
- Constitutionalist – Bologna (Bongiovanni)
- Catholic – Roma, La Sapienza (D’Agostino)
- Praxeological – Naples (Capozzi)
- (...)

7. Paradoxes (Douzinas/Gearty)

2.1. Finding foundations in a groundless world – the *Abgrund*

2.2. The ideological power of rights lies in their ambiguity and oscillation between real and ideal, is and ought, community and humanity.

2.3. Methamorphical expansion of vernacular versions of human rights, somehow immune to critical reflection and normative densification

2.4. The linguistic inflation of rights has turned them into a guide to complex arenas of meaning, as a sort of cognitive mapping of complex historical, social and political stances, but weakens its possibilities of association with significant human goods.

8. In search for *sanctionable normative meaning(s)*, valid enough to deserve effective means of enforcement and consequent realization.

9. *Human Rights and (in)equality: a philosophical approach*

9.1. Human Rights against equality?

9.2. Human Rights as instruments of equality?

9.3. Human Rights through equality and vice-versa?

9.4. The meaning of *utopia*

V. CONCLUSION

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