

THE SPEECHES AND PARADOXES OF HUMAN RIGHTS

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1 INTRODUCTION: A BRIEF OVERVIEW

The global constitutionalism³ has in the Universal Declaration of Human Rights its last foundation. The declaration of 1948, the other documents that have ratified, improved and expanded its content, the creation of international tribunals, and other legal regulation mechanisms aimed effect predictions for humanity. It is in this supranational system of protection of human rights that the humanization of International Law in contemporary society is founded. However, despite the enlargement of human protection, it is clear the disintegration of utopias, the gap between abstract right and the concrete reality and unpredictability about the future position of the species. For these and other reasons it is safe to say that is necessary to expand the discussions on the topic.

It is undeniable, on the one hand, that human rights have won battles and overcome obstacles, establishing, at least on the symbolic level, as the most effective means to recognize and guarantee the dignity inherent in every being of humanity. In contrast, all the time are challenged by economic and social interests of the ruling elites of the leading world powers that often use the rhetoric argument to violate rights that supposedly advocate for universal dimension.

Over time, battles were fought and of the resistance movements to subjections and arbitrariness perpetrated by a sovereign figure, it was possible the birth of rights under that specific historical moment, next to the pursuit of ideals for the future. Usually human rights are defined by its origin rooted in metaphysical values, in what it is *good by nature*, which means, natural rights. However, it seems unquestionable that “natural rights are historical rights” (BOBBIO, 2004, p. 2, our translation). Possibly by indefiniteness genealogical or even by the impossibility of employing transcendental bias through exact formulation to the essence or human existence, currently there appears to be some consensus as to the historical nature and such rights policy.

Interesting to understand that the very definition of nature as the essence of beings emerged as a historical composition to the hermeneutic challenge posed by sophists, as explained Douzinas (2009, p. 43, our translation): “Nature as a critical concept gained philosophical acceptance in the fifth century when it was used by the sophists against the conventions and the law, and by Socrates and Plato to fight their moral relativism and restore the authority of reason.”

Thus, the transformation of *Physis* in a cosmic law founding by the Platonic argument, highlights a temporal building of the concept, as well as a clever ruse to overcome the moral relativism. Antigone and the Stoics personify the structural features of the transcendental elements,

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³Rothenburg, exposes, in other words, the logic of constitutionalism with the consecration of binding legal documents, bearers of fundamental rights and of institutions and structural procedures of the political organization, guaranteed legally by international courts, is projects on a supranational dimension (global constitutionalism) (ROTHENBURG apud RAMOS, 2012, p 497-524).

medullar of the unwritten justice and of the unshakable myths, immutable and universal of Natural Law.

Though the strong symbolic appeal, is, at least, questionable the existence of a state full of supreme values and virtues that despises any dual and conditional content, especially when considered ambiguities inherent in the human being. For more fundamental that human rights can be, they are historical rights determined by the struggles in defense of new freedoms.

Noted that human rights are considered historical innovations, but this historicity is not linear as occasionally is intended to demonstrate, but a human conception in a disorderly course of construction and deconstruction. Nevertheless different diagnoses on the main rights of the international system, it is noted that hermetic and polarized positions gain space in this work only for the transit of ideas. The flow, the coming and going between these positions is revealed, plus most interesting, more suitable to the peculiar contradictions to the theme, allowing the extraction of what each offers best.

The indubitable affirmation that human rights are violated and preserved by humans beings, sets the original antagonism. This existing incongruity in an abstract universal model should be the framework for analysis of the international protection system full of absurdity and antitheses. Probably the best expression to define what now is sustained is that "human rights have only paradoxes to offer" (DOUZINAS, 2009, p. 17, our translation); and therefore can match a critical approach and simultaneously laudatory in some respects.

It is certain that the Enlightenment pillars and Kantian moral foundation were insufficient to prevent the collapse of rational construction of equality and freedom in all subsequent history after the mark of modernity through the revolutionary declarations of the eighteenth century. Abstract formulations of the Declaration of Independence of 1776 and the Bill of Rights of 1791 of the US and the Déclaration des Droits de l'Homme et du Citoyen of 1789 of the French, unenforceable in the current concreteness, show that human rights remain in continuous flow, moving between the ideal and the possible, the forecast for the future and the oppressions of the present.

The approach to human rights discourse demonstrates the gradual conquest of the symbolic space, as well as its prominence as a human dignity language. Although the clear difficulty in conceptualizing one semantically open principle and of vague outlines, in general, lecture that this concept refers to the design of dignified life, likewise a polysemic formulation, especially in the midst of multicultural societies. The humanist argument was so successful that it was also - and still is - suitable for those who do not pretend that this barrier against oppression and domination be stuck, and fear that the social emancipation to become effective in fullness.

Worldwide, between democratic societies, Brazil - after its process of redemocratization - stands out as a state that promotes effective action to promote and defend human rights. Not only it has ratified several international treaties and was receptive to the interpretations of the supranational level, as also seeks to humanize its domestic regulatory field that, for now, already reflects its core values inspired by the humanist declaration of human rights. Despite the formal commitment to incorporate and give effect to the principles of international law, its consummation at the national level is still a challenge structural obstacles and arbitrary practices with selfish goals that prohibit the promotion of citizenship in wide dimension.

It can be concluded that the contemporary challenge is not the implementation of human rights - since we live in the *Age of Rights*. They would then identify ways to stabilize and imple-

ment the rights and prevent its distortion. The problem of implementation of rights would be political, in a sense of effectiveness and legal security. With the contemporary scene it would be naïve to believe the progressivity of humanitarian achievements. However the vast international bureaucratic apparatus with the creation of sanctioning bodies and the production of sublime humanist texts generates an inconsistency and a dilemma: more human rights violations have been committed in this century obsessed with rights than in any other period.

Concepts and antagonistic ideas are analyzed in this article. The first part of the present work point out the essential link between the conflicting concepts of universalism and relativism. In a second step, under the Brazilian angle, are unveiled obstacles to universal rights in an unequal context. The rhetorical and symbolic aspects of the speech are considered as the fundamental plane of manipulation and opposition, demonstrating in the end the complexity to protect rights supposedly inalienable.

2 UNIVERSALISM AND RELATIVISM: INTERSECTIONS BETWEEN EQUALITY AND DIFFERENCE

As demonstrated, human rights are historical. They are the result of resistance, struggles and revolutions, exposing its cultural axis. In this sense, it is inevitable the confrontation of such a feature with the global garment that costumes human rights.

The tension, however, rests, on the one hand, in fact, of so much human rights violations, such as fights in these defense continue to have a key on national dimension, and, on the other hand, the fact that, in crucial ways, attitudes towards human rights rest on specific cultural assumptions. The human rights policy is practically a cultural policy. So much it is that we even may think of human rights as a cultural return signal, and even religious, at the end of the century. Now, talking about culture and religion is to speak of differences, of boundaries, of particularism. How can human rights be both a cultural and global politics? (SANTOS, 1997, p. 107, our translation).

Globalization⁴ leads us to an oblique view of fading boundary lines, absence of borders, unification and supranationalism. It is as if the cultural identities and national particularism were overcome to the ideal that the international rights system could reign in fullness. Perhaps the proponents of this idealization realized the reality in a fragmented and incomplete way- intentionally or not. That is because this global integration phenomenon involves political and social struggles, generating losses and achievements, bondage and oppression, losers and winners. And, as was to be expected, the discourse of globalization is founded on the story told by their winners.

So, there is no genuine globalization (SANTOS, 1997, p. 108). What occurs is the cultural expansion of local entities of major role that triumph to disseminate its particularities and specificities to all latitudes. In addition, the human rights internationalization process made positive the universal nature of his predictions. The Declaration of the Vienna Conference in 1993, a moment post-Cold War, sought to shield definitely the human rights of the intolerance charges to

⁴ Cf. Sousa Santos, Boaventura de Sousa. In his article *Por uma concepção multicultural dos direitos* presents his perception of globalization as more sensitive to social, cultural and political. Criteria used in this work.

relativism, and of being a cultural invariant before the European ethnocentrism. Thus, expressly provides in Article 1:

The World Conference on Human Rights reaffirms the solemn commitment of all States to fulfill Their obligations to respect universal promote for, and observance and protection of, all human rights and fundamental freedoms for all in Accordance with the Charter of the United Nations, other instruments Relating to human rights, and international law. The universal nature of these rights and freedoms is beyond question (UNITED NATION HUMAN RIGHTS, 1993).

Therefore, obstinate defenders have expressed hermetically about the supposed superiority of abstract universality.

The claims that the Universal Declaration is only a Western interest document, irrelevant and inapplicable in societies with different historical and cultural values, they are but false and pernicious. False because all national constitutions drafted after the adoption of the Declaration by the UN General Assembly, it was inspired when dealing with fundamental rights and freedoms, highlighting thus the now universal character of its values. Pernicious because they open possibilities to the invocation of cultural relativism as a justification for specific violations of rights already recognized internationally. (ALVES, 2003, p. 4, our translation).

There is a subtlety that lies hidden in this argument. For its apologists, state sovereignty combined with the invocation of cultural relativism would be pernicious because it would open the possibility of outraging universally recognized values. Following this track, today we would live cosmopolitanism, forgetting geographical limitations and despising cultural particularism in the name of an international country. This current, therefore, through his speech, undermines national sovereignty and strengthens globalization and uniaxial international order. However, experience shows that there is only weakening the sovereignty of national magnitude of smaller players, while the strengthened powers weaken and attract other nations.

One must not forget that the Vienna Conference has generated intense disagreement about the universalism of human rights. Even with the dense block formed by US states and Europe there was resistance by non-Western, especially by China, Iran and Syria. So much that, a few months before the Vienna Conference, Asian countries during a meeting in Bangkok, approved statement considering that human rights should be enjoyed in the “context [...] of national and regional particularities and the different historical, religious and cultural background” (HUNTINGTON, p. 245, our translation). Although in opposition, the discussion about the universal nature of human rights “is out of the question.”

More accurately, Sousa Santos (2006, p. 441-442, our translation) affirm that

[...] while they are designed as universal human rights in abstract, Human Rights tend to operate as a globalized localism, and therefore, as a form of hegemonic globalization. In order to operate as a form of insurgent cosmopolitanism, as counter-hegemonic globalization, Human Rights have to be reconceptualized as intercultural.

The thesis of the Portuguese sociologist argues that while human rights are conceived as universal abstraction, will always be a globalized localism⁵, maintainer of the confrontational logic represented by “The west against the rest”.⁶

Relativists think, for this and other reasons, being the universality an imposition of western culture on the globe. Believe in universalism as a form of imperialism. They accuse liberal Western democracy to raise its abstract category in higher level of cultural peculiarities. Criticize therefore that human rights language and see that it is just one of the political games, being presumptuous the privileged relationship with rationality.

Zigmund Bauman warns that both positions, if adopted in extreme form, can become dangerous and comments that

although universal values provide a reasonable treatment against oppressive inconvenience of provincial backward, and the collective autonomy constitutes an emotionally rewarding tonic against the reserved insensitivity of universalist, each medication, when administered regularly, turns into poison. In fact, while the choice be merely between two medications, the chance of having health should be very small and remote. (BAUMAN apud DOUZINAS, 2009, p. 149, our translation).

Of this reasoning, extract that must be overcome the opposition between universalism and relativism. In general, the polarized debate on both showed innocuous, taking the place of ideological confrontation between civil and political rights, and economic and social rights. It must be said, still, that the two models - Universalist and relativist - are not compact and may branch out into renewed conceptualizations. Considering the extreme concepts, each branch has taken his axiom about human essence. Thus, “in that provision, both universalism as localism are extensions of subjectivity of metaphysics.” (DOUZINAS, 2009, p. 221, our translation). Shaping the discussion to an emancipatory category, it becomes implausible the idea of essence or absolute substance inherent to the subject.

Universalism obstinately defended by the protectors of universal statements based on natural and transcendental principles is the so-called *abstract*. This typology is characterized as a monological ideal founded on *a priori* Kantian knowledge. In contrast, the complete relativism rejects everything that can be universally concrete, remaining clear that extreme concepts are harmful to the longing emancipatory.

How then, in a perspective of plural cultures, establish a dialogical relationship between ethnic groups that have issues of universal interest, for example, environmental sustainability and preservation of the human species on the globe? An appointed instrument to organize dialogue is *diatopical hermeneutics*.⁷ This mechanism of interpretation suggests the interdependence between language and culture, especially considering that the understanding of terms and ideas are much more under the influence of cultural and social standards than semantic and morphologic criteria.”Diatopical hermeneutics is based on the idea that the *top* of a particular culture, howe-

⁵ Concept of Sousa Santos. It means the expansion of a given local phenomenon globally. Clear example is the globalized localism of American power.

⁶ S. Huntington Expression.

⁷ The concept of diatopical hermeneutics was originally proposed by Panikkar (2007).

ver strong they may be, are as incomplete as the culture itself to which they belong.” (SANTOS, 1997, p. 23, our translation).

Human dignity is the central concept of human rights, but the way this foundation is interpreted and appropriate, will be unique in each location. It is not credible that the acceptance of Western dignity is univocal relations and inter-state dialogue. Considering the pointed premise, the use of equivalent homomorphic ones would be useful to find diverse culture concepts, not necessarily equivalent, but functional that generate similarity respecting the differences. These equivalences are “*un primer paso hacia la interculturalidad*” (PANIKKAR, 2000).

Following this logic, in addition to the necessary link between equality and difference, the opening of intercultural dialogue would guarantee minimum conditions of paradigm shift, balancing the universal with the particular, establishing the multicultural. It may sound utopian this communication, after all, the political is always at stake. However, overcoming the dichotomy between relativism and universalism, creating a new language, already features important contribution.

3 HUMAN RIGHTS IN THE PERSPECTIVE OF CONTEMPORARY BRAZIL: UNIVERSALIZATION IN THE CONTEXT OF INEQUALITIES

International action for the promotion and protection of human rights has begotten impacts in Brazil significantly changing its political perspective. A prominent place has been granted to the humanist ideals in public policies and state regulatory system. Transnational apparatus was incorporated in an agile and dynamic process articulated with the acclaimed 1988 Constitution. Especially since its redemocratization, the country emphasizes the belief that flaunting the condition of being a specimen of the human species is enough to have the guarantee and protection of broad legislative list that makes up the inner and outer framework.

However it is noticeable that the roots of a nation which is territorially large, culturally complex and plural, with abysmal inequalities and marked by profound social injustices such as slavery, indigenous extermination and brutal violence of a dictatorship period, reflects in the everyday life marked by violations to fundamental rights. By another perspective, the injuries identified in the Brazilian territory allowed the emergence of a new multi-faceted and resistance society, particularly considering the period after the leaden years.

The wreckages left by two world wars and the Universal Declaration of Human Rights of 1948 expanded the space for democratic reopening only in the 80s, which means that the country has very little time of stable democratic government, obviously featuring there is a transition march, an incomplete process that is still in epidermal level, although increasingly deepens in the social structure.

The transitional justice⁸ in its imperfect winding road glimpses the democratic maturation and stabilization of procedures that, in summary, provide the memory, the search for truth, the execution of human rights, in addition to the intent to prevent future grievances and assert the reparation by the committed acts and the accountability of offenders. As aforesaid, it is an unfini-

⁸ The transitional justice concept is new and open. It means “processes and mechanisms associated with the attempts of a society of facing a bequest of full-scale abuses in the past, to ensure accountability, promote justice and achieve reconciliation.” (AMBOS apud FACHIN, 2014, p. 145, our translation).

shed process, not being enough in this line of thought, the forecasting of standards and legal guidelines. To the extent that the policy of human rights in Brazil is not derivable also from the social, the legal system and its mechanisms become prone to be used as merely instrumental artifacts.

Into this journey, concrete and relevant importance measures were adopted internally. Following the recommendation of the World Conference on Human Rights in Vienna,⁹ Brazil has formulated its own strategic program. National guidelines have been developed in a planned way with goals and action plans from 1996, the year of the first National Human Rights Program - NHRP-1.¹⁰ Launched just over ten years after the end of the military dictatorship, so much vilified civil and political rights were privileged in the political platform. In 2002, the program was revised and expanded this time mainly highlighting economic, social and cultural rights. In its third stage, in 2009, the NHRP-3 makes it clear that today the challenge is not limited to prescribe new rights, but, concretizing those already available - in thesis.

The NHRP-3, responsible for defining the agenda and prepare the implementation plans, is founded in six guiding axes: Democratic Interaction between State and Civil Society; Development and Human Rights; Universalize Rights in a Context of Inequality; Public Security, Access to Justice and Combat to Violence; Education and Culture in Human Rights and Right to Memory and Truth. Each point of the program is widened in strategic objectives and programmatic actions implementing a managerial basis for coordination between state and non-state actors aiming to ensure the incorporation and accomplishment of the scope.

The last program structure has well defined goals, which greatly assists the possibility of achieving results. It carries degree of legitimacy and interesting representativeness, since its birth was the result of fruitful dialogue between the state and representatives of various organizations and social movements.

It is clear human rights constitute a State policy; however, non-state participants are substantial and indispensable in that plan. The actions of these groups generate tension and certain institutional destabilization through their claims, acting at the front of the battle against the rhetoric, the instrumentalization of humanist speech and private privileges and interests.

It is the way of acting and doing the popular movements that act as crisis and social destabilization agents: when demanding recognition and property, participation and social control, therefore, they exercise the desire (utopia) of new forms of social organization contrasting with the institutionality (State and Market) that, in general, takes precedence for the maintenance of order and social stability. Therefore, they fear that human rights are reduced to functional contents to power or rhetorical resource. They are characterized by the understanding that human rights are more aspirations of historical subjects that charge for Justice (not only procedural) and, therefore, they want human rights are committed to the promotion and protection of the rights, reparations of violations and memory of the victims, in the sense that the dynamics are not reproducers of new victims and new / old human rights violations. (CARBONARI, 2012, p. 32, our translation).

⁹ About the role of Brazil at Vienna Conference, see Alves (1994).

¹⁰ For full access to the National Programs of Human Rights, see Brasil (2016).

In addition to the domestic agenda, the influence of the human rights globalization has caused Brazil to ratify relevant treaties, having as starting point the ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatments in 1989. Contributing for the realization of the ideal accomplishment of internationally defined order, the country submits to the interpretation, protection and intervention of external bodies. Adherence to the statute of establishment of the International Criminal Court, being signed the Rome Statute by Brazil, in February 2000. It was the first step, from there, starting limits on national sovereignty, marking the existence of a permanent universal jurisdiction.

There is hierarchical superiority in the Charter of 1988¹¹ to the human rights set forth by treaties, integrating the nominated *jus cogens*. The sovereign state suffers relativizations in that interferences are admitted. This new model calls upon larger adjustment between legal formations and “the realization of justice” becomes a common goal, and convergent of the internal and international legal systems. And both come to bear witness of the right unit in the realization of justice, a signal of the new times (TRINITY, 2013, p. 82, our translation).

The co-existence of internal and external protection is significant for the values defended as universal, however, behind the supposed consensus there is contraposition to presumable shock risk. *National sovereignty* begins fading before the power of supra-state command as the last decision-making to turn the de facto power into legitimate power, clarifying the antithesis of political procedures in the definition of who sets the rules. The synthesis between the two models is the objective to be pursued, but a careful analysis of social phenomena expresses that formulas are not enough to legally rationalize power, it is necessary to understand and consider the political dimension as simultaneous instance in all decisions.

The clamor for compromises often not honored is essential to push new paradigms. The slope of the ideal Brazil with its statements and normative forecasts for the concrete country is obvious - which is not unique phenomenon of peripheral countries, occurring in societies considered highly developed - having as positive side the generation of movements for concretization. A breakthrough is the state recognition of the implementation deficit of juridical aspirations

The Universal Declaration of Human Rights states in its preamble that “recognition of the inherent dignity of all members of the human family and its equal and inalienable rights is the foundation of freedom, justice and peace in the world. However, in the events that took place in fulfillment of the Declaration by the signatory States, it was identified the need to recognize the diversities and differences for the equality principle concretization. In Brazil, over the past decades, human rights have come to occupy a prominent position in the legal system. The country advanced decisively in the protection and promotion of the right to the differences. However, the negative weight of the past continues in the present to project a situation of deep social inequity. (National Human Rights Program 3, p. 64, our translation).

¹¹ The treaties governing human rights hold status of constitutional rule. While the others have infraconstitutional hierarchical force, pursuant to article 102, III, “b” of the 1988 Federal Constitution. This mixed regime sets out the axiological preponderance of human rights in the domestic sphere.

The materialization of humanist proposals is a challenge in contemporary Brazil that as a guide has devices of highest axiological content. The difficulty lies in the contradictory social fabric of the country that, on the one hand, embodies new forms of state control and, on the other hand, feeds refusal fights the *status quo*, signaling the desire for emancipation. The experience in this paradoxical confluence of redemocratization and selective policies adjusts the analytical focus that the founding presupposition of Brazil on human rights realm is *to universalize rights in a context of inequalities*,¹² aiming to overcome secular structures that support vestiges that recurrently stain fundamental guarantees.

4 SYMBOLISM AND RHETORIC IN HUMANIST LANGUAGE

Douzinas (2009) states the rights are founded on human speech and on nothing more solid. In this conception lies a risk in the foundation, since the “human language can be used to inform or mislead.” (CHOMSKY, 2005, p. 52, our translation). Moreover, considering that democratic societies do not count (officially) on physical violence to coerce the population, the use of weaker domain mechanisms to maintain control and the mass domestication in governments with traces of a disguised totalitarianism, makes it more difficult to shield, since the oppressor is not always identified as such. “In a totalitarian state, it doesn’t matter what people think, since the government can control people by force using a bludgeon. But when you can’t control people by force, you have to control what people think [...]” (CHOMSKY apud LIMA JÚNIOR, 2008, p. 126).

The discursive formations in this context are instruments of power and handling that are exercised through a selective speech generating oppression almost imperceptibly for the majority. Eloquence, the performative utterance, the dubious words and decontextualized with high evaluative degree, particularly in the realm of the human rights, become symbols socially absorbed obscuring hegemonic veiled interests.

With softer *modus operandi*, being gradually used, the speech can create ideological force to transform a measure that would be abominable - but coated with democratic argument - pass to be accepted by majority decision. It should be remembered that “people voted and still vote in regimes and parties determined to violate all human rights, as demonstrated by the examples of Germany of Hitler and the former Yugoslavia of Milosevic.” (DOUZINAS, 2009, p. 127, our translation) “It is perfectly conceivable [...] that one day, a highly organized and mechanized humanity arrives democratically - that is, by majority decision - to the conclusion that, for humanity as a whole, should settle certain parts of itself.” (ARENDRT apud DOUZINAS, 2009, p. 127).

The rhetorical use of humanistic communication is commonly used at its high ability to persuade and dominate. As the speech moralization is relatively simple to operate, instrumentalized by the symbol and rhetoric, it becomes the antidote for the dissidents, operating as one of the subjection reasons, conscious or not, to the established political regime. This implies in a power structure that minimally knows how to deal with ambivalence and disapproval and skepticism by not fulfilling the promises of the national or international political entity.

From different angles, in the same manner that it oppresses, the language also emancipates. That is, the statements hold content that catalyze the struggle for institutionalization of

¹² See Brasil (2016).

expectations. The paradoxical logic is evident in particular realm of human rights. Through the pronounced and written signs it is favored the concretization of deontological formulas by the enthusiasm of the individual who is confident and desiring of offered rights.

For Bobbio (2004) regardless of the attempt of distinctive analysis, the language of human rights remains ambiguous. There are not unique adjectives about such statement, because the wide opening semantics is positive when - in the current complex international legal order, already considering the overcome polar dichotomies - provides branched alternatives of institutionalization of concepts inherent in multicultural context, which, par excellence, is open and diversified. However the linguistic imprecision may serve to stratagems of coercion in a democratically unbalanced space, since there is no real equality between the participants of the communicative relationship, which not infrequently generates seduction of consciousness by the speech insight.

In an emancipatory perspective, symbolism creates the empowerment of rights. The individual takes for himself the idea of the speech and projects an ideal standard conditioned for his possibility and interpretative capacity. In this imaginary domain, the individual project - or even of a people - is amplified and stimulated by the desire to have rights, or better, to feel subject to rights, produces energy to claim them.

By this last analysis, the symbolic power attaches pragmatic nature in the construction and reconstruction of rights, contextualizing the normative expectations in the political structure, opening ways for movements of struggle and demands for already accepted standards and the results from extensive interpretations. After all,

Struggles for human rights are symbolic and political: the immediate battlefield is the meaning of words such as difference, equality or likeness and freedom, but, if well successful, they entail ontological consequences, they radically transform the constitution of the legal entity and affect people's lives. (DOUZINAS, 2009, p. 265, our translation)

It can be observed that it would be unsatisfactory to present only the criticism to the rhetoric often used in humanistic language. There is a dark side that serves to the oppression and as a distraction so that the alleged democracies violate human rights. However, another paradox arises when this intent generates reverse result because, through the symbolic construction of unfeasible promises, subject to rights appropriating of this logic, producing propellant movement for protection and realization of initially abstract concepts.

5 ACHIEVEMENTS AND UTOPIAS OF HUMAN RIGHTS

Looking back it is noticeable that the aspirations that gave rise to revolutions and historical struggles that discharged the occidental humanization definition; they expanded the list of rights and increased principles applicable to human. Several documents and instruments of all kinds have established a new way of understanding the dimension of human rights, characterized as the most sublime liberal institution.

The great triumph lies in the speech that advocates human rights be applicable to all people, without exception, that is, its universal attribute. The goal imposed on the State action

aiming to ensure the prerogatives to the *native citizen of the world* (RADBRUCH, 2010, p. 285) is the main topic of argument.

Regardless of whether linguistic valuation, the conjuncture of systematic affronts to human rights and its use for political manipulation by their greatest protectors demonstrates the negligence perpetrated by disregarding the ambivalence of the politician that is intrinsic to the Law.

This appointment can generate distrust in the normative force, but on the other line, the diffuse semantics is able to promote the struggle for its application allowing that the subject situates in the center of the political activity and calls for his established rights.

The energy required for protection, horizontal proliferation and vertical expansion of human rights, from those whose lives have been ruined by oppression or exploitation and who were not offered or did not accept the mitigations that accompany political apathy. Meanwhile we can let the United Nations and its diplomats for their standard scenarios and their lunches and return to the State or community, the only territory where human rights are violated and protected. (DOUZINAS, 2009, p. 157, our translation).

The awareness of the gap suffered by constitutions and bills of rights in the real sphere makes it possible the resumption of basic humanistic concepts in an amplified cognitive and interpretative platform, no longer restricted to homogeneous abstractions.

The linearity that humanization movement members intend to use in the human rights re-arrangement is inapplicable. The promises of the European Enlightenment were broken at various moments of this historical narrative.

The extermination and genocide campaigns of the second half of the twentieth century show that the formal admission of the human beings to the dignity of humanity is not irreversible. The prisoners of the German, Cambodian, Rwandan or Serb concentration camps were constituted as non-human parasites, such as inferior and dangerous beings for the fully humans that their death consisted of a natural need. (DOUZINAS, 2009, p. 376, our translation).

The Holocaust is the most used memory as a transition milestone. However, the bloodshed has continued occurring pulverized actions across the whole globe. Immense atrocities are committed without any emphasis on selective media. The destruction of the other, the different one, the “evil”, the enemy does not arouse the same interest that affronts the rights of *the peers*.

Concentration camps like Guantánamo and Abu Ghraib do not characterize the same logic of war and annihilation? Humanistic speech is often flexibly used to massacre its own human rights. The events in Iraq, Afghanistan and Pakistan prove the mentioned thesis. Recently the use of unmanned aircraft, the so called *drones*, for military attacks causes repudiation. Added to this we have the disregard with which the civilian casualties are treated, justified as *collateral damages*.

The prisoner, the enemy reveals the face of evil and for that human being, the rights defended by the international system as universal, inalienable and immutable are not applicable, even by US power, major representative of the liberal Western democracy.

This suggests that the contemporary scene only changes the language game. Now it is *the war on terror and the intervention is only humanitarian*. The attempts to moralize the conflict,

the suffocation of the judgment and media terrorism create and amplify crises and legitimize the excesses of an egocentric and predatory conduct in particular of the American empire.

The fact pointed out above reveals a double bias: the penalty for violation of human rights does not apply to all States and individuals, but only for those who reveal lesser role on the worldwide scenario. Furthermore human rights also do not support all people, which break universality foundation.

The excessive credulity in the consummation of human rights in the current international system configuration is rash because the circumstances that threaten peoples and individuals, commonly, are disguised by utopian convictions. One cannot ignore that States which are apologists of humanization, when actors on the global scenario keep geopolitical goals and interests.

For the most optimistic tendency, human dignity should be the axis of the international structure. The struggle to raise this principle to the top of worldwide normative stage would abolish antagonisms and conflicts, besides ensuring peace and security. By a critical perspective, it is revealed incongruous the belief represented above, since the dignity of man was formed and fit in this vertex. Humanists won the battle. The principle is over there, but it is unable to eliminate violating concrete situations by “the hands” of those who most defend it in the speech.

About this paradox, the only safe statement is that “human history is ambiguous, giving different answers depending on who interrogates and according to the viewpoint adopted by those who interrogates.” (BOBBIO, 2004, p. 50, our translation).

6 FINAL CONSIDERATIONS

Bobbio teaches that “we should not be pessimistic to the extent of abandoning ourselves to despair, but we should not be so optimistic that we become conceited” (2004, p. 44, our translation). Concepts such as war to the enemy, humanitarian intervention, media terrorism must be deepened to the understanding of its effects on the world. Unveiling what is hidden behind the disguise of euphemism acquires paramount importance for the development of new useful technologies for the concretization of human rights.

Overcoming solidified and abstract notions for an understanding that “good”, dignity and human values must coexist with the conception of people is ineluctable so that you can adjust the focus, because only in the social texture in its multiform practices, concepts gain materiality and acquire endogenous legitimacy and is not external imposition of a supposedly superior culture. Denying the exclusiveness of antagonistic theses and binary logic that part from exclusion premise of the relational, from the presupposition of pluralism allows you to search for platforms of equivalences and dialectical intersections, indicating a deepening path of cultural alterity.

The speech of human rights is notoriously ambiguous. The terms used in its vocabulary have different meanings attributed by historical circumstances, evaluative and politics. Despite labor and tenacity in the attempt to create a universally accepted language, most expressions retain the necessary fluidity so that the word gets life. The variations suffered in this universe are result of non-existent ideological neutrality in the political field and this cannot be discarded by global law.

In addition to the semantic gap, the opposites are always present: national sovereignty and international jurisdiction; universal and relative, concreteness and utopia; friend and foe; good and evil, etc. Ambivalences express the intensity and human plurality and such statement

allows interpretation closer to the real enabling to think solutions for this context. The idea of unity exposes the human need to identify essence, irreducibility, the truth, the original principle of being, but this homogeneity becomes fictitious and the universal becomes only to reflect the imperial particular. This prism allows clarification as to the hiatus which there is between the ideology triumph of human rights and its facticity.

Even considering the paradoxes that the issue encompasses, there is consensus about the high value of human rights. Each chain, from the more critical to the more utopian, identifies the ontological and symbolic relevance for the social emancipation or at least as a means of resistance to oppression when the humanist policy of international law is instrumentalized for purposes of domination hidden in the smoothing of a speech.

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