

Human Rights in the Dialog between Fields of Knowledge

The articles in this issue of *Revista Katálysis* focus on human rights from various theoretical frameworks, providing a wealth of knowledge and contributing to the elimination of many current objections to the issue. This is because the different frameworks offer distinct and not necessarily exclusionary perspectives, which certainly contributes to the perception that most of the objections raised stem from the fact that they do not consider the perspectives from which the problem is treated and above all, do not consider, based on an internal structure, the various theoretical frameworks that can be offered to the issue.

From a very generic perspective, it can be said that on one hand it is very different to consider the problem of human rights from the theoretical perspective of the social sciences that analyzes the conditions of human life in specific contexts of contemporary societies, than on the other, to work with this problem in the context of a theory of reality as a whole, and therefore, in the specific context of philosophical theory.

The approach from different perspectives can help show how they can be complementary, while maintaining the distinct theoretical levels used to consider a theme that has become one of the central questions of the world in which we live, both from a theoretical perspective as well from the perspective of its effectuation in various levels and dimensions of human life, both personal and collective.

One of the basic problems that emerges in the contemporary debate about human rights and which has large consequences for its understanding, is the normally implicit concept of what it is to be human that is present in the debates and that is determinant for understanding and evaluating what one means to say when speaking of human rights.

A decisive element for a suitable understanding of human rights, as “moral demands” (pre-positive rights) that are based on the ontological constitution of the human being and are distinguished from “positive rights,” is the fact that the human being, a spiritual-corporal being, as an individual, is constituted as a

being already situated in a specific form of configuration of the set of his relationships with other individuals and with nature of which he is a part.

This structure marks and basically conditions the various dimensions of humans’ individual lives. Even as a being which is in principle capable of transcending any configuration of his being, he does not exist beyond any socio-historic structure. Thus, the understanding of the human being as a being essentially open to alterity and to history implies understanding that human life is a process of reciprocal conditioning among individuals and structures of social life.

Thus, the effective conquest of his being passes through the form of configuration of these relations to the degree in which it depends on them, if the historic worlds – constructed by him or not – are constituted as spaces where it is possible to recognize human beings as subjects, corporal-spiritual beings called to liberty.

The essential thesis in this context is that an individual can only be realized through mediation in a world of institutions that assure a space for liberty: it is in the space of the worlds of living and equal beings that he is realized as such. For this reason, the form of structuring of the inter-subjective worlds is decisive for the effectuation of human rights that constitutively are always individual and social. The current debate about human rights must therefore be based on a basic questioning that is located in the specific theoretical framework of the sciences: how is our historic world configured today and what place do human rights have within it?

In its current dynamic, capital conquers for itself a space of action that goes beyond the space of nation states, constituting a global economy through a wave of deregulations, mergers and privatizations, and corporate and productive restructuring. It has fomented the expansion of transnational companies, structured upon their corporate interests that increasingly remove themselves from the control of nation states and pay increasingly fewer taxes in their countries of origin. They increase production and glo-

bal wealth, with unequal distribution of the returns, given that it favors hegemonic elites, marked by unlimited consumptive productionism, while degrading ecosystems: wasting raw materials and energy, destroying biodiversity and depleting soil and water, realities that now threaten to obstruct the entire system.

In the past 20 years, globalization deeply transformed economic organization, social relations, models of life and culture, the States and politics and tremendously accelerated changes in and the generation of new paradigms. The logic of globalization is used today to legitimize the dismantling of institutions for social protection and control of markets, for the exercise of the equilibrating role of the State and for protection of the rights of citizens, given that political institutions have little room to maneuver in the light of the dominating market mechanisms, especially before international financial entities.

The result of this process aggravates the violation of basic human rights, generating: poverty, deprivation, economic dependence, political dictatorships, police oppression, kidnapping, torture, exile and murder. Here we find a clear example of what Franz Hinkelammert (*El sujeto y la ley: El retorno del sujeto reprimido*. Heredia: EUNA, 2003, p. 79) calls the “inversion of human rights”: “the modern history of human rights and the history of their inversion, which, transforms the violation of human rights into a categorical imperative of political action.”

It acts in the name of human rights against the human being and is usually accompanied by the criminalization of the defenders of human rights who reveal the hypocrisy.

There are large masses of individuals who are losers in this process and a complete absence of an effective global authority to confront the issues that emerge from this new situation.

In the current context of the total market, human rights, based on liberty, are seen as distortions, because everything is reduced to the individual and his or her competency, which has led to an accentuated loss of meaning of public affairs, of the common good. Social life is governed by the “law of the jungle,” by the values of “each man for himself,” and “take advantage of everything.” It is up to the individual to provide for his own life and needs. This is because the “rights” of large capital are placed above the rights of the personal being, which are now disqualified as privileges.

Macroeconomic policy opts for enterprises that lead to progressive exclusion and the flexibilization of the labor market in favor of large corporations. Given that the basic objective is to submit social life in its totality to the laws of the market, everything is evaluated according to its functionality, or not, in the free market.

These painful experiences of degradation of human life open to many a horizon that provides them access to a new awareness of the meaning of human rights

in human life. From another perspective, one of the responses, perhaps an unexpected one, to this situation is terrorism, with the pretension of ethical legitimation. Terror emerges here as the response of people or oppressed groups to the arrogance of the powerful as a justifiable response to their petulance and cruelty.

Human history, examined from a normative perspective (therefore from the level of ethical reflection, the philosophy of politics and of law) is revealed as the space of struggle for the realization of the specific dignity of the human being as a personal being doted with corporality, intelligence, will and liberty. This involves an effectuation of rights and as a historic task, implies confronting all types of inequality and bondage, which are constant possibilities in human life. In a variety of ways, it negates the individual’s character as a subject and reduces him to an object.

Humanization, therefore, is something constructed and conquered, which supposes active subjects aware of their dignity, which is realized in rights. As such, these subjects are authors of their own development, which passes through mutual recognition, which in turn takes place through the mediation of institutions that regulate the coexistence of human beings and their relations with nature in the sense of overcoming all kinds of instrumentalization and oppression.

From this perspective, it is manifest that the basic equality of human beings is primarily, an equality of rights, and is thus normative, and whose effectuation in human history presumes the establishment of “universalist institutions” that can guarantee the creation of the space of universal recognition, which translates into radical democracy and socio-economic justice.

More than ever, in this context, the rights of the human being, as essential, pre-positive rights, should constitute the foundation of a rational coexistence; and given that they are the result of liberty, this liberty must be the basis for social order.

In this way, the effectuation of human rights means the guarantee of a truly sustainable and decent human life. Consequently, the State and market cannot constitute supreme values and the unquestionable controllers of human life, but first of all, they only have meaning to the degree to which they are submit to the essential rights of the human being and are placed at their service, therefore, at the service of justice.

The decisive norm of objective pre-positive rights is precisely that the subjective rights of the bearers of right must be protected with coercion.

This means making reason effective as the instance that guides social existence, in which human beings conduct their lives based on the principle of justice and which reciprocally recognize each other as members of an entity of free and equal beings.

All actions of individuals or structures of institutions that contradict with these basic requirements of human beings must be rejected based on the reference

“measure” which are human rights. On the other hand, a moral right also needs to guarantee legal security and as such, requires a “State of law” that is capable of uniting justice and legal security and therefore, of recognizing and guaranteeing the effectuation of the fundamental rights of the human being.

These are the rights that allow the realization of the human being as a free being, and the State can only be considered a State of law when it is submit to these rights. Thus, the State does not constitute the source of collective life, but is an instrument created by society as a function of the effectuation of the rights that stem from the dignity of the human being. It is the effectuation of human rights that allows configuring human life in such a way that no one is denied their dignity.

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